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The perils of privatizing parking assets

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In 2008, then-Mayor Richard M. Daley rushed a proposal through Chicago's city council to lease out the city's downtown parking meters for 75 years. Councilmembers (and the public) were given only a few days to examine the deal's details. Daley made the hard sell, promising a buyer with $1.15 billion to fill Chicago's existing budget hole if the council acted quickly. Only after the deal was done did the city learn that it leased the meters nearly $1 billion too cheaply while giving away rights to manage traffic and land use to investment giants Morgan Stanley, Abu Dhabi Investment Authority, and Allianz Capital Partners—*for 75 years*.

While the Chicago parking meter privatization deal has been long recognized as a failure, features of the deal are present in many public-private partnership (P3) contracts. As cities wrestle with the idea of privatizing parking assets to generate immediate cash, it is important to understand the long-term impacts of these deals.

This fact sheet details the risks and impacts of these privatization contracts, using the Chicago parking meters deal as a running case study to illustrate real-world consequences.

Privatization of assets amounts to an expensive loan.

Cities often consider privatization of parking assets to fill in budget gaps or unanticipated expenses. However, the up-front payment generated from the privatization deal amounts to a very expensive loan to the city. While cities have access to low-cost financing through the tax-exempt municipal bond market or can simply raise parking meter fees themselves, privatization deals extract large amounts of revenue from the asset that the city loses for a long period of time. Private investors in parking privatization schemes rely on raising rates and then extracting value from the asset over the life of the contract. The city's residents who use the parking asset ultimately pay the up-front payment back to investors through parking fees, sometimes many times over.

A 2018 audit showed that Chicago's parking meter system raked in $134.2 million in 2017, putting private investors on pace to recoup their entire $1.16 billion investment by 2021 with 62 years of further cash flow to enjoy.[1] Cities that privatize parking assets give up decades of revenue from assets, which could be used for important public goods, such as public transit projects or healthcare services, instead of private profits.

As Chicago attorney Chris Krislov explained, "These [privatization] deals have so chopped into the revenues the city rightly needs and should have to provide services to the people of

[1] Fran Spielman, "Parking meter deal keeps getting worse for city as meter revenues rise," *Chicago Sun Times*, May 14, 2018. https://chicago.suntimes.com/politics/parking-meter-deal-keeps-getting-worse-for-city-as-meter-revenues-rise/

Chicago. Like retiree health care. Like extra police. And they keep on getting worse. The city could have and should have kept these assets and raised the rates."[2]

Moreover, while parking privatization may relieve an immediate budget problem, the up-front cash may be short-lived. Giving up decades of revenue from a parking asset to investors for a short-term fix to budget problems may even impact a city's ability to borrow money in the future. Within two years, Chicago had spent almost all of the "$1.15 billion parking meter windfall that was supposed to last for 75 years." Significantly, the city used these funds not on new capital improvements but merely to plug annual operating deficits. By the end of 2009, Chicago had only $180 million left from the $1.15 billion parking meter deal.[3] The deal became even more expensive in the fall of 2010 when Fitch Ratings agency "downgraded Chicago's bond rating, in part because the city had used money from the meter privatization to pay for city operations."[4]

Long-term contracts can limit democratic decision making.

"Non-compete" clauses and "compensation clauses," frequently buried deep in asset privatization contracts, limit or eliminate the public's ability—for decades—to make critical decisions necessary to improve transportation systems and other public services. This is certainly the case in Chicago, as these clauses continue to significantly impact the city's ability to make public planning and policy decisions, while costing the city millions of dollars each year.

The contract requires the city to compensate the private investors whenever the city makes decisions that adversely impact their ability to collect revenue from the parking meters, such as temporarily closing streets, even for community parades and street fairs.[5] The city is also restricted from making improvements to streets that contain meters, such as adding bicycle lanes or expanding sidewalks because these types of projects might "compete" with the parking meters, and decrease corporate revenues. These restrictions severely limit the city's future ability to accommodate residents, including bicyclists, pedestrians, and transit users.[6]

These contract clauses have been expensive for taxpayers. In 2012, the payments added nearly $27 million to the parking meter company's bottom line. The next year, then-Mayor Rahm Emanuel was able to tweak the contract after immense public pressure, decreasing payments to $6.5 million in 2014 and $8.6 million in 2015. However, in 2016, the payments crept up to $15.7 million, and then, in 2017, they increased even further to $21.7 million.[7]

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[2] Ibid.

[3] Ivan Kaplan, Does the Privatization of Publicly Owned Infrastructure Implicate the Public Trust Doctrine? Illinois Central and the Chicago Parking Meter Concession Agreement, 7 Nw.J. L. & Soc.Pol'y.136 (2012). https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1083&context=njlsp

[4] "The Big Sell: Other Cities Can Learn from the Outgoing Mayor's Experiment with Privatisation," The Economis, Sept. 18, 2010, www.economist.com/node/17043320.

