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**ADOPTED – BOARD OF TRUSTEES  
COMMUNITY COLLEGE DISTRICT NO. 508  
AUGUST 4, 2016**

**BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 508  
COUNTY OF COOK AND STATE OF ILLINOIS**

**AUTHORIZING INTERGOVERNMENTAL AGREEMENT WITH THE PUBLIC BUILDING  
COMMISSION FOR CONSTRUCTION PROJECTS  
OFFICE OF ADMINISTRATIVE AND PROCUREMENT SERVICES**

**WHEREAS**, the Public Building Commission of Chicago (PBC), was created pursuant to the Public Building Commission Act of the State of Illinois for the purpose, among others, of facilitating the development and construction of public buildings, improvements and facilities for use by local public agencies in the furnishing of essential governmental services;

**WHEREAS**, the PBC has heretofore facilitated the acquisition, construction and repair of City Colleges of Chicago facilities in cooperation with the Board of Trustees of the City Colleges of Chicago (Board) pursuant to Board Report #30875 approved on February 11, 2011; and

**WHEREAS**, the Board has determined that it may be desirable, advantageous and in the public interest to continue to undertake future projects under the City Colleges of Chicago's Capital Improvement Program in conjunction with the PBC and therefore a new intergovernmental agreement which delineates the objectives, duties and responsibilities of the PBC and the Board is necessary inasmuch as the intergovernmental agreement emanating from Board Report #30875 has expired;

**NOW THEREFORE BE IT RESOLVED**, that the Board of Trustees of the City Colleges of Chicago, authorizes the Chair to execute an Intergovernmental Agreement (substantially in conformity with the agreement included in Exhibit A) with the Public Building Commission of Chicago setting forth each parties' objectives and respective duties and responsibilities for the development of projects under City Colleges of Chicago's Capital Improvement Plan.

**August 4, 2016 – Office of Administrative and Procurement Services**

# Exhibit A

## INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY COLLEGES OF CHICAGO AND THE PUBLIC BUILDING COMMISSION OF CHICAGO

This Intergovernmental Agreement (the "Agreement" or "IGA"), dated as of \_\_\_\_\_, 2016, is made by and between the Board of Trustees of Community College District No. 508, County of Cook and State of Illinois, a body politic and corporate, having its principal offices at 226 West Jackson Boulevard, Chicago, Illinois 60606 (the "Board of Trustees" or "Board"), and the Public Building Commission of Chicago, an Illinois municipal corporation having its offices at Room 200, Richard J. Daley Center, Chicago, Illinois 60602 (the "Commission" or the "PBC"). The Board of Trustees and the Commission are each referred to herein as a "Party" and collectively as the "Parties".

### RECITALS

A. The Board of Trustees is a body politic and corporate created by the legislature pursuant to the Public Community College Act of Illinois, 110 ILCS 805 1-1 et seq. (the "PCC Act"), as amended, for, the purpose, among others, of providing educational and technical training programs.

B. On March 18, 1956, the Board of Commissioners of the County and the City Council of the City of Chicago created the Commission pursuant to the Public Building Commission Act of the State of Illinois, 50 ILCS 20/1 et. seq. (the "PBC Act") for the purpose, among others, of facilitating the development and construction of public buildings, improvements and facilities for use by local public agencies in the furnishing of essential governmental services.

C. The Board of Trustees and the Commission have agreed that the Commission may undertake future projects approved by the Board of Trustees or in the Board of Trustees' Capital Improvement Program ("CIP" or "Program") for the acquisition, construction, renovation, reconstruction, revitalization and equipping of various community college facilities.

D. The Board of Trustees' may require the acquisition, design, construction, equipping, redevelopment, alteration, renovation and refurbishment of a community college campus facility.

E. The Commission has heretofore undertaken the acquisition, construction, alteration, repair, renovation, rehabilitation and equipping of buildings and facilities for use by various public bodies including the City of Chicago, the Board of Education of the

City of Chicago, the Chicago Park District, County of Cook, State of Illinois and the Board of Trustees of Community College District No. 508.

F. The Board of Trustees desires that, from time to time, the Commission will implement certain acquisition, construction, demolition, rehabilitation, renovation and other Projects (the "Projects") on its behalf. Following a determination that a project should be undertaken, any additional agreement between the Parties detailing scope, cost and source of funds is subject to the approval of the Board of Trustees and will be defined more specifically in a Project Formulation or Project Undertaking Request.

H. The parties have determined that it is in their best interests to enter into this Agreement for the coordination, management and administration of the Project pursuant to the Intergovernmental Cooperation Act of the State of Illinois (5 ILCS 220/1 et seq.) in order to set forth their objectives and respective duties and responsibilities and to describe the procedures and guidelines to be followed with respect to implementation of the Projects.

I. The Board of Trustees and PBC intend to participate in the planning and implementation of certain Projects, including, without limitation, review and approval of design elements and materials to be incorporated into the projects and assistance in the preparation of the Project Budget (as hereinafter defined).

J. It is anticipated that the costs of the projects will include the PBC's and Board of Trustees' formulation, undertaking, and administrative costs, and such costs may be paid through funding sources including but not limited to, bonds issued by the Board of Trustees or the Commission, grant funds secured by either of the Parties for the benefit of such Projects, the Board of Trustees' operating funds and other lawfully available funds of the Board of Trustees.

K. Should the Parties agree that the pursuit of other funding strategies is advantageous, the terms of such funding strategy will be negotiated at that time.

L. In the event that Bonds are issued by the Commission for the development and implementation of a Project on behalf of the Board of Trustees, the Parties may enter into any lease, as applicable, pursuant to Section 7-1.1(a) of the PCC Act for a facility acquired or constructed as one of the projects contemplated by this Agreement, pursuant to which lease the Board of Trustees will guarantee payment of the debt service on the Bonds issued by the Commission; provided, however, that the rental payment obligations of the Board of Trustees may be offset, in part, on an annual basis by rental payments made by other tenants of the facility.

M. On \_\_\_\_\_, 2016, the Board of Trustees adopted a resolution ("Board of Trustees Authorizing Resolution") which authorized the Board of Trustees to enter into an Intergovernmental Agreement with the Commission for the implementation of the Project. Pursuant to the Board of Trustees Authorizing Resolution, upon prior Board of Trustees approval of each Project, the Board of Trustees and/or any designee of

the Board of Trustees (the “Authorized Board Representative”) is delegated to take such action as may be necessary and appropriate to effectuate the efficient implementation and construction of the Project being assigned to the Commission.

N. PBC’s Board of Commissioners (the “PBC Board”) on June 14, 2016 adopted Resolution No. 8298 (the “PBC Authorizing Resolution”) authorizing the Commission to enter into an Intergovernmental Agreement with the Board of Trustees and to undertake the development, implementation and construction of the Project on behalf of the Board of Trustees.

O. Pursuant to the PBC’s Authorizing Resolution, the Executive Director of the PBC and any individual designated in writing by the Executive Director as an Authorized PBC Representative are delegated the authority to take such action as may be necessary to effectuate the articulated duties and responsibilities of the PBC’s Authorizing Resolution and this IGA.

P. This Intergovernmental Agreement is for a term, the later of five (5) years ending upon July 7, 2021, or upon Final Completion and Acceptance of the Project

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties hereto hereby agree as follows:

#### **DEFINITIONS:**

For all purposes of the Agreement, each of the following terms shall have the respective meaning assigned to it as follows:

**Authorized Commission Representative:** The person designated by the Executive Director of the Commission to provide construction management, administration and coordination services with respect to a Project. The name of this representative shall be communicated in writing to the Parties for each Project.

