

116-O-18

AN ORDINANCE

Authorizing the City Manager to Execute an Agreement Between the City of Evanston and the Chicago Transit Authority for Tax Increment Financing for Future Phases of the CTA Red and Purple Modernization Program

WHEREAS, the City is a home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City is authorized, under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended (the "Act"), to finance projects that eradicate blight conditions and conservation factors that could lead to blight through the use of tax increment allocation financing for redevelopment projects; and

WHEREAS, in accordance with the provisions of the Act, the Evanston City Council: (i) approved a certain redevelopment plan and project (the "Plan") for the Washington National Redevelopment Project Area (the "Area") within the City; (ii) designated the Area as a redevelopment project area; and (iii) adopted tax increment allocation financing (the "TIF Adoption Ordinance") for the Area; and

WHEREAS, under the Act and the TIF Adoption Ordinance, certain taxes ("TIF Funds") are allocated and may be used to pay all or a portion of the costs in connection with public improvements within the Area that are incurred or that are to be

incurred in furtherance of the objectives of the Plan, to the extent the municipality by written agreement accepts and approves such costs; and

WHEREAS, the CTA has undertaken the Red and Purple Modernization Program (“RPM”), a major reconstruction initiative along the northern portion of the Red Line and the entire Purple Line, where a portion of the Purple Line is located in the City and will receive station, track and infrastructure renovations under future phases of RPM; and

WHEREAS, the CTA desires to conduct planning and design work related to the future phases of RPM, including the portion of the Purple Line located in the City (“Project”); and

WHEREAS, the Project is the type of public improvement that is contemplated by the Plan, and therefore the costs of the Project qualify as redevelopment project costs under the Plan as defined in Section 5/11-74.4-3(q) of the Act; and

WHEREAS, the parties hereto are desirous of said Project in that same will be of immediate benefit to the residents of the area and will be permanent in nature; and

WHEREAS, the City of Evanston and the Chicago Transit Authority wish to avail themselves of TIF Funds committed to fund the Project; and

WHEREAS, the City Council of the City of Evanston has determined it is in the best interests of the City to enter into the agreement between the City of Evanston and the CTA;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.

SECTION 2: The City Manager is hereby authorized to sign and attest to the Agreement between the City of Evanston and the CTA for the Project, attached hereto as Exhibit A and incorporated herein by reference.

SECTION 3: The City Manager is hereby authorized and directed to negotiate any additional conditions of the Agreement as he may determine to be in the best interests of the City.

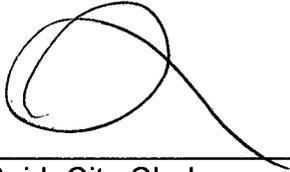
SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 7: This Ordinance 116-O-18 shall be in full force and effect from and after its passage and approval in the manner provided by law.

Attest:



Devon Reid, City Clerk

Adopted: October 22, 2018



Stephen H. Hagerity, Mayor

Approved as to form:



Michelle L. Masoncup, Corporation
Counsel

EXHIBIT A

**Agreement Between the City of Evanston
and the Chicago Transit Authority**



**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF EVANSTON AND CHICAGO TRANSIT AUTHORITY
FOR
TAX INCREMENT FINANCING FOR FUTURE PHASES OF THE CTA RED AND PURPLE
MODERNIZATION PROGRAM**

This Intergovernmental Agreement (the "Agreement") is entered into as of [date to be completed upon execution by CTA] (the "Closing Date") by and between the City of Evanston, a municipal corporation (the "City"), and the Chicago Transit Authority ("CTA"), an Illinois municipal corporation duly organized and existing under the laws of the State of Illinois.

WHEREAS, the City is a home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City is authorized, under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended (the "Act"), to finance projects that eradicate blight conditions and conservation factors that could lead to blight through the use of tax increment allocation financing for redevelopment projects; and

WHEREAS, in accordance with the provisions of the Act, and pursuant to Ordinance 129-O-93, "An Ordinance Adopting and Approving Tax Increment Financing Redevelopment Plan and Redevelopment Project," Ordinance 130-O-93, "An Ordinance Designating the Tax Increment Redevelopment Project Area," Ordinance 131-O-93, "An Ordinance Adopting Tax Increment Financing," and Ordinance 130-O-99, "An Ordinance Approving and Adopting the First Amended Washington National Tax Increment Redevelopment Area," and Ordinance 131-O-99, "An Ordinance Confirming Tax Increment Financing," the City Council of the City: (i) approved a certain redevelopment plan and project (the "Plan") for the Washington National Redevelopment Project Area (the "Area") within the City; (ii) designated the Area as a redevelopment project area; and (iii) adopted tax increment allocation financing (the "TIF Adoption Ordinance") for the Area; and

