



# Office of the City Clerk



O2012-8064

Office of the City Clerk

## City Council Document Tracking Sheet

**Meeting Date:** 11/15/2012

**Sponsor(s):** Sawyer, Roderick T. (6)  
Cochran, Willie (20)  
Arena, John (45)  
Fioretti, Bob (2)  
Cullerton, Timothy M. (38)  
Foulkes, Toni (15)  
Pope, John (10)  
Smith, Michele (43)  
O'Shea, Matthew J. (19)  
Lane, Lona (18)  
Harris, Michelle A. (8)  
Munoz, Ricardo (22)  
Pawar, Ameya (47)  
Zalewski, Michael R. (23)  
Thompson, Joann (16)  
Chandler, Michael D. (24)  
Hairston, Leslie A. (5)  
Dowell, Pat (3)  
Burns, William D. (4)  
Graham, Deborah L. (29)  
Waguespack, Scott (32)  
Mell, Richard F. (33)  
Beale, Anthony (9)  
Colón, Rey (35)  
Thomas, Latasha R. (17)  
Sposato, Nicholas (36)  
Burnett, Walter (27)  
Ervin, Jason C. (28)  
Cappleman, James (46)  
Cardenas, George A. (12)  
Moreno, Proco Joe (1)  
Brookins, Howard (21)

**Type:** Ordinance

**Title:** Amendment of Chapter 2-92 of Municipal Code to establish Privatization Transparency and Accountability Ordinance

**Committee(s) Assignment:** Committee on Committees, Rules and Ethics

# Budget

## PRIVATIZATION TRANSPARENCY & ACCOUNTABILITY ORDINANCE

WHEREAS, The City of Chicago has transferred many of the functions of City government to private contractors; and

WHEREAS, The justification for such privatization is the claim that services can be delivered at lower cost without impacting service availability or quality; and

WHEREAS, Solely relying on such justification fails to take into account broader consequences of privatization, such as the impact on the local labor market, wage levels, diversity in the workforce and other important social goals; and

WHEREAS, Recent experiences, such as the privatization of the City's parking meters and the Chicago Skyway, have raised significant concerns regarding both the short- and long-term consequences of privatization that is not properly scrutinized or regulated; and

WHEREAS, It is in the best interest of City government and City residents that there be greater oversight, disclosure and public discussion before privatization plans are finalized; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

Section 1. Chapter 2-92 of the Municipal Code of Chicago is hereby amended by adding new sections 2-92-800 through 2-92-900 as follows:

2-92-800 Title and Purpose.

This section shall be known and may be cited as the "Privatization Transparency Ordinance." It is the purpose of this section and the policy of the City to ensure that the residents of the City receive high quality public services with due regard for cost to the taxpayers of the City and for both public and private sector workers who may provide such services.

2-92-810 Definitions.

Whenever used in sections 2-92-800 through 2-92-900 the following words and phrases shall have the following meanings:

"Privatization" means a contract or a lease between a City department and a person or firm regardless of whether the person or firm is a for-profit entity or a not-for-profit entity for any function, operation or service performed by personnel employed by a City department on the effective date of this ordinance, or the termination of a City provided function, operation or service where the practical effect is that the function, operation, or service will be performed by another entity.

"Cost-effectiveness study" shall mean an analysis conducted in accordance with the standard methodology of the Office of Budget and Management comparing the projected cost of delivering the service under the best methods of service delivery to the proposed contract. The analysis shall include in the projected cost of the proposed contract any continuing City costs associated with the service, such as the costs of inspection, supervision and monitoring. The analysis shall also address any potential issues that could arise due to the absence of

direct control of the workforce by the City. The analysis shall exclude from the cost of the best methods of service delivery all overhead costs unless such costs are attributable solely to such service and would be the responsibility of the contractor pursuant to the proposed privatization.

"Displace" shall mean the layoff, demotion, bumping, involuntary transfer to a new class, title, or location, time based reductions, reductions in customary hours of work, wages or benefits of any City employee.

2-92-820 Privatization Requirements.