**Authorized Board Representative:** The person designated by the Board of Trustees for the purpose of providing information regarding the nature and scope of a project, executing Requests for Formulation, Project Undertaking Requests and other project documents, conducting periodic inspections for the Board of Trustees and otherwise participating in the oversight and coordination of a Project on behalf of the Board of Trustees. The name of this representative shall be communicated in writing to the Parties for each Project.

**Bond Resolution:** Certain resolutions adopted by the PBC Board or the Board of Trustees authorizing and providing for the issuance of the Bonds for the purpose of acquiring a Site and/or paying the costs of a Project and providing for the payment of the Bonds.

**Bonds:** One or more series of Building Revenue Bonds (or other bonds) that may be issued by the Commission or Board of Trustees for the purpose of paying the costs of a Project, including the acquisition, title to a Site.

**Capital Improvement Program or Program:** The requirements of the Board of Trustees with respect to the nature, scope and extent of the Projects including, without limitation, the size, type, function, dimensions, spatial relationships and materials to be used in the construction of the Projects.

**Certificate of Final Acceptance:** The Certificate, substantially in the form attached hereto as Exhibit C-2, which shall be delivered by the Commission to the Authorized Board Representative to certify that a Certificate of Final Completion has been issued by the Architect of Record for a Project, that the Commission has verified that all Punch List Work has been completed, and that all deliverables, including but not limited to the items as provided in Section 10.6, have been transmitted to the Board of Trustees along with a Full Certificate of Occupancy issued by the City Approval of the Notice of Final Acceptance by the Authorized Board Representative determines that all of the requirements of the Contract for the development, implementation, and construction of a Project have been completed.

**City:** The City of Chicago, an Illinois municipal corporation.

**City Council:** The City Council of the City.

**Commission:** The Public Building Commission of Chicago, an Illinois municipal corporation.

**Contract:** The contract, including all of the contract documents as described therein, providing all labor, materials and other Work for the development, implementation or construction of a Project.

**Contractor:** The contractor that contracts with the Commission or its duly authorized representative to perform services and/or provide Work in connection with the construction of the Project. For purposes of this Agreement, the term “contractor” may include a general or specialty contractor, subcontractor, design entity, construction manager, design-builder and/or other consultants engaged by the Commission to implement a Project.

**Executive Director:** The Executive Director or Acting Executive Director of the Commission or the duly designated representative thereof.

**Facility or Facilities:** The building or buildings including ancillary improvements thereon that are encompassed within the description of the Project.

**Final Acceptance:** The date on which the Authorized Commission Representative in consultation with the Authorized Board Representative determines that

all of the requirements of the Contract for the development, implementation, and construction of a Project have been completed. A Certificate of Final Acceptance, as defined herein, shall be issued by the Architect of Record for a Project on behalf of the Commission and the Notice of Final Acceptance must be approved by the Authorized Board Representative. Exhibit C-3 which is attached hereto will track Substantial Completion and Final Acceptance.

**Formulation Services:** Formulation services include a broad range of planning and pre-construction activities, including, without limitation, site selection, land acquisition, environmental testing, concept design, engineering, facility assessment reports and studies, capital improvement plans, the production or revision of design and development documents, or determining the scope, Schedule and Budget for the Project.

**Final Completion:** The last date on which all of the following events have occurred with respect to a Project: the Authorized Commission Representative, in consultation with Authorized Board Representative, has determined that all Punch List Work and any other remaining Work have been completed in accordance with the Construction Contract; final inspections have been completed and operations systems and equipment testing have been completed; the Certificate of Final Completion has been issued by the Architect of Record; a Full Certificate of Occupancy has been issued by the authority having jurisdiction; all deliverables as provided in Section 10.6 hereof including, but not limited to, all warranties, operations/maintenance manuals, and as-built drawings, have been provided by the Commission to the Authorized Board Representative; any LEED Commissioning responsibilities required by the Contract have been completed; and all contractual requirements for final payment to the Contractor have been completed A Certificate of Final Acceptance, as defined herein, shall be issued by the Architect of Record for a Project on behalf of the Commission and the Notice of Final Acceptance must be approved by the Authorized Board Representative.

**Lease:** Any lease agreement that may be entered into between the Commission, as Lessor, and the Board of Trustees, as Lessee, providing for the use and occupancy of a Site by the Board of Trustees and the payment of annual rentals by the Board of Trustees in amounts sufficient to amortize the principal, interest and premium, if any, of the Bonds.

**Notice of Substantial Completion:** The Notice, substantially in the form attached hereto as Exhibit C-1, which shall be delivered by the Commission to the Authorized Board Representative along with a Certificate of Substantial Completion issued by the Architect of Record, a copy of the Punch List and a Certificate of Occupancy issued by the City The Notice of Substantial Completion shall be approved by the Authorized Board Representative. Exhibit C-3 which is attached hereto will track Substantial Completion and Final Acceptance.

**PBC Act:** The Public Building Commission Act of the State of Illinois, 50 ILCS20/1 et seq., as amended from time to time.

**PCC Act:** The Public Community College Act of the State of Illinois, 110 ILCS 805/1-1 et seq., as amended from time to time.

**PBC Board:** The Board of Commissioners of the Commission.

Each project will be defined more specifically in the Project Formulation or Undertaking.  
**Project Account:** An existing interest-bearing account of the Commission that will be used for the purpose of paying the costs incurred by the Commission in developing, implementing or constructing the Projects as more fully described in Section 9.2 hereof. The interest earned shall be credited to the Project Account.

**Project Budget or Budget:** The amount determined by the Board of Trustees and the Commission as the estimated cost of completing the acquisition, development and construction of a Project in the format as set forth on Exhibit B hereof. The Project Budget or Budget for each Project will be specified in the Project Formulation Request or Project Undertaking, as applicable. For purposes of this Agreement, the term "Project Budget" includes, as the case may be, preliminary budget(s) established by the Board of Trustees and final budget(s) as determined by the Board of Trustees and the Commission as a result of the review process more fully described in Section II hereof.

**Project Formulation Request:** A letter executed by the Commission and the Board of Trustees authorizing the Commission to commence planning services for a Project, including development of the scope, schedule and budget for such Project, and committing the Board of Trustees to pay the cost stated in the letter for those planning services pursuant to the terms of Section 3.2.6 and 9.2 of this Agreement.

**Project Undertaking:** The document approved by the Parties and authorized by the Board of Trustees and the Commission which sets forth the specific scope, Budget, Schedule and other details of a Project. The document will set forth the Commission's planned approach to the Project.

**Project Undertaking Request:** The document issued by the Board of Trustees requesting that the Commission undertake a Project and setting forth the Board's requirements for the development and implementation of a Project including, without limitation, scope, preliminary budget and schedule, for a Project.

**Punch List Work:** Minor Adjustments, repairs, or deficiencies in the construction of a Facility or Facilities as determined by the Authorized Commission Representative in consultation with the Authorized Board Representative which must be completed prior to Final Acceptance.