WHEREAS, under the Act and the TIF Adoption Ordinance, certain taxes are allocated and, when collected, are paid to the Chief Financial Officer/Treasurer of the City for deposit by the Chief Financial Officer/Treasurer into the Washington National TIF Fund established to pay redevelopment project costs incurred in the Area, which taxes may be used to pay all or a portion of the costs in connection with public improvements within the Area that are incurred or that are to be incurred in furtherance of the objectives of the Plan, to the extent the municipality by written agreement accepts and approves such costs; and

WHEREAS, pursuant to the Plan, certain TIF-funded City programs and redevelopment agreements have been established by the City Council of the City as of the Closing Date, which

programs and agreements pledge portions of the Washington National TIF Fund (collectively, the "Prior Obligations"); and

WHEREAS, the CTA has undertaken the Red and Purple Modernization Program ("RPM"), a major reconstruction initiative along the northern portion of the Red Line and the entire Purple Line; and

WHEREAS, a portion of the Purple Line is located in the City and will receive station, track and infrastructure renovations under future phases of RPM; and

WHEREAS, the CTA desires to conduct planning and design work related to the future phases of RPM, including the portion of the Purple Line located in the City ("Project"); and

WHEREAS, the City and the CTA have agreed that the City will pay toward the CTA's costs of the Project (the "City Contribution") from available funds from the Washington National TIF District or from any other source of funds available to and selected by the City; and

WHEREAS, the Project is the type of public improvement that is contemplated by the Plan, and therefore the costs of the Project qualify as redevelopment project costs under the Plan as defined in Section 5/11-74.4-3(q) of the Act; and

WHEREAS, the City and the CTA wish to enter into this Agreement, and the Parties have authority to enter into this Agreement pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., and

WHEREAS, on [date of City Council Approval], the City Council enacted an ordinance (the "Authorizing Ordinance") authorizing the execution of this Agreement; and

WHEREAS, [date of CTA Board authorization], the Chicago Transit Board passed an ordinance (the "CTA Ordinance") authorizing the execution of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this Agreement by reference.

SECTION 2. THE PROJECT

(a) The Project, as described in Exhibit A incorporated herein, includes planning and design work for improvements on the portion of the Purple Line located within the Area, which runs from Howard Street to Isabella Street in the City. The City Contribution will be utilized to fund the Project in accordance with the terms of this Agreement.

(b) The CTA shall provide the City any documentation pertaining to the Project that the City may reasonably request from time to time during the Term of this Agreement, and shall notify the City of any significant changes to said plans.

(c) The CTA hereby certifies that the Project has to date and shall continue to comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders as may be in effect over the course of the Project.

SECTION 3. FINANCING

(a) City Funds (as defined below) shall be used only to pay the CTA for its costs of TIF-Eligible Improvements. "TIF-Eligible Improvements" means those improvements of the Project which (i) qualify as Redevelopment Project Costs as defined in the Act, (ii) are eligible costs under the Plan, and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. The City agrees that Exhibit A hereto represents certain TIF-Eligible Improvements for the Project and sets forth the minimum amount of TIF-Eligible Improvements the CTA plans for the Project. The CTA may implement changes to the Project that cause variations in Exhibit A, provided that all the changes qualify as TIF-Eligible Improvements.

(b) Subject to the terms and conditions of this Agreement, the City shall pay to the CTA an amount no less than five hundred thousand dollars (\$500,000.00) in City funds from the Washington National TIF District ("City Funds") to pay the City Contribution toward the Project Costs. The City may identify and provide additional City Funds to CTA for the Project in accordance with Section 4 of this Agreement.

(c) City Funds will be used exclusively to fund TIF-Eligible Improvements, such as design and planning fees associated with the Project which will benefit the Washington National Redevelopment Area and the City as a whole through expanding capacity, modernizing infrastructure and adding full accessibility to the Purple Line in the City. The CTA acknowledges that the City Funds utilized for the Project shall be utilized only to fund: (a) planning work affiliated with the CTA Purple Line within the City and (b) work affiliated with the Davis Street Train Station. The City acknowledges that the RPM Future Phases Project includes work both within the City and outside of the City, and that City Funds shall be utilized to fund: (a) the full costs of any planning work for project segments that are based wholly within the City; and (b) a pro rata share of any planning work that is not associated with any specific geographic area, but contributes to the overall planning effort for the RPM Future Phases Program. This share shall be based on the percentage of the RPM Future Phases Project that is located wholly within the City as a geographic distribution, as measured in linear feet.

