

**LAW DEPARTMENT -
ORDINANCE TRANSMITTAL FORM**

- 1. Date of transmittal: November 12, 2009 MLR
 - 2. Title/subject matter of ordinance: Authorizes the 2009 tax levy, 2010 budget and Service Provider Agreement for Special Service Area Number 33.
 - 3. Originating department: Department of Community Development
 - 4. Originating department contact: Gina M. Caruso (Ext. 4- 8356)
 - 5. Law Department contact: Bryce Bares (Ext. 2-4021)
Cynthia Shawamreh (Ext. 4-1015)
 - 6. Bates No. (if applicable): N/A
 - 7. Completed Economic Disclosure Statement (if required): X
 - 8. Completed summary of ordinance (prepared by originating department): N/A
 - 9. Original and four copies of ordinance attached: X
 - 10. To be introduced into:
City Council.....
Council Committee..... X
- If Committee, please specify and explain reason: Client has requested direct introduction to the Committee on Finance in order to meet City Clerk and County filing deadlines required by State law.
- 11. Date of requested introduction: November 16, 2009
 - 12. List of exhibits/appendices to ordinance: Exhibit A: Service Provider Agreement
 - 13. Comments/remarks: _____

Prepared by: Bryce Bares
Assistant Corporation Counsel
Finance and Economic Development Division

ORDINANCE

WHEREAS, special service areas may be established pursuant to Article VII, Sections 6(l) and 7(6) of the Constitution of the State of Illinois, and pursuant to the provisions of the Special Service Area Tax Law, 35 ILCS 200/27-5 et seq., as amended from time to time (the "Act") and pursuant to the Property Tax Code, 35 ILCS 200/1-1 et seq., as amended from time to time; and

WHEREAS, on December 7, 2005, the City Council of the City of Chicago (the "City Council") enacted an ordinance (the "Establishment Ordinance") which established an area known and designated as City of Chicago Special Service Area Number 33 (the "Area") and authorized the levy of an annual tax, for the period beginning in tax year 2005 through and including tax year 2014, not to exceed an annual rate of three hundred four thousandths of a percent (0.304%) of the equalized assessed value of the taxable property therein (the "Services Tax") to provide certain special services in and for the Area in addition to the services provided by and to the City of Chicago (the "City") generally (the "Special Services"); and

WHEREAS, the Establishment Ordinance established the Area as the territory approximately consisting of North Ashland Avenue from West Division Street to the Kennedy Expressway; North Damen Avenue from West Schiller Street to the Kennedy Expressway; North Western Avenue from West Division Street to West Fullerton Avenue; West Division Street from North Western Avenue to the Kennedy Expressway; and West North Avenue from North Western Avenue to North Noble Street; and

WHEREAS, the Special Services authorized in the Establishment Ordinance include but are not limited to maintenance and beautification activities, coordinated marketing and promotional activities, parking and transit programs, area strategic planning, business retention/recruitment initiatives, building facade improvements, security services and other technical assistance activities to promote community and economic development; and

WHEREAS, the Establishment Ordinance provided for the appointment of the Wicker Park & Bucktown Special Service Area Commission (the "Commission") for the purpose of recommending to the Mayor and to the City Council a yearly budget based upon the cost of providing the Special Services and further to advise the Mayor and the City Council regarding the amount of the Services Tax to be levied; and

WHEREAS, it is the responsibility of the Commission to recommend to the Department of Community Development, the Mayor and the City Council an entity to serve as a service provider (the "Service Provider"), the form of an agreement between the City and the Service Provider for the provision of Special Services to the Area, and a line item budget to be included in the agreement between the City and the Service Provider; and

WHEREAS, the Commission has been duly appointed and qualified and has heretofore prepared and transmitted to the Acting Commissioner of the Department of Community Development (the "Commissioner") and to the City Council its recommendations for a budget to provide the Special Services in the Area for the fiscal year commencing January 1, 2010, and has advised the Mayor and the City Council concerning the Services Tax for the tax year 2009 for the purpose of providing funds necessary to provide the Special Services and has recommended to the Department Community Development, the Mayor and the City Council an

agreement with the Service Provider, with a one-year term, the terms and conditions of which provide for the expenditure of the Services Tax for the provision of the Special Services for the fiscal year commencing January 1, 2010, in substantially the form attached hereto as Exhibit A; and

WHEREAS, certain members of the Commission may serve from time to time on the Board of Directors of the Service Provider, or serve the Service Provider in some other voluntary capacity, which such service shall provide no financial compensation in any manner to such Commission member; now therefore

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. Incorporation of Preambles. The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

SECTION 2. Appropriations. There is hereby appropriated the following sums in the amounts and for the purposes necessary to provide the Special Services in and for the Area, the estimated amounts of miscellaneous income and the amounts required to be raised by the levy of the Services Tax indicated as follows:

**WICKER PARK CHAMBER OF COMMERCE SPECIAL SERVICE AREA COMMISSION
SPECIAL SERVICE AREA BUDGET**

For the fiscal year commencing January 1, 2010 and ending December 31, 2010.