**Schedule:** The anticipated date or dates on which the Project or portions thereof will be completed.

**Site:** The real estate parcel or parcels upon which the Project will be constructed.

**Work:** All labor, materials, equipment or other incidentals necessary or convenient to the successful completion of the Project or applicable portion thereof and which are required by, incidental to or collateral to the Contract.

## **SECTION I INCORPORATION OF RECITALS AND DEFINITIONS**

The recitations and definitions set forth above constitute an integral part of the Agreement and are hereby incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

## **SECTION II SCOPE OF PROJECT**

**2.1. Project.** The Commission will provide administrative, technical, professional and legal services as necessary in order to acquire any Site that may be required to implement the Project. The Commission will coordinate and manage the development of a Project, all in cooperation with the Board of Trustees pursuant to the terms of this Agreement and applicable provisions of the PBC Act, and the Municipal Code of the City.

**2.2. Review of Project.** The Parties by their designated representatives will review the scope of work required for the Project including the Project Budget, assessments and/or remediation of environmental conditions, site preparation, the Schedule and any other factors that may affect the coordination or cost of the Project.

**2.3. Implementation of Project.** Upon completion of the review procedures described in 2.2 above, the Parties by their designated representatives shall approve in writing the final Project Budget and the Schedule for the Project. Following such approval, the Commission shall proceed to implement the Project in accordance with this Agreement.

## **SECTION III RESPONSIBILITIES OF THE PARTIES**

**3.1. The Commission.** Specific responsibilities of the Commission may include but are not limited to, the following:

**3.1.1** Manage the financing of certain Projects, including the maintenance of a pool of qualified underwriters, issuance of Bonds, identifying and completing applications for grants (whether the Board of Trustees or the PBC is identified as the grantee), and otherwise performing the tasks necessary to provide the funding for Site acquisition, project formulation and construction of a project;

**3.1.2** INTENTIONALLY OMITTED



**3.1.3** In consultation with the Board of Trustees, engage the services of such architectural, engineering and other design and/or construction entity or consultants as may be necessary for the completion of the project, incorporating into the Contract with any such design entity the copyright provisions set forth on Exhibit D attached hereto and incorporated herein by reference. Pursuant to the terms of this Agreement, the Commission shall assign to the Board of Trustees any and all such copyrights which have been conveyed to the Commission;

**3.1.4** Prepare or cause to be prepared the terms and conditions of the Contract, which shall be forwarded by the Commission to the Authorized Board Representative for review and comment prior to the solicitation of bids and/or proposals for the Work;

**3.1.5** Appoint an Architect of Record or other design entity, in consultation with the Board of Trustees, in order to prepare design documents that are sufficiently complete for the Commission to solicit bids for the implementation of the Project;

**3.1.6** Solicit bids and/or proposals for the Contract and other Work as may be required for the implementation of the Project;

**3.1.7** Examine all documents submitted by the Board of Trustees or the Contractor and render decisions pertaining thereto with reasonable promptness to avoid delay in the completion of the Project;

**3.1.8** Obtain such surveys, title information, environmental tests and other reports and documents as may be necessary or advisable in order to determine the condition of the Site and factors that may affect the cost of completion of the Project or the Schedule;

**3.1.9** Negotiate with any public agencies or authorities and any commercial or private entities having ownership or other interests in and to a Site in order to acquire any easements or reversionary interests necessary in order to develop the Site for its intended purpose;

**3.1.10** Participate in such interaction, consultation, meetings and other activities with community organizations, public agencies, elected officials and other interested parties as may be necessary for the efficient implementation and construction of the Project;

**3.1.11** Engage or cause to be engaged the services of such environmental consultants and other design consultants as may be necessary in order to prepare bid and construction documents, monitor the Work and perform other services as directed by the Commission in order to implement the Project;

**3.1.12** Determine the types and amounts of insurance and bonds to be provided by the Contractor and other consultants and the sufficiency of evidence that such coverages are in force;

**3.1.13** Require and procure from the Contractor final waivers of all liens or rights of lien for labor and materials furnished by or through it in the construction of the Project;

**3.1.14** Require, by appropriate provision in the Contract, that the Contractor indemnify, save and hold harmless the Board of Trustees and the Commission, as more fully described in Section 8.1 hereof;

**3.1.15** Upon approval by the Authorized Board Representative, the Authorized Commission Representative shall review and approve change orders which cause the construction of the Project to exceed the overall Project Budget. The Commission will provide copies of change orders to the Authorized Board Representative who will have forty-eight (48) hours to approve or respond with comments. The failure of the Authorized Board Representative to respond within forty-eight (48) hours shall deem the change order approved.;

**3.1.16** Deposit funds received on behalf of the Board of Trustees into a segregated Project Account to complete the construction of the Project in accordance with the Project Budget;

**3.1.17** Enforce the terms and conditions of the Contract and all other agreements pertaining to the Project consistent with the requirements thereof; and

**3.1.18** Provide such additional services as may be requested by the Board of Trustees with respect to the Project provided that sufficient funds are available to pay the costs of such services.

**3.2. The Board of Trustees.** The Board, in consultation with the Commission, shall determine the nature and scope of the Project. The Board of Trustees shall pay all costs of design, development and construction of the Project as set forth in the Project Budget. In no event shall the Commission be obligated to pay nor shall the Commission disburse any funds from the Project Account which exceed the overall Project Budget without the written approval of the Authorized Board Representative. The Commission shall notify the Board of Trustees of any reallocation of funds among line items within the Project Budget which do not increase the overall Project Budget. The failure of the Authorized Board Representative to respond with approval or written comments within forty-eight (48) hours shall deem the reallocation approved. Specific responsibilities of the Board include, but are not limited to, the following:

**3.2.1** Provide information to the Commission regarding the requirements of the Board of Trustees, including the design objectives, constraints and criteria,

space requirements and relationships, and site requirements, with reasonable promptness in order to avoid delay in the progress of the Project;

**3.2.2** Work with the Commission to select a finance team for the issuance of Bonds to finance the Project contemplated by this Agreement;

**3.2.3** Work with the Commission to develop a preliminary Project Budget for the Project which shall include, without limitation, contingencies for bidding, changes during construction and other costs which are the responsibility of the Board and, in consultation with the Commission, determine the final Project Budget;

**3.2.4** Designate the Authorized Board Representative to act on the Board of Trustees' behalf for the purpose of attending meetings, examining and executing documents and rendering timely decisions pertaining to financing, planning, design and construction of the Project;

**3.2.5** In consultation with the Commission, the Authorized Board Representative shall review and approve change orders which cause the construction of the Project to exceed the overall Project Budget;

**3.2.6** Pay all costs incurred by the Commission in connection with the planning, development, and construction of a project as provided in the Project Budget and, as applicable, the Lease, with such funds, including grant and/or funds obtained by either of the Parties;

**3.2.7** Cooperate with the Commission and its designated representatives in obtaining any and all approvals pertaining to the use of the Site, and execute any application for permit or the like as may be required in order to construct the Project; and

**3.2.8** Provide such additional assistance as shall be agreed by the Parties.

## **SITE ACQUISITION AND ACCESS**

**3.3. Acquisition of the Site.** When and if required for a Project, the Commission will acquire title to a Site, in fee simple, free and clear of any encumbrances or restrictions that would preclude the use and development of the Site for the intended purpose. Any such title to the Site as may be acquired by the Commission shall be for the use and benefit of the Board and title thereto shall be conveyed to the Board where applicable, as soon as practicable by customary documents of conveyance approved by the Board..