(d) The City warrants that it has available and has segregated on the books of the City an amount of City Funds sufficient to make the City Contribution, and covenants that the City Funds will not be used for any purpose other than the City Contribution during the Term of this Agreement.

(e) The City Funds being provided hereunder are being granted on a conditional basis, subject to the CTA's compliance with the provisions of this Agreement.

SECTION 4. PAYMENT

(a) On or after the Closing Date, City will provide a one-time payment of City Funds in the amount of five hundred thousand dollars (\$500,000.00) to CTA as the City Contribution toward the Project Costs. If the City identifies additional City Funds from the Washington

National TIF District prior to its expiration on December 31, 2018, the City may provide a subsequent payment(s) of those additional funds to CTA for the Project. In the event that City Funds have not been paid to the CTA by the expiration of the Washington National TIF District on December 31, 2018, City shall identify another source of funds to provide to CTA the allocated amounts addressed under this Section 4 as the City Contribution. The CTA shall have the right to suspend its performance under this Agreement until payment is received.

(b) The CTA will deposit such funds in a segregated sub-account it controls and will use such funds to pay TIF-Eligible Improvements costs of the Project from time to time over the course of the entire Project.

(c) CTA will submit documentation to the City substantiating applicable payment of Project Costs over the course of the Project. In addition to the items expressly set forth therein, such documentation shall constitute a certification to the City that:

(i) the documents represent the actual amount paid by the CTA with City Funds for work performed and/or goods or services provided in connection with the Project;

(ii) the CTA has approved all work and materials for the Project reflected in the documentation; and

(iii) the work was performed in accordance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders at the time of its completion.

City may review such documentation for, among other things, evidence that the CTA incurred and paid TIF-eligible expenditures in an amount that equals or exceeds the amount of City Funds paid to the CTA, and City shall inform the CTA of any questions or comments about same as soon as practicable.

SECTION 5. TERM

The term of this Agreement ("Term") shall commence on the Closing Date and shall expire when all of the City Funds provided to CTA under this Agreement has been fully spent and accounted for by CTA.

SECTION 6. ENVIRONMENTAL MATTERS; SAFETY; INSPECTION

(a) The City makes no covenant, representation or warranty as to the environmental condition of the Project or the suitability of the Project for any public rapid transit use whatsoever.

(b) The CTA shall be solely responsible for the safety and protection of the public in connection with the Project.

(c) The City reserves the right to inspect the Project from time to time as it is being undertaken or after its completion.

SECTION 7. INSURANCE

(a) The CTA is self-insured. During the term of this Agreement, the CTA shall provide and maintain, at the CTA's own expense, or cause to be provided, insurance or self-insurance equivalent to the coverages required for the Project work.

(b) Prior to the Closing Date, the CTA will furnish the City a letter of self insurance evidencing the required coverage to be in force on the Closing Date. After the Closing Date, the CTA will furnish the City similar evidence if the coverages change from self-insurance to purchased insurance during the term of this Agreement and prior to the completion of the Project.

(c) The CTA expressly understands and agrees that any coverage and limits furnished by the CTA shall in no way limit the CTA's liabilities and responsibilities specified by this Agreement or by law.

(d) The CTA expressly understands and agrees that any insurance or self insurance programs maintained by the City shall not contribute with insurance provided by the CTA under this Agreement.

(e) The required self-insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

SECTION 8. COMPLIANCE WITH LAWS

CTA, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its contractors, subcontractors or any affiliate of the CTA operating in connection with the Project to agree, that for the Term of this Agreement with respect to CTA and during the period of any other party's provision of services to CTA in connection with the Project:

(a) To comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and any subsequent amendments and regulations promulgated thereto.

(b) As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, ensure compliance with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the CTA or its contractors of any tier receives Federal assistance awarded by the U.S. DOT or FTA.

(c) The CTA agrees to require all contractors to comply with applicable DBE requirements provided in the contracts related to the Project. For purposes of this Section 8,

"DBE(s)" shall mean disadvantaged business enterprises certified as such by the Illinois Universal Certification Program, of which CTA is a member, pursuant to the U.S. Department of Transportation regulations set forth at 49 CFR Part 26.

(d) All CTA contractors and subcontractors shall include the foregoing provisions under this Section 8 in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any affiliate undertaking any portion of the Project, so that each such provision shall be binding upon each contractor, subcontractor or affiliate, as the case may be.