Privatization of City services is permissible when all of the following conditions are met:

(a) The affected department must prepare a detailed statement of the services proposed to be privatized and undertake a cost-effectiveness study prior to the award of any contract. Such statement shall include, but not be limited to: the position, positions, and/or service to be privatized, including title code and job description; the number of employees in each affected position, by title; the implementation date of the proposed privatization; a copy of any reports or draft reports prepared by the department or its consultants in connection with the proposed privatization;. Such cost-effectiveness study shall include, but not be limited to, documentation of all contract costs for each service, the total number of and qualifications for all personnel to be retained under the proposed contract, and the nature and cost of the fringe benefits and compensation rates to be provided to such personnel.

(b) The affected department shall conduct a study in collaboration with the collective bargaining agents representing employees who may be displaced by the privatization. Such study shall consider management reinvention, consolidation, re-engineering, personnel classification, market and other analyses in order to identify improved methods of service delivery. The Department shall provide any technical and informational assistance requested by the collective bargaining representative during the development of the improved methods of service delivery. The study shall be presented to the City Council at least thirty days prior to the City Council voting to approve the contracting out.

(c) The City Council Committee on Budget and Government Operations shall hold one or more hearings on the detailed statement of the services proposed to be privatized and the cost-effectiveness study prior to the award of any contract. The Committee shall by majority vote determine whether the proposed contract shall be submitted to the full City Council for consideration.

(d) The City Council shall, by majority vote, determine whether to approve the proposed contracting out.

(e) The projected cost savings for a privatization contract must be at least ten percent of the cost of the best methods of service delivery as defined under section 2-92-810.

(f) The contract must be awarded through a publicized, competitive bidding process.

(g) Employees of the department seeking to privatize services may, by action of their collective bargaining representative, submit a bid to maintain the delivery of such services in-

house and shall be pre-qualified as eligible under section 2-92-840, responsible, and responsive.

(h) The contract must include specific provisions setting forth the qualifications required of the staff performing the work under the contract and assurances that staff will be hired in accordance with applicable anti-discrimination and affirmative action requirements.

(i) The contract must provide that the contractor shall pay wages and benefits not less than the wages and benefits of City employees performing comparable tasks. On projects covered by the Illinois Prevailing Wage Act, the contract must provide that the contractor pay not less than the general prevailing rate of hourly wages as determined by the Illinois Department of Labor in accordance with 820 ILCS 130/0.01 et seq.

(j) The contract must provide that at least fifty percent of all contract work hours shall be performed by bona fide City of Chicago residents.

(k) The potential economic advantage of the privatization contract must outweigh the public's interest in having a particular function performed directly by City government.

#### 2-92-830 Exemptions

Privatization contracts shall be exempt from the requirements of section 2-93-820 when any of the following conditions are met.

(a) The maximum expenditure permitted under the contract, or the combined expenditure under multiple contracts for the same or similar services, is in an amount less

than \$250,000.

(b) The services contracted are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available in the City workforce, have not historically been performed by City employees, and it is not practicable to hire the needed personnel

(c) The services are incidental to a contract for the purchase or lease of real or personal property, including, but not limited to, agreements to service or maintain leased or rented office equipment or computers.

(d) A private contractor is necessary to protect against a conflict of interest or to ensure independent and unbiased findings in circumstances where an outside perspective is clearly needed.

(e) A private contractor can provide equipment, materials, facilities, or support services that cannot feasibly be provided by the City in the location where the service is to be performed.

(f) The services are of such an urgent, temporary, or occasional nature that they cannot adequately be performed by City employees.

2-92-840 Eligibility of Contractors.

All contractors submitting bids must submit an eligibility report to the department overseeing the privatization contract, the Department of Purchasing, Contracts and Supplies and the City Council Committee on Budget and Government Operations. Such report shall

include but not be limited to, (a) documentation of compliance with Federal , State and City labor, anti-discrimination, affirmative action, unemployment, occupational safety and health, environmental protection and workers' compensation laws; s; (b) the ethnic, racial and gender make-up of its workforce for the last two years; and (c) a list of the political contributions of the contractor and its principals for the last four years. Such reports shall be public documents available for public inspection.