**3.4. Right of Entry.** The Commission agrees that the Board of Trustees, its employees, consultants and representatives and the Contractor shall have the right to enter upon any Site owned by the Commission in order to conduct such investigations and inspections as may be necessary or appropriate for the benefit of the Board. The Board shall cooperate with the Commission and its designated representatives in obtaining any and all approvals pertaining to the use or zoning of the Site, and execute any applications for permit or the like as may be required in order to construct a project. Similarly, the Board of Trustees agrees that the Commission, its employees, consultants and representatives and the Contractor shall have the right to enter upon a Site owned by the Board of Trustees in order to conduct such investigations and inspections as may be necessary or appropriate and to construct a Project without further authorization by the Board. The Commission shall cooperate with the Board of Trustees and its designated representatives in obtaining any and all approvals pertaining to the use or zoning of the Site, and execute any applications for permit or the like as may be required in order to construct the Project.

**3.5. Unpermitted Encumbrances.** Neither the Commission, the Board of Trustees nor the Contractor nor any of their respective commissioners, officials, representatives, agents, successors or assigns shall engage in any financing or other transaction the effect of which creates an encumbrance or lien upon the Site.

## **SECTION IV ENVIRONMENTAL CONDITIONS**

**4.1. Reports and Studies.** The Board of Trustees shall provide to the Commission a copy of any studies and reports with regard to the environmental condition of the soil of the Site and the geology thereof which may have been obtained by the Board of Trustees. The Commission shall cause to be conducted any additional environmental reports and studies of the Site that are necessary for construction of the Project thereon.

**4.2. Environmental Remediation.** In the event that adverse environmental conditions of the Site are discovered during the construction of the Project, the Commission will undertake the remediation of such adverse environmental conditions with funds provided by the Board of Trustees pursuant to the Budget. If the cost of the environmental remediation action exceeds such funds, the Commission shall promptly notify the Authorized Board Representative in writing, and the parties shall mutually agree in writing upon appropriate action to be taken to fund and complete such remediation.

## **SECTION V CONSTRUCTION OF THE PROJECTS**

**5.1. Preparation of the Contract.** The Authorized Board Representative shall provide the Commission with any preliminary documents for the Site as may be available to the Board of Trustees including, without limitation, any architectural or engineering documents, site plans and elevations that may have been prepared for the Board. The Commission shall utilize such documents to facilitate the preparation of the bid documents and the Contract.

**5.2. Selection of Contractor.** Upon completion of the bid and contract documents, the Commission, in consultation with the Board of Trustees, shall determine the project delivery system to be used and follow the usual and customary procedures established by the Commission as to that delivery system. The Commission shall conduct such investigations as may be necessary and appropriate to determine the qualifications of the Contractor. The Authorized Board Representative shall have the right to attend meetings and participate in the evaluation process.

**5.3. Limited Applicability of Board of Trustees' Approval.** Any approvals of the bid or contract documents for a project made by the Authorized Board Representative are for purposes of this Agreement only and do not affect or constitute approvals required for building permits or approvals required pursuant to any other ordinance of the City. Any such approval by the Authorized Board Representative pursuant to this Agreement also does not constitute approval of the quality, soundness or the safety of the project.

**5.4. Ownership of Documents.** All documents, data, schematics, warranties, design documents, copyrights and contract documents with regard to the implementation of a Project shall be the property of the PBC and shall be transferred to the Board of Trustees in an orderly manner upon completion of the Project.

## **SECTION VI ADMINISTRATION OF THE PROJECTS**

**6.1. Enforcement of Contract.** The Commission shall comply, and cause the Contractor to comply with the terms and conditions of the Contract including all applicable federal, state and local laws, codes, ordinances and orders. Such requirements include, but are not limited to, accessibility standards for persons with disabilities or environmentally-limited persons, Illinois Prevailing Wage Act, PBC's Inspector General, Illinois Concealed Carry laws, minimum wage requirements, if applicable, the Chicago Human Rights Ordinance, equal employment opportunity and affirmative action requirements, City residency requirements, and the Commission's special conditions regarding MBE and WBE participation.

**6.2. Coordination with the Board of Trustees.** The Authorized Commission Representative shall apprise the Authorized Board Representative of the status of progress regarding the Project not less frequently than on a monthly basis and upon request provide copies of reports and other documents prepared for the Commission. As soon as reasonably practicable, the Commission shall provide the Authorized Board Representative with any information which may result in a request for a change order or require the expenditure of additional funds or resultant delay. Any such requests for change orders or for the expenditures of additional funds which increase the overall Project Budget must be approved by the Authorized Board Representative. The failure of the Authorized Board Representative to respond with approval or written comments within forty-eight (48) hours shall deem the request for change orders or the expenditure of additional funds or resultant delay approved. The Authorized Board Representative shall have the right to inspect the Project at all reasonable times and to attend meetings with representatives of the Commission, the Contractor and others regarding the Project. The Authorized Board Representative will provide to the Commission prompt, accurate and complete information regarding the requirements of the Board of Trustees so that the progress of the Project will not be impeded. All data provided by the Authorized Board Representative shall be evaluated by the Commission, which shall have the right, in consultation with the Board of Trustees, to recommend alternative approaches and value engineering in order to reduce costs while maintaining the overall quality of the Project and the Schedule.

**6.3. Payment and Performance Bond.** The Commission shall require that the Contractor provide a payment and performance bond to ensure that the terms and conditions of the Contract will be faithfully performed. The payment and performance bond shall be in the amount specified in the Contract and issued by a surety company licensed to do business in the State of Illinois and approved by the Commission. In addition, the payment and performance bond shall include a provision that will guarantee the faithful performance of the prevailing wage clause as provided by the Contract. Any proceeds derived by the Commission as a result of the payment and performance bond shall be credited to the Project Account and applied as agreed by the Commission and the Authorized Board Representative.

**6.4. Waiver and Release of Liens.** The Commission shall require from the Contractor final waivers of liens or rights of lien for all labor and materials furnished in the constructing or improving of the Project. This provision shall be construed as being solely for the benefit of the Commission and the Board of Trustees and shall not confer any rights hereunder for the benefit of the Contractor or its subcontractors. To ensure payment of lien claims, the Commission shall cause to be retained the amounts of the liens claimed by subcontractors or suppliers from payments to the Contractor unless an

appropriate waiver or mechanic's lien bond is provided or the liened funds are deposited with the Circuit Court of Cook County in accordance with applicable Illinois statutory requirements.

**6.5. Default by Contractor.** In the event that the Contractor defaults in its obligations to perform, the Commission shall pursue or cause to be pursued all rights and remedies afforded by the terms of the Contract, at law or in equity.

**6.6. Default by the Commission.** In the event that the Commission shall fail to perform its obligations under this Agreement, the Board of Trustees shall have the right to request that the Commission assign the Contract to the Board of Trustees, and upon the Board's request, the Commission shall promptly make such assignment.

## **SECTION VII INDEMNITY AND INSURANCE**

**7.1. Indemnity.** The Contract shall require that the Contractor indemnify, save and hold harmless the Commission, the Board of Trustees and their respective commissioners, board members, officers, agents and employees and representatives, individually and collectively, from and against any and all liabilities, claims, demands, suits, and costs and expenses associated therewith, as more fully set forth in the Contract, or any action or non-action of the Contractor, made or instituted by third parties arising or alleged to arise out of the Work of the Contractor or its subcontractors or any of their employees or agents.