	EXPENDITURES
Service Provider Agreement for the provision of Special Services	\$930,653
TOTAL BUDGET REQUEST	\$930,653
SOURCE OF FUNDING	
Tax levy at an annual rate not to exceed an annual rate of three hundred four thousandths of a percent (0.304%) of the equalized assessed value, of the taxable property within Special Service Area Number 33	\$659,790
Carryover funds from previous tax years	\$270,863

SECTION 3. Levy of Taxes. There is hereby levied pursuant to the provisions of Article VII, Sections 6(a) and 6(l)(2) of the Constitution of the State of Illinois and pursuant to the provisions of the Act and pursuant to the provisions of the Establishment Ordinance, the sum of \$659,790 as the amount of the Services Tax for the tax year 2009.

SECTION 4. Filing. The City Clerk of the City (the "City Clerk") is hereby ordered and directed to file in the Office of the County Clerk of Cook County, Illinois (the "County Clerk") a certified copy of this ordinance on or prior to December 29, 2009, and the County Clerk shall thereafter extend for collection together with all other taxes to be levied by the City, the Services Tax herein provided for, said Services Tax to be extended for collection by the County Clerk for the tax year 2009 against all the taxable property within the Area, the amount of the Services Tax herein levied to be in addition to and in excess of all other taxes to be levied and extended against all taxable property within the Area.

SECTION 5. Service Provider Agreement. The Commissioner, or a designee of the Commissioner, are each hereby authorized, subject to approval by the Corporation Counsel as to form and legality, to enter into, execute and deliver an agreement with The Wicker Park & Bucktown Chamber of Commerce, an Illinois not-for-profit corporation, in substantially the form attached hereto as Exhibit A and hereby made a part hereof (the "Service Provider Agreement") and such other supporting documents, if any, as may be necessary to carry out and comply with the provisions of the Service Provider Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Service Provider Agreement.

SECTION 6. Exemption. The Service Provider Agreement is hereby declared exempt from Section 2-156-020 of the Municipal Code of the City of Chicago.

SECTION 7. Enforceability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

SECTION 8. Conflict. This ordinance shall control over any provision of any other ordinance, resolution, motion or order in conflict with this ordinance, to the extent of such conflict.

SECTION 9. Publication. This ordinance shall be published by the City Clerk, in special pamphlet form, by preparing at least one hundred (100) copies thereof, which copies are to be made available in his office for public inspection and distribution to members of the public who may wish to avail themselves of a copy of this ordinance.

SECTION 10. Effective Date. This ordinance shall take effect 10 days after its passage and publication.

EXHIBIT A

Service Provider Agreement

Agreement for Special Service Area #33

between

the CITY OF CHICAGO

(Represented by the Special Service Area Commission)

and

THE WICKER PARK & BUCKTOWN CHAMBER OF COMMERCE

effective January 1, 2010 through December 31, 2010

Richard M. Daley
Mayor

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 INCORPORATION OF RECITALS	2
ARTICLE 2 DEFINITIONS	2
ARTICLE 3 DUTIES AND RESPONSIBILITIES OF CONTRACTOR	3
3.01 Scope of Services	3
3.02 Standard of Performance	3
3.03 Personnel	4
3.04 Nondiscrimination	5
3.05 Insurance	6
3.06 Indemnification	6
3.07 Records and Audits	7
3.08 Subcontracts and Assignments	9
3.09 License, Permits and Safety Considerations	9
3.10 Performance Bond	10
ARTICLE 4 TERM OF SERVICES	10
ARTICLE 5 COMPENSATION	11
5.01 Basis of Payment	11
5.02 Budget for Services	11
5.03 Method of Payment	11
5.04 Criteria for Payment	12
5.05 Funding	12
5.06 Non-Appropriation	12
ARTICLE 6 SPECIAL CONDITIONS	12
6.01 Warranties and Representations	12
6.02 Economic Disclosure Statement	13
6.03 Conflict of Interest	14
6.04 Non-liability of Public Officials	14
6.05 Independent Contractor	14
6.06 Business Relationships with Elected Officials	15
6.07 Chicago “Living Wage” Ordinance	15
6.08 Deemed Inclusion	16
6.09 Environmental Warranties and Representations	17
6.10 EDS / Certification Regarding Suspension and Debarment	17
6.11 Ethics	17
6.12 MacBride Ordinance	18