SECTION 9. INDEMNIFICATION

Except for the City's own negligence or wrongful acts, the CTA shall release, indemnify and hold harmless, to the maximum extent permitted by law, the City and its officials, employees and agents (the "City Indemnitees") from and against any and all claims, suits, liabilities, losses and damages, including court costs and attorneys' fees and expenses incidental thereto, of whatever nature, arising out of or in connection with the CTA's implementation of the Project, and any failure of performance or negligent or wrongful performance by the CTA, or any contractor or subcontractor for the CTA, and their respective officers, agents or employees, in connection with the Project, including, but not limited to, claims for damage to property, and/or injury to or death of any person or persons.

SECTION 10. NOTICES

(a) All notices and demands by the CTA to the City shall be in writing and shall be delivered personally or sent by United States mail or reputable overnight or same day courier service, postage prepaid, addressed to the City as specified below, or to such other address as the City may from time to time designate by notice to the CTA hereunder:

To the City: City Manager
 2100 Ridge Avenue
 Evanston, IL 60201
 (847) 866-2936

With copies to: Corporation Counsel/City Attorney
 2100 Ridge Avenue
 Evanston, IL 60201
 (847) 866-2937
 (847) 448-8093 (Fax)

(b) All notices and demands by the City to the CTA shall be in writing and shall be delivered personally or sent by United States mail or reputable overnight or same day courier service, postage prepaid, addressed to the CTA as specified below, or to such other address as the CTA may from time to time designate by notice to the City hereunder:

To the CTA: President
 Chicago Transit Authority
 567 W. Lake Street
 Chicago, IL 60661

(312) 681-5000
(312) 681-5005 (Fax)

With copies to: General Counsel
Chicago Transit Authority
567 W. Lake Street
Chicago, IL 60661
(312) 681-2900

SECTION 11. GENERAL PROVISIONS

(a) This Agreement constitutes the entire understanding of the parties with respect to the Project and the payment of the City Contribution, and no representations or promises have been made that are not fully set forth herein. The parties understand and agree that no modification of this Agreement shall be binding unless duly accepted and executed by both parties in writing.

(b) This Agreement will be governed in all respects in accordance with the laws of the State of Illinois. A court located in Cook County, Illinois, will hear any disputes which arise hereunder.

(c) Any headings of this Agreement are for convenience of reference only and do not define or limit the provisions of this Agreement. Words of any gender will be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document will be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms hereof and thereof. All references to any person or entity will be deemed to include any person or entity succeeding to the rights, duties, and obligations of such person or entity in accordance with the terms of this Agreement.

(d) The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part hereof.

(e) This Agreement may be executed in one or more counterparts, and all such counterparts will constitute one and the same Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement, through their duly authorized representatives, as of the date set forth at the beginning of this Agreement.

CITY OF EVANSTON, a municipal corporation

Wally Bobkiewicz, City Manager

CHICAGO TRANSIT AUTHORITY, a municipal corporation

Terry Peterson, Chairman

Exhibit A

Project Description

RPM Program Overview

CTA's Red and Purple Modernization (RPM) Program will completely rebuild the nearly century old North Red Line from Belmont to Howard and the Purple Line from Belmont to Linden. As the largest capital improvement initiative in CTA history, this massive program is being delivered in phases to bring improvements sooner to the people who rely on the Red and Purple lines and to minimize impacts on riders and the surrounding communities. On January 9th 2017, RPM Phase One became the first Core Capacity project to receive a Full Funding Grant Agreement through the FTA's Capital Investment Grant Program.

Future Phases Project Scope

The Future Phases project will support conceptual planning, preliminary engineering, and public outreach efforts to advance future phases of the RPM Program, including RPM Phase Two. Work efforts will include a capacity analysis, conceptual engineering, and early environmental review to advance the RPM Program, stakeholder/outreach activities, and the materials required for entry of RPM Phase Two into the Project Development phase of the FTA's Capital Investment Grant Program as a Core Capacity project. Specific improvements to be analyzed include station expansions, platform lengthening, track and structure reconstruction, curve straightening, signal enhancements, traction power improvements, Americans with Disabilities Act upgrades, and terminal and yard enhancements. During the Future Phases project, CTA will evaluate project alternatives for their respective transportation and community benefits as well as environmental, social, and economic impacts of potential future construction activities and the operation of potential phase components. The Future Phases project supports increasing transit ridership goals in terms of enabling expanded capacity, increasing service quality through time savings, and the improved customer comfort from a smoother ride.