Chicago Park District

Legislation Details (With Text)

File #:	15-2219-0114	**Name:**	Efficiency Service Agreement
Type:	Action Item	**Status:**	Passed
File created:	1/9/2015	**In control:**	Board of Commissioners
On agenda:	1/14/2015	**Final action:**	
Title:	AUTHORIZATION TO ENTER INTO AN EFFICIENCY SERVICES AGREEMENT, AN INTERGOVERNMENTAL AGREEMENT WITH THE CHICAGO INFRASTRUCTURE TRUST		
Sponsors:	Chief Financial Officer		
Indexes:	Agreements (Not Bidded)		
Code sections:			
Attachments:			

Date	Ver.	Action By	Action	Result
1/14/2015	1	Board of Commissioners	approved	Pass

AUTHORIZATION TO ENTER INTO
AN EFFICIENCY SERVICES AGREEMENT, AN INTERGOVERNMENTAL AGREEMENT WITH THE CHICAGO INFRASTRUCTURE TRUST

To: The Honorable Board of Commissioners of the Chicago Park District

I. Recommendation

It is recommended that the General Superintendent and CEO or his designee enter into an Intergovernmental Agreement with the Chicago Infrastructure Trust ("Trust") to provide energy efficiency services to Chicago Park District buildings. The Trust, as project owner, will undertake the development, acquisition and construction of the project and the District's obligation will be limited to the energy savings produced by the project. The District incurs no payment obligation if the project does not reduce energy costs. No work may commence and no payment shall be made to the Trust prior to the execution of a written agreement.

II. Award Information

Contractor: Chicago Infrastructure Trust
35 East Wacker Drive, Suite 1450
Chicago, Illinois 60601

Company Type: Illinois Not-for-Profit, 501c3 Corporation and an instrumentality of the City of Chicago which was incorporated upon City Council Resolution and Executive Order of Mayor Rahm Emmanuel

Contract Term: Not to exceed 15 years

Interest Rate: The Trust will take Tax-Exempt debt onto its own balance sheet for the purposes of financing the energy efficiency upgrades on Park properties. Chicago Park District will commit to share in the realized energy

	savings, and will be billed per unit of energy saved at a rate less than or equal to what is currently being paid to use energy.
Contract Amount:	Not-to-exceed $4,500,000 in energy efficiency upgrades
Scope of Services:	Design, install, and ensure the maintenance of energy efficiency upgrades and services in up to 68 parks districtwide
Affirmative Action Goals:	The Minority- and Women-Owned Participation for this contract include: 25% Minority-Owned and 5% Women-Owned.
Authorization:	Authorize the General Counsel to include other relevant terms and conditions in the written Agreements. Authorize the General Superintendent to execute the Agreement and the Secretary to attest as to the signing of the Agreement and keep an original copy of the Agreements on file.

III. Budget and Financial Information

Budget Classification:	Operating
Fiscal Year:	2015
Source of Funds:	001.8200.8200.623070.00001.01.01.00001 001.8200.8200.623075.00001.01.01.00001

IV. Procurement Information

This Agreement was proposed by the Chicago Infrastructure Trust ("Trust") to the Chicago Park District ("CPD") in January 2014. After receiving an unsolicited proposal from several private sector entities on January 3, 2014, the Trust subsequently conducted a competitive procurement process amongst Energy Service Companies ("ESCOs") and financiers. It posted a notice of its Open Bidding Process on its website on April 4, 2014 and closed the Open Bidding Process on May 2, 2014. Three proposals were received from a total of five parties. The project was approved by the Trust Board in their June meeting, and Siemens was selected as the financier and ESCO project partner.

Siemens began its complimentary Level 1 Audits of certain park facilities in the second week of July and completed them by the end of August. Suggested Energy Conservation Measures ("ECMs") were reviewed by CPD staff and based on that review, CPD added certain additional projects. The estimated project size was a range from $3.8 to $6.8 million.

A more detailed engineering and cost analysis, called the Investment Grade Audit (IGA), will commence upon Board of Commissioners approval. This will enable the determination of the exact project size, and the final ECM list.

Two agreements will be completed after approval by the Board and review and approval of the Law Department: an Intergovernmental Agreement with the Trust, as well as a Contingent Investment Grade Audit Agreement with Siemens. The latter will commit CPD to pay some of the the costs associated with procuring the financing and pay Siemens back for the engineering time required to complete the IGA (not to exceed $125,000) in the event that CPD decides not to move forward with the project by 90 days after Siemens meets certain specified criteria (i.e., interest rate ceilings, project size minima, GEPC maxima, etc). As long as CPD moves forward with the project after the IGA, the IGA's costs will be absorbed into the total project costs.