ARTICLE 7 EVENTS OF DEFAULT, REMEDIES, TERMINATION, RIGHT TO OFFSET, SUSPENSION	18
7.01 Events of Default Defined	18
7.02 Remedies	19
7.03 Right to Offset	20
7.04 Suspension	20
7.05 No Damages for Delay	20
7.06 Termination for Convenience	20
 ARTICLE 8 GENERAL CONDITIONS	 21
8.01 Entire Agreement	21
8.02 Counterparts	21
8.03 Amendments	21
8.04 Compliance with All Laws	21
8.05 Compliance with ADA and Other Accessibility Laws	22
8.06 Assigns	22
8.07 Cooperation	22
8.08 Severability	22
8.09 Interpretation	23
8.10 Miscellaneous Provisions	23
8.11 Disputes	23
8.12 Contractor Affidavit	23
8.13 Prohibition on Certain Contributions	24
8.14 Firms Owned or Operated by Individuals with Disabilities	25
8.15 Governing Law and Jurisdiction	26
 ARTICLE 9 NOTICES	 26
 ARTICLE 10 CITY ACTION	 26
 EXHIBIT 1 Scope of Services	
 EXHIBIT 2 Budget	
 EXHIBIT 3 Economic Disclosure Statement and Affidavit	
 EXHIBIT 4 Insurance Provisions	
 EXHIBIT 5 Security Firm Insurance Provisions	
 EXHIBIT 6 Prevailing Wages	

EXHIBIT 7 Performance Bond Form

EXHIBIT 8 Contractor Affidavit

EXHIBIT 9 Additional Audit Requirements

AGREEMENT

This Agreement for the management of Special Service Area Number 33 is entered into on _____, 2010 by and between The Wicker Park & Bucktown Chamber of Commerce, an Illinois not-for-profit corporation ("Contractor"), and the City of Chicago ("City"), a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois, acting through the Special Service Area Commission at Chicago, Illinois.

RECITALS

WHEREAS, special service areas may be established pursuant to Article VII, §§ 6(1) and 7(6) of the Constitution of the State of Illinois, and pursuant to the provisions of the Special Service Area Tax Law, 35 ILCS 200/27-5 et seq.; and

WHEREAS, the City Council of the City of Chicago ("City Council") has established a special service area known and designated as "Special Service Area Number 33" ("Area"), to provide special services in addition to those services provided generally by the City ("Special Services"). The City Council has further authorized the levy of an annual ad valorem real property tax in the Area sufficient to produce revenues required to provide those Special Services but not to exceed .304% of the equalized assessed value of all property within the Area ("Service Tax"), all as provided in the Establishment Ordinance (hereinafter defined); and

WHEREAS, the City Council, on _____, 2009, authorized the levy of the Service Tax and appropriation of the funds therefrom for the Area for fiscal year 2010 for the provision of the Special Services in the Area, and the City wishes to provide that the Contractor, beginning on January 1, 2010, and continuing until December 31, 2010, may use those funds to provide the Services, subject to the terms and conditions of this Agreement; and

WHEREAS, the Contractor and the City desire to enter into this Agreement to provide such Special Services in the Area and the Contractor is ready, willing and able to enter into this Agreement to provide the Special Services to the full satisfaction of the City;

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the City and the Contractor agree as follows:

ARTICLE 1 INCORPORATION OF RECITALS

The recitals set forth above are incorporated by reference as if fully set forth herein.

ARTICLE 2 DEFINITIONS

The following words and phrases shall have the following meanings for purposes of this Agreement:

"Agreement" means this Special Service Area Agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications or revisions made in accordance with its terms.

"Commissioner" means the Commissioner or Acting Commissioner of the Department of Community Development or a duly authorized representative of the Commissioner or Acting Commissioner of the Department of Community Development.

"Construction" means that work of a nature constituting "public works" as defined in 820 ILCS 130/2, such as landscaping and building activities, including but not limited to, physical building improvements, installations, and other fixed works, but does not include pre-development work (design and preparation of specifications).

"Days" means business days in accordance with the City of Chicago business calendar.

"Department" means the City of Chicago Department of Community Development.

"Establishment Ordinance" means, the ordinance enacted by City Council on December 7, 2005 and any subsequent amendments thereto authorizing imposition of the Service Tax and setting forth the Special Services to be provided in the Area.

"Risk Management Division" means the Risk Management Division of the Department of Finance which is under the direction of the Comptroller of the City and is charged with reviewing and analyzing insurance and related liability matters for the City.

"Security Firm" means a business entity certified by the State of Illinois pursuant to the Private Detective, Private Alarm and Private Security Act of 1993, 225 ILCS 446/1 et seq., and whose employees are licensed by the State of Illinois.

"Services" means, collectively, the services, duties and responsibilities described in Article 3 and Exhibit 1 (Scope of Services) of this Agreement and any revisions thereof and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