**7.2. Insurance.** The Contract shall provide that the Contractor or the Commission shall purchase and maintain during the construction of a project the types and amounts of insurance as set forth on Exhibit E. Prior to the commencement of the Work, the Commission shall require that the Contractor provide certificates of insurance evidencing the required insurance and certifying the name and address of the Contractor, the description of work or services covered by such policies, the inception and expiration dates of the policies and the specific coverages to be provided. A copy of any and all such insurance certificates shall be provided by the Commission to the Board of Trustees upon request. All such insurance shall be placed in financially responsible companies, satisfactory to the Commission and authorized under the insurance laws of the State of Illinois to do business in the State of Illinois. Upon issuance of the Notice of Substantial Completion as described in Section 10.4 hereof, either the Commission or the Board of Trustees will be responsible for insuring the Site including the improvements constructed thereon.

## **SECTION VIII PAYMENT OF PROJECT COSTS**

**8.1. Cost of the Project.** It is the intent of the parties that the cost of completing the Project shall not exceed the sums specified in the final Project Budget. All plans, specifications and estimates of costs shall be reviewed by the duly designated representatives of the Parties. The fee for the Commission's services for the management and administration of the Project will be included within the Project Budget. The fee for this project is three percent (3%) of the estimated construction cost of the Project Budget. In addition, the Board of Trustees agrees to pay or reimburse the Commission for all reasonable legal fees, costs and expenses incurred by the Commission in undertaking the project. Costs may include the following:

**8.1.1 Third-Party Negligence.** Claims or proceedings against the Commission or the Contractor that arise out of a claim or proceeding that is instituted by third parties as a result of any negligent or willful act of the Contractor or any of its subcontractors or subconsultants shall be tendered to the Contractor for defense of the Commission and the Board of Trustees pursuant to Section VIII, Indemnity and Insurance, of this Agreement.

**8.1.2 Construction Litigation.** The Commission will use its best efforts to enforce the provisions of the Contract so that the Project is completed in a cost efficient, timely manner. The Commission will defend or prosecute, as applicable, rights and remedies afforded by the Contract in a reasonable, prudent manner. The Commission shall pursue and exhaust, and shall pursuant to the Contract require the Contractor to pursue and exhaust all dispute resolution requirements provided for under the Contract before litigating any dispute in connection with the Project. To the extent that payment of the Commission's legal costs and expenses are not recovered from the Contractor or any surety, the Board of Trustees agrees that the legal costs incurred by the Commission are project costs. The Commission must secure the approval of the Board of Trustees before agreeing to resolve any litigation matter that results in the expenditure of funds that increase the overall Project Budget.

**8.1.3 Application of Funds.** Any funds which may be recovered by the Commission as a result of any such legal proceedings shall be deposited in the Project Account and disbursed as directed by the Executive Director and the Authorized Board Representative.

**8.1.4 Disclaimer.** It is expressly understood and agreed that the Board of Trustees will not reimburse the Commission for any legal fees on account of findings against the Commission for breach of contract or the breach of the Agreement.



**8.2. Payment of Project Costs.** The Commission shall prepare and submit to the Authorized Board Representative the projected cash flow for a Project and the estimated amounts that will be necessary to pay the costs of the Project during the next succeeding ninety (90) days. Requests for payment shall include professional services, construction, administrative costs, contingency reserves and such other items as shall have been agreed by the Parties. Upon receipt, the Commission shall promptly process the payment request and pay to the Contractor the amounts requested. The Commission shall provide copies of all requests for payment to the Authorized Board Representative who will have forty-eight (48) hours to approve or provided written comments. The failure of the Authorized Board Representative to respond with approval or written comments within forty-eight (48) hours shall deem the request approved. The Project Funds shall be deposited by the Commission in a segregated interest-bearing Project Account established by the Commission to pay eligible costs of a Project.

**8.3. Conditions Precedent to Disbursement to a Contractor.** Prior to the initial disbursement by the Commission of any funds from the Project Account to pay costs incurred by the Commission for the Project, the Commission shall deliver to the Authorized Board Representative upon request a copy of the following documents:

- (a) One executed copy of the Contract;
- (b) A copy of the certificates of insurance evidencing the types and limits of insurance as required by the Contract; and
- (c) A copy of the payment and performance bond submitted by the Contractor to the Commission.

**8.4. Disbursement of Project Costs.** The Commission will disburse funds deposited in the Project Account to pay eligible costs of the Project in accordance with the procedures specified in the Contract for interim and final payments. The Commission will provide copies of all payment applications to the Authorized Board Representative who will have forty-eight (48) hours to approve or respond with comments. The failure of the Authorized Board Representative to respond within forty-eight (48) hours shall deem the payment application approved. Payments for professional services shall be on the basis of invoices approved by the Commission pursuant to its usual and customary payment procedures.

**8.5. Insufficient or Excess Funds.** In the event that the amounts deposited by the Board of Trustees in the Project Account pursuant to the Project Budget shall be insufficient to complete a Project, the Commission shall notify the Authorized Board Representative in writing and request additional funding. In no event shall the Commission be obligated to expend any funds for a Project in excess of the amounts provided by or on behalf of the Board of

Trustees nor shall the Commission pay any funds for a project which exceeds the Project Budget without the prior written approval of the Authorized Board Representative. Any balance remaining in the Project Account upon completion of the Project shall be paid by the Commission as agreed by the Executive Director and the Authorized Board Representative.

**8.6. Records; Audit.** The Commission shall maintain records and accounts which shall include entries of all transactions relating to the expenditure of funds required for the development, improvement and construction of the Project for a period of not less than three (3) years from the date of Final Acceptance. The Authorized Board Representative shall have the right to inspect the books and records of the Commission pertaining to the Project upon request at all reasonable times.

## **SECTION IX COMPLETION OF THE PROJECT**

**9.1. Standards for Construction.** The Commission shall require the Contractor to provide materials for the Project that are new and work of good quality, free from faults and defects, and in conformity with the requirements of the Contract. The Commission shall also require the Contractor to correct any deficient or defective work or materials in accordance with the procedures described in the Contract. For a period of one (1) year from the date of the issuance of the Notice of Substantial Completion, or such longer period as may be provided by any applicable special warranty in the Construction Contract, the Commission shall cause the Contractor to correct any work or materials found to be defective or non-conforming and any damage caused by such work and materials. In the event that the Commission requires the Board of Trustees' assistance to enforce the provisions of the Contract, the Board will cooperate with the Commission to enforce such Contract and cause the Contractor to correct any such deficient or defective Work or materials and any damage caused by such Work or materials.

**9.2. Completion Requirements.** The Commission shall require the Contractor to comply with the requirements of the Contract with respect to the completion and close-out of the Project including, but not limited to, the completion of Punch List Work, the furnishing of material and equipment guarantees, warranties, operating and maintenance data, manuals and record and "as-built" drawings, shop drawings, waivers of lien, certified payrolls, and such other documents as may be required to comply with the terms of the Contract. Upon Final Completion, the Commission will secure the Certificate of Final Completion issued by the Architect of Record and all other relevant documents. Any liquidated damages which may be assessed by the Commission against the Contractor for non-performance or delay will be

credited to the Project Account or otherwise disbursed as agreed by the Commission and the Authorized Board Representative.