[5] David Futrelle, "Chicago's Parking Meter Debacle: The Check Is Not in the Mail," *Time Magazine*, May 11, 2012. http://business.time.com/2012/05/11/chicagos-parking-meter-debacle-the-check-is-not-in-the-mail/

[6] Whet Moser, "The Parking Meter Lease, and Non-Compete Clauses, Rear Their Heads Again," *Chicago Magazine*, May 4, 2012. http://www.chicagomag.com/Chicago-Magazine/The-312/May-2012/The-Parking-Meter-Lease-And-Non-Compete-Clauses-Rear-Their-Heads-Again/

[7] Fran Spielman, "Parking meter deal keeps getting worse for city as meter revenues rise," *Chicago Sun Times*, May 14, 2018. https://chicago.suntimes.com/politics/parking-meter-deal-keeps-getting-worse-for-city-as-meter-revenues-rise/

Parking meter privatization can limit a city's ability to achieve environmental goals, such as expanding mass transit and addressing climate change.

The contract clauses discussed above can also limit a city's ability to respond to looming economic inequality and climate-change problems. They create hidden costs for cash-strapped cities, neglect changing urban lifestyle patterns, and, most significantly, hinder the increasingly urgent need to redesign cities to address climate change and reduce the carbon footprint.

In 2014, sociologist Stephanie Farmer interviewed Chicago-area transportation planners to better understand how the parking meter privatization deal was impacting city planning. She found that the deal is tying planners' hands in their efforts to construct environmentally sustainable transportation modes for the remaining 69 years of the lease.[8]

- Chicago Transit Authority (CTA) is planning a network of 20 Bus Rapid Transit (BRT) lines. The CTA found replacement parking meters for its initial BRT routes, but planners fear that spaces for replacement meters will soon dry up. In that case, either the cost for implementing future BRT lines will increase significantly as the city must compensate the private investors for the number of parking meters they remove, or the city may trim down their plans for 20 routes altogether.
- The parking meter contract creates barriers for introducing bike-friendly options for Chicagoans. In order to make protected bike lanes more efficient and safe, planners have to make cyclists more visible by removing parking spaces to reduce the number of blind spots (like intersections and alleyways) where drivers are unable to see approaching bicyclists. This too will require the city to find replacement meters or pay the private investors for the future value of the spot.
- Pedestrian safety is also impacted as the removal of one or two parking spaces that would make pedestrians more visible is now subject to compensation penalties.
- The lease also gives planners less flexibility to realign traffic routes during rush hour by temporarily removing a lane of parking in order to create a dedicated bus lane. Prior to the parking meter lease, Chicago Department of Transportation (CDOT) was advocating for more enforcement of its rush-hour parking ban in the second lane of a road. After the parking meter lease was signed, CDOT did an about-face on its policy and removed the ban on rush-hour parking on some streets that had parking meters. Some planners criticized CDOT's new policy for prioritizing private investor profits over efficient traffic management.

Privatization deals can be rushed, lacking transparency and public input.

The rush for up-front cash can put pressure on city decision makers to speed up the process and limit opportunities for pubic input. But looking in-depth into alternative ways to tackle the problem that privatization is supposed to solve, conducting a rigorous valuation of the asset, performing an analysis comparing various options, conducting a fair and competitive bidding

[8] Donald Cohen and Stephanie Farmer, "Why Chicago's Botched Parking Meter Privatization Is Also Bad for the Environment," *Next City*, June 4, 2014. https://nextcity.org/daily/entry/infrastructure-projects-p3-contracts-chicago-parking

process, and much more, is even more crucial when considering a large contract with decades-long implications. Ensuring maximum transparency and public input, especially by those who could be most impacted, is critical.

It's no surprise that the Chicago parking meters contract process was shrouded in secrecy from the beginning. The deal, which needed approval from the city council, passed in only four days after then-Mayor Daley presented it. Councilmembers never even saw the bid documents. There were no public hearings or other opportunities for public input. Some aldermen who voted for it have since said they wished they'd known more of the details, but it was too late.

A few more questions to consider:

In addition to the issues raised above, there are more questions that policymakers and stakeholders should ask about a proposed parking asset privatization.

Workforce impacts

- What will be the potential impacts on the existing and/or future workforce?
- Are the workers currently unionized and does the Collective Bargaining Agreement or government policy contain clauses that require workforce retention, retraining, or labor peace?
- How will the number of jobs and compensation change once control is shifted to the private sector?

Oversight and accountability

- Does the governmental entity have necessary in-house staffing and expertise to adequately monitor the contract for the entire life of the contract?
- Which party is responsible for resolving problems that arise with the parking asset? Which party is able to collect delinquent fines and fees from users?

Conflicts of interest

- How are contracts with consultants, lawyers, and other third parties structured? Do they collect fees for services rendered or for successful completion of deals, regardless of the outcome for the governmental entity?
- Do the consultants, lawyers, or other third parties have any conflicts of interest? What is their track record and background with these types of contracts?
- Have the private contractors, investors, or consultants made campaign contributions to relevant decision makers?

For additional questions and issues to consider, see our *Guide to Understanding and Evaluating Public-Private Partnerships*.