V. Explanation

CPD and the Trust have identified up to 68 parks for potential ECMs. The cost-effective, energy efficient management of these facilities requires innovative design, procurement, and installation of state-of-the-art building technologies and materials as well as specialized maintenance carried out with consistent, knowledgeable attention to detail. It is the purpose of this contract to engage a single entity capable of delivering comprehensive building energy efficiency services for the Chicago Park District.

The Trust is able to structure the financing of energy efficiency projects using energy savings agreements (ESA) as a means of implementing such projects without upfront capital investment by building owners. Such transactions are service contracts (and not leases or other debt obligations) without an impact on the building owner's credit rating. Moreover, projects benefitting governmental and nonprofit building owners may be financed by CIT with tax-exempt or other tax-advantaged (e.g., qualified energy conservation bonds) debt.

The Trust, as project owner, undertakes the development, acquisition and construction of the project and the building owner's obligation is limited to the energy savings produced by the project. The building owner has no payment obligation if the project does not reduce energy costs. CIT subcontracts its obligation to procure the project to one or more energy service companies (ESCO) under an energy performance contract (EPC) and the ESCO guarantees that certain savings will be achieved in each year over the term of the transaction. Guaranteed savings amounts must at least equal the cost of capital used to finance the transaction, certain costs incurred to measure and verify savings during the term, and other transaction costs.

Some of the key terms and conditions common to ESA transactions include the following:

Project Ownership. CIT owns the project. The building owner may not claim depreciation, tax credits or similar rights related to the project or the energy savings realized thereby. CIT also has the obligation to maintain and insure the assets. Insurance and maintenance costs will be included in the transaction costs to be paid from savings payable under the ESA (and guaranteed by the ESCO under the EPC). Alternatively, a building owner may undertake CIT's obligation to maintain and insure the assets if such costs are reflected in the amount of the savings payable by the building owner. Building owners are precluded from removing or otherwise altering the project components.

End of Term Disposition. At the end of the ESA term, the building owner has the option to purchase the project at its fair market value. If the building owner does not exercise this option, CIT may remove or abandon the project assets. Such an option is necessary to establishing the desired accounting treatment.

Site Access and Project Control. The building owner grants CIT and its subcontractors access to the building under a license, easement or other appropriate mechanism in order to perform the ESA services. In addition, CIT has the ability to make additional improvements for the purpose of increasing savings.

Fixed Payment Obligation. The building owner pays a fixed percentage of energy savings (i.e., a fixed amount per unit of output) achieved by the project. If the project delivers savings in excess of amounts necessary to repay the investor and pay other transaction costs, CIT receives the "upside" in accordance with such percentage. The payment mechanism may be structured in a variety of ways depending on investor requirements. For example, savings payments may be made in advance on the basis of anticipated savings, subject to later reconciliation.

Monitoring and Verification; Annual Reconciliation. The ESCO, on behalf of CIT, will calculate the actual energy savings achieved by the project on a periodic basis (typically, once per year) and produce a report that identifies any amounts payable by the building owner or the ESCO.

Defaults and Remedies. Upon a building owner default, CIT may (i) sue to enforce the terms of the ESA, (ii) terminate the ESA and remove or disable the project assets, (iii) terminate the ESA and abandon the project assets; or (iv) terminate the ESA and elect to be paid a liquidated damages amount.

Dispute Resolution. Disputes with respect to the calculation of savings are subject to resolution by an independent engineer to avoid potential litigation risk and cost.

Financial Reporting. Investors will typically require the building owner and the ESCOs to provide periodic financial reports as a means of monitoring their investment.

Transaction Term. ESA terms typically range from 5 years to over 20 years depending on a variety of factors including available project cash flow, investor restrictions and statutory limitations.

EPC. In addition to undertaking the construction of the project and guaranteeing savings, the ESCO will be obligated to insure the assets during construction. Depending on the financial strength and experience of the ESCO, some investors may require a project completion guaranty and/or credit enhancement of the savings guaranty (e.g., an energy savings bond) in order to support the expected project cash flows.

VI. General Conditions

1. *Conflicts:* The Agreement shall not be legally binding on the Chicago Park District if entered into in violation of the provisions of 50 ILCS 105, the Public Officer Prohibited Activities Act, 50 ILCS 105/0.01 *et seq*.

2. *Ethics:* The Chicago Park District's Ethics Code, Chapter III of the Code of the Chicago Park District, shall be incorporated into and made part of all agreements authorized herein.

3. *Contingent Liability:* Any agreement lawfully entered into for a period of more than one year shall be executory only for the amounts for which the Park District may become liable in succeeding fiscal years pursuant to Section 17(i) of the Chicago Park District Act, 70 ILCS 1505/17(i). All agreements authorized herein shall contain a clause that any expenditure beyond the current fiscal year is subject to appropriation in the subsequent fiscal year budget.

4. *Economic Disclosure Statement ("EDS"):* Contractor will submit a full and complete EDS prior to execution of the contract.