**9.3. Inspections.** All Work and materials constituting the Project shall be inspected by the Authorized Commission Representative, the Authorized Board Representative, or as required by applicable law or ordinance. The Commission shall notify the Authorized Board Representative when the Project has been scheduled for inspections to certify Substantial Completion and Final Completion and Final Acceptance. The Authorized Board Representative shall have the right to attend any and all such inspections and will, in consultation with the Authorized Commission Representative, determine when the Project has been sufficiently completed for Substantial Completion, Final Completion and Acceptance. The Authorized Board Representative and the Authorized Commission Representative will monitor completion of Punch List Work by the Contractor.

**9.4. Notice of Substantial Completion.** After issuance of the certificate of Substantial Completion by the Architect of Record, the Authorized Commission Representative shall deliver to the Authorized Board Representative a copy of such certificate and the Certificate of Occupancy issued by the authority having jurisdiction. Upon delivery to the Authorized Board Representative of such certificates along with the Notice, substantially in the form attached hereto as Exhibit C-1, the Project will be deemed substantially complete according to the Contract.

**9.5. Transfer of Responsibility.** When agreed by the Parties, the Board of Trustees shall be responsible for the operation and maintenance of the facility from the date of Substantial Completion forward including, without limitation, costs of operation and maintenance, electricity, gas, water, telecom and other utilities, security, personnel and insurance to a level as determined to be appropriate by the Board.

**9.6. Certificate of Final Acceptance.** Upon issuance of the Certificate of Final Completion by the Architect of Record, the Commission shall deliver to the Authorized Board Representative a Certificate of Final Acceptance, substantially in the form attached hereto as Exhibit C-2 along with a copy of the Certificate of Final Completion issued by the Architect of Record and the Full Certificate of Occupancy. The Certificate of Final Acceptance shall certify that each of the following have been completed and appropriate documentation delivered to the Authorized Board Representative: environmental reports; permits and licenses; shop drawings; "as-built" contract drawings; operation and maintenance manuals; training of Board of Trustees' personnel; subcontractor/manufacturers warranties; QA/QC Certification of testing and start-up; commissioning (BAS, HVAC, etc.); and LEED submission to the USGBC. Upon delivery of such certificates by the Commission to the Authorized

Board Representative and approval of the Notice of Final Acceptance by the Authorized Board Representative, a project will be deemed completed and accepted by the Board of Trustees in accordance with the terms of this Agreement.

**9.7. Final Acceptance and Payment to Contractor.** Unless otherwise provided by the Contract, upon completion of all the Work required to be completed by the Contractor and issuance of the Certificate of Final Acceptance by the Architect of Record, the Commission shall process final payment to the Contractor in accordance with the procedures set forth in the Contract.

## **SECTION X NOTICES**

**10.1. Notices to Parties.** Any notice, certificate or other communication provided pursuant to this Agreement shall be in writing and shall be mailed, postage prepaid by registered or certified mail with return receipt requested, or hand delivered and receipted, as follows:

If to the Board of Trustees: Board of Trustees  
City Colleges of Chicago  
226 West Jackson Boulevard Chicago, Illinois 60606  
Attn: Authorized Board Representative

with a copy to: City Colleges of Chicago  
226 West Jackson Boulevard  
Chicago, Illinois 60606  
Attn: General Counsel

If to the Commission: Public Building Commission of Chicago  
50 West Washington Street  
Room 200  
Chicago, Illinois 60602  
Attn: Executive Director

with a copy to: Neal & Leroy, LLC  
203 N. LaSalle Street  
Suite 2300  
Chicago, Illinois 60601  
Attn: General Counsel for PBC

Notices are deemed to have been received by the parties three (3) days after mailing.

**10.2. Changes.** The Parties, by notice given hereunder, may designate any further or different addressee or addresses to which subsequent notices, certificates or other communications shall be sent.

## **SECTION XI MISCELLANEOUS PROVISIONS**

**11.1. Entire Agreement; Amendment.** Except as otherwise provided herein, this Agreement contains the entire agreement of the parties with respect to the subject matter herein and supersedes all prior agreements, negotiations and discussions with respect thereto, and shall not be modified, amended or changes in any manner whatsoever except by mutual consent of the Parties as reflected by written instrument executed by the Parties hereto.

**11.2. Conflict of Interest.** No member of the PBC Board nor any member of the Board of Trustees nor any official or employee of the Board of Trustees or the Commission shall have any financial or ownership interest, direct or indirect, in this Agreement; nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. No representative of the Board or the Commission shall be personally liable for the performance of the Board or the Commission pursuant to the terms and conditions of this Agreement.

**11.3. Mutual Assistance.** The Parties agree to perform their respective obligations, including the execution and delivery of any documents, instruments and certificates, as may be necessary or appropriate, consistent with the terms and provisions of this Agreement.

**11.4. Disclaimer.** No provision of this Agreement, nor any act of the Board of Trustees or the Commission shall be deemed or construed by either of the Parties, or by third persons, to create any relationship of third party beneficiary, or of principal or agent, or of limited or general partnership, or of joint venture, or of any association or relationship involving the Board of Trustees or the Commission.

**11.5. Headings.** The headings of the various sections and subsections of this Agreement have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

**11.6. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

**11.7. Successors and Assigns.** The terms of this Agreement shall be binding upon the Board of Trustees and the Commission. None of the rights, duties or obligations under this Agreement may be assigned without the express written consent of the Parties.

**11.8. Severability.** If any provision of this Agreement, or any paragraph, sentence, clause, phrase, or word, or the application thereof, in any circumstance, is held invalid, the remainder of this Agreement shall be construed as if such invalid part were not included herein and the remainder of the terms of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**11.9. Counterparts.** This Agreement shall be executed in several counterparts, each of which shall constitute an original instrument.

**(Remainder of page – Intentionally left blank)**

**IN WITNESS WHEREOF**, the parties hereto have executed or caused this Agreement to be executed, all as of the date first written above.

**BOARD OF TRUSTEES OF  
COMMUNITY COLLEGE DISTRICT 508  
COUNTY OF COOK, STATE OF ILLINOIS**

**PUBLIC BUILDING COMMISSION  
OF CHICAGO**, an Illinois  
municipal corporation

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
Executive Director

**Approved as to form and legality:**

**Approved as to form and legality**

By: \_\_\_\_\_  
General Counsel

By: \_\_\_\_\_  
General Counsel

**EXHIBIT A-1**

**Description of Initial Project**

(Placeholder)



# EXHIBIT B

## Project Budget



### Total Project Budget

Public Building Commission of Chicago | Richard J. Daley Center | 50 West Washington Street, Room 200 | Chicago, Illinois 60602 | (312) 744-3000 | pbcchicago.com

User Agency:  
Project :  
Address :  
Ward / Ald: [Ward Lookup](#)

Project Number:  
Date:  
PM:  
Funding Amount:  
Funding Source(s):