2-92-850 Annual Performance Reports.

All contractors awarded a procurement pursuant to sections 2-92-820 and 2-92-830 of this ordinance shall submit annual performance reports to the department overseeing the contract, the Department of Purchases, Contracts and Supplies, and the City Council Committee on Budget and Government Operations. Such performance report shall include, but not be limited to, (a)documentation of compliance with Federal , State and City labor, anti-discrimination, affirmative action, unemployment, occupational safety and health, environmental protection and workers' compensation laws; (b) payroll records listing the name, address, hours worked, hourly wage paid and fringe benefits paid each employee; ; (c) the ethnic, racial and gender make-up of its workforce; and (d) a list of the political contributions of the contractor and its principals for the last year. Such reports shall be public documents available for public inspection.

2-92-860 Withholding Reimbursement.

Where privatization contracts are funded pursuant to sections 2-92-820 and 2-92-830



of this ordinance, the Department of Purchases, Contracts and Supplies shall include a withholding clause in the privatization contract providing the City with the authority to withhold reimbursement if the contractor fails to comply with section 2-92-850 of this chapter.


2-92-870 Assistance for Displaced City Employees.

Where privatization contracts are funded pursuant to sections 2-92-820 and 2-92-830 of this ordinance, the department overseeing the privatization contract shall require that the contracting entity offer employment to any City employee who will be displaced as a result of the contract in any position for which the employee meets the qualifications.

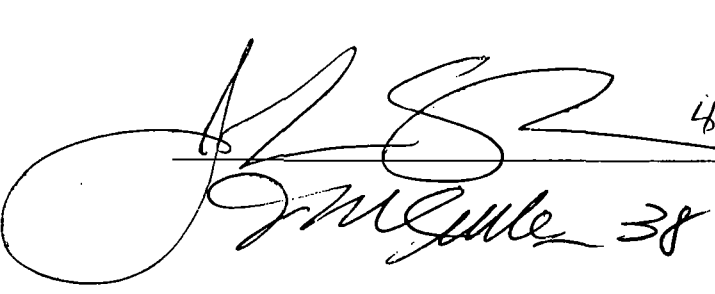
2-92-890 City Council Review of Existing Privatization Contracts.

2-92-700 Severability.

If any provision, clause, sentence or paragraph of sections 2-92-800 through 2-92-890 or the application thereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

  
Alderman Roderick T. Sawyer, 6<sup>th</sup> Ward

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John P. Pikes 15th

John A. Pope 10th

Archibald Wood

Wm. J. O'Connell 19th

Lora Lane 18th

R. Dill

Michelle At Jans 8th

Rob. May 22

Ameyta van 47

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Jann Thompson 16th

Michael J. Chad 24

Lulu V. Houston 5th

Pat Dowell, 3rd

Will. J. R. (4)

Deborah J. Fisher 29th

Scott W. Aquapod (32)

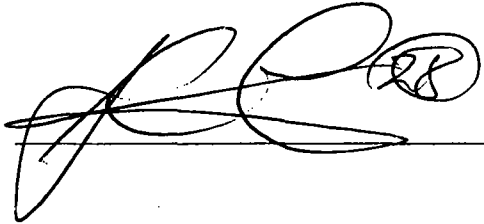
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Anthony A. Bena 9th

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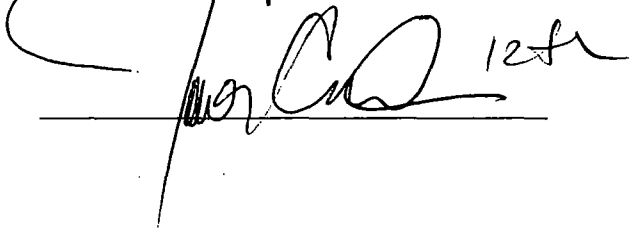
Michael Spant 36<sup>th</sup> A Water



Howard Bond

Joe Manno '87

James Coplin 44

 12th