Cost Codes	GL Code	Group Headings	Partial Undertaking Budget	Undertaking Budget (Includes Partial Undertaking)	Comments
		Square Footage	TBD	TBD	
I		Planning			
01.02	513169	Geotechnical Testing - Planning			
01.03	513119	Environmental Assessment - Planning			
01.04	521106	Design Architect - Planning			
01.07	513163	Site Survey / Traffic Studies / LEED Registration			
01.13	513186	Other Planning Costs			
		Sub-Total	\$0	\$0	
II		Land Acquisition & Site Control			
02.01	513200	Legal Fees - Acquisition			
02.06	522100	Land Acquisition			
02.07	522300	Relocation Costs			
02.09	524800	Abatement, Demo, Fencing, Signage, & Property Management			
02.11	523700	Utility Service & Relocation Costs			
02.13	522150	Other Land Acquisition Costs			
		Sub-Total	\$0	\$0	
III		Environmental and Site Preparation			
03.01	513140	Environmental Testing / Consulting & Add'l Geotech (after UT)			
03.06	523900	Environmental Remediation & Site Preparation			
03.08	523900	Site Prep Contract Contingency			
03.09	523900	Site Prep Allowance			
03.13	523950	Other Environmental & Site Prep Costs			
		Sub-Total	\$0	\$0	
IV		Design			
04.01	513700	Design Architect Fees			
04.02	521100	AOR Basic Fees & Reimbursables			
04.10	513600	Commissioning Agent			
04.11	613700	Permitting Costs			
04.13	513600	Other Design Related Costs			
		Sub-Total	\$0	\$0	
V		Project Implementation			
05.01	513142	Project Management Costs			
05.04	518700	Pre-Bid Advertising & Document Reproduction			
05.06	518600	Community Outreach			
05.07	513104	Affirmative Action Consulting			
05.09	511300	PBC Administration			
05.12	513202	Legal Fees - Project Implementation			
05.13	513900	Other Project Implementation Costs			
		Sub-Total	\$0	\$0	
VI		Construction			
06.01	513136	Testing and Inspection			
06.04	524300	General Construction			
06.05	524350	General Construction Allowances			
06.06	591100	General Construction Contract Contingency		\$0	
06.07	513106	IT Systems			
06.08	526000	FF&E - Furnishings			
06.09	519100	Public Artwork Program			
06.13	513900	Other Project Construction Costs			
		Sub-Total	\$0	\$0	
VII		Contingency			
07.01	591000	Project Contingency		\$0	
		Sub-Total	\$0	\$0	
		TOTAL PBC BUDGET	\$0	\$0	
IX		User Agency Budget			
09.01	N/A	Legal Fees (Acquisition and Relocation)			
09.02	N/A	IT (Costs for IT, Computer Systems, Telecom)			
09.03	N/A	Client Art (Art that will be provided by the User Agency)			
09.05	N/A	Fixtures, Furniture and Equipment (FF&E)			
09.08	N/A	Miscellaneous			
		TOTAL USER AGENCY BUDGET	\$0	\$0	
		TOTAL PROJECT BUDGET	\$0	\$0	

Budget Approval:

Funding Approval:

\_\_\_\_\_  
PBC - Chief Operating Officer Date

\_\_\_\_\_  
City Colleges of Chicago Date

\_\_\_\_\_  
PBC - Executive Director Date

\_\_\_\_\_  
City Colleges of Chicago Date

**EXHIBIT C-1**

**NOTICE OF SUBSTANTIAL COMPLETION**

Date:

Name  
Authorized Board Representative  
City Colleges of Chicago  
226 West Jackson Boulevard  
Chicago, IL 60606

Re: Notice of Substantial Completion

Dear \_\_\_\_\_:

Enclosed please find a Certificate of Substantial Completion as issued by the Architect of Record, a copy of the Punch List, along with a Certificate of Occupancy for the above-referenced Project, and a letter from the independent commissioning agent certifying that all systems are operating as designed.

The Public Building Commission is in the process of completing the remaining punch list work. Copies of all warranties, operations/maintenance manuals and as-built drawings are currently being assembled and will be transmitted to you upon Final Completion of the Project. Training of maintenance staff has been completed, all keys have been turned over, and draft copies of warranties and operation/maintenance manuals have been provided to the Commission's building engineer.

Please contact the writer at (312) 744-3090 should you have any questions.

Sincerely,

Authorized Commission Representative  
Public Building Commission of Chicago

Enclosure

cc: Executive Director, PBC

Approved: \_\_\_\_\_

Authorized Board Representative

**EXHIBIT C-2**

**NOTICE OF FINAL ACCEPTANCE**

Date:

Name  
Authorized Board Representative  
City Colleges of Chicago  
226 West Jackson Boulevard  
Chicago, IL 60606

RE: Certification of Final Acceptance  
Project Name  
Project Number

Dear \_\_\_\_\_:

Enclosed please find a Certificate of Final Completion as issued by the Architect of Record, along with a Final Certificate of Occupancy for the above-referenced Project.

The Public Building Commission has verified that all Punch List Work has been completed. Copies of all warranties, operations/maintenance manuals and as-built drawings are transmitted to you concurrently with this certificate.

Please contact the writer at (312) 744-3090 should you have any questions.

Sincerely,

Public Building Commission of Chicago  
Authorized Commission Representative

Enclosure

cc: Executive Director, PBC

Approved: \_\_\_\_\_

Authorized Board Representative

### EXHIBIT C-3

#### Completion, Acceptance, and Turnover Activities

Deliverables for the PROJECT	
<b>Substantial Completion Activities</b>	Contractor Request for Substantial Completion
	Partial Certificate of Occupancy
	Punch list Issuance
	Commissioning Letter (Initial Commissioning by the Commissioning Authority)
	Key Turnover
	Operations/Maintenance (O+M) Manuals (Draft)
	Training and Demonstrations
	Warranties
	Final Meter Readings
	Security (CCTV and IDS)
	AOR's Closeout Log
	Insurance
	Public Building Commission Notice of Substantial Completion
<b>Final Acceptance Activities</b>	Title
	Certificate of Final Completion
	Occupancy Certificate
	Environmental Reports
	LEED submission to USGBC (if applicable)
	Permits & Licenses (Signed)
	Commissioning Reports by the Commissioning Authority
	Operations/Maintenance (O+M) Manuals
	Shop Drawings
	"As-Built" Contract Drawings
	Contractor Request for Final Acceptance
	Punch list completion and Acceptance
	Closeout Documentation "Page Turn"
	Certificate of Final Acceptance
	Public Building Commission Notice of Final Acceptance

## **EXHIBIT D**

### **Copyright Provisions**

The Parties intend and agree that, to the extent permitted by law, the drawings, specifications and other design documents to be produced by the Architect and/or Design Builder engaged by the PBC for the completion of the Project and their respective sub-consultants pursuant to this Agreement (the "Work") shall conclusively be deemed "works made for hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. 101 et seq., and that the Board of Trustees and its successors and assigns, will be the copyright owner of all aspects, elements and components thereof in which copyrights can subsist. To the extent that any of the foregoing does not qualify as a "work made for hire," the Architect or Design Builder hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the Board of Trustees and its successors and assigns, all right, title, and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals thereof, and all other intangible, intellectual property embodied in or pertaining to the Work contracted for under the Agreement, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. The Architect or Design Builder will execute all documents and, at the expense of the Public Building Commission ("PBC"), perform all acts that the PBC may reasonably request in order to assist the Board of Trustees successors and assigns, in perfecting their rights in and to the copyrights relating to the Work.

The PBC will require the Architect or Design Builder to warrant to the PBC and the Board of Trustees and their successors and assigns, that (1) the Work constitutes a work of authorship; (2) on the date hereof the Architect and/or Design Builder is the lawful owner of good and marketable title in and to the copyrights for the Work (including the copyrights on designs and plans relating to the Work); (3) the Architect and/or Design Builder has the legal right to fully assign any such copyright with respect to the Work; (4) the Architect and/or Design Builder has not assigned any copyrights nor granted any licenses, exclusive or non-exclusive, to any other party; (5) the Architect and/or Design Builder is not party to any other agreement or subject to any other restrictions with respect to the Work; and (6) the plans and designs for the Work will, upon completion of the Services be complete, entire and comprehensive. Further, the Architect and/or Design Builder agrees that it will not restrict or otherwise interfere with the Board of Trustees's future actions in authorizing the use, adaptation, revision or modification or destruction of the Work provided that the Architect and/or Design Builder is indemnified for any damages resulting from any such future re-use or adaptation of the Work as may be authorized by the PBC or by the Board of Trustees.

## EXHIBIT E

### INSURANCE REQUIREMENTS

#### Public Building Commission Contract Insurance Requirements

The Contractor must provide and maintain at Contractor's own expense, until Contract completion and during the time period following Final Completion if Contractor is required to return and perform any additional work, the minimum insurance coverages and requirements specified below, insuring all operations related to the Contract.

#### A. INSURANCE TO BE PROVIDED

##### 1) **Workers Compensation and Employers Liability**

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Contract and Employers Liability coverage with limits of not less than \$1,000,000 for each accident or illness. Coverage will include a waiver of subrogation.

##### 2) **Commercial General Liability (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverage must include the following: All premises and operations, products/completed operations to be maintained for a minimum of two (2) years following project completion, explosion, collapse, underground hazards, defense and contractual liability. The Public Building Commission of Chicago, the Board of Trustees of Community College District No. 508 and the City of Chicago are to be named as Additional Insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the work. The ISO CG2010 0704 and the CG2037 0704 endorsements or equivalents will be utilized. Coverage will include a waiver of subrogation as required below.

Subcontractors performing work for Contractor must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

##### 3) **Automobile Liability (Primary and Umbrella)**

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor must provide Automobile Liability Insurance, with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The Public Building Commission of Chicago, the Board of Trustees of Community College District No. 508 and the City of Chicago are to be named as Additional Insureds on a primary, non-contributory basis.

Subcontractors performing work for Contractor must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

4) **Contractors Pollution Liability**

Contractors Pollution coverage is required with limits of not less than \$5,000,000 per occurrence for any portion of the services, which may entail, exposure to any pollutants, whether in the course of sampling, remedial work or any other activity under this contract. The contractor pollution liability policy will provide coverage for sums that the insured become legally obligated to pay as loss as a result of claims for bodily injury, property damage and/or clean-up costs caused by any pollution incident arising out of the Work including remediation operations, transportation of pollutants, owned and non-owned disposal sites and any and all other activities of Contractor and its subcontractors. Pollution incidents will include, but not be limited to, the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste, waste materials, lead, asbestos, silica, hydrocarbons and microbial matter, including fungi, bacterial or viral matter which reproduces through release of spores or the splitting of cells or other means, including but not limited to, mold, mildew and viruses, whether or not such microbial matter is living.

The policy will be maintained for a period of three years after final completion and include completed operations coverage. The policy will include the Public Building Commission of Chicago, the Board of Trustees of Community College District No. 508 and the City of Chicago are to be named as Additional Insureds the Board of Education of the City of Chicago and the City of Chicago, and others as may be required by the Public Building Commission of Chicago, as Additional Insured. These entities must be specifically named and endorsed on the policy. Additional Insured coverage must be on a primary and non-contributory basis for ongoing and completed operations. Coverage will include a waiver of subrogation as required below.

Subcontractors performing work for Contractor must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

5) **Professional Liability**

When Contractor performs professional work in connection with the Agreement, Professional Liability Insurance must be maintained with limits of not less than \$1,000,000 covering acts, errors, or omissions. The policy will include coverage for wrongful acts, including but not limited to errors, acts or omissions, in the rendering or failure to render professional services resulting in a pollution incident. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede the, start of work on the Agreement. Coverage must be maintained for two years after substantial completion. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

Subcontractors performing professional work for Contractor must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

6) **Builders Risk**

Contractor must provide All Risk Builders Risk or Installation Floater Insurance on a replacement cost basis including but not limited to all labor, materials, supplies, equipment, machinery and fixtures that are or will be permanent part of the facility, inclusive of prior sitework. Coverage must be on an All Risk or Cause of Loss, Special Form basis including, but not limited to, the following: right to partial or complete occupancy, collapse; water damage including overflow, leakage, sewer backup, or seepage; resulting damage from faulty or defective workmanship or materials; resulting damage from error or omission in design, plans or specifications; debris removal; Ordinance and Law and include damage to, false work, fences, temporary structures and equipment stored off site or in transit. The policy will allow for partial or complete occupancy and include damage to existing property at the site with a sublimit of \$1,000,000.

The Public Building Commission of Chicago and the Board of Trustees of Community College District No. 508 will be Named Insureds on the policy. Coverage must be for the full completed value of the work and must remain in place until at least Substantial Completion and **may only be cancelled with the written permission** of the Public Building Commission Risk Management Department, even if the Project has been put to its intended use.

The Contractor is responsible for all loss or damage to personal property including but not limited to materials, equipment, tools, scaffolding and supplies owned, rented, or used by Contractor.

7) **Railroad Protective Liability**

When work is to be performed within fifty (50) feet of the rail right-of-way, Contractor shall ensure that Railroad Protective Liability insurance in the name of the railroad or transit entity remains in force during the course of construction of the project entity for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof. The policy will provide limits of \$2,000,000 per occurrence and \$6,000,000 aggregate as required by the railroad.

*Contractors and subcontractors are required to endorse their liability policies with form CG 24 17 to eliminate the exclusion for work within fifty (50) feet of the rail right-of-way. Contractors and subcontractors must provide copies of this endorsement with the certificate of insurance required below. Any excess or umbrella policies should follow form with the CG 24 17.*



## **B. ADDITIONAL REQUIREMENTS**

Contractor must furnish the Public Building Commission, Risk Manager, Richard J. Daley Center, Room 200, Chicago, IL 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Contractor must submit evidence of insurance to the Public Building Commission prior to Contract award. The receipt of any certificate does not constitute agreement by the Commission that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the Commission to obtain certificates or other insurance evidence from Contractor is not a waiver by the Commission of any requirements for the Contractor to obtain and maintain the specified coverages. The Contractor shall advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the Commission retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

The Public Building Commission of Chicago and the Board of Trustees of Community College District No. 508 reserve the right to obtain copies of insurance policies and records from the Contractor and/or its subcontractors at any time upon written request. The insurance must provide for 30 days prior written notice to be given to the Commission in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Contractor.

The Contractor agrees that insurers waive their rights of subrogation against the Public Building Commission of Chicago, and the Board of Trustees of Community College District No. 508 and their respective employees, elected or appointed officials, agents, or representatives

The coverage and limits furnished by Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law.

Any insurance or self-insurance programs maintained by the Public Building Commission of Chicago, and the Board of Trustees of Community College District No. 508 do not contribute with insurance provided by the Contractor under the Contract.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Contract or any limitation placed on the indemnity in this Contract given as a matter of law.

If contractor is a joint venture, the insurance policies must name the joint venture as a named insured.

The Contractor must require all subcontractors to provide the insurance required herein, or Contractor may provide the coverage for subcontractors. All subcontractors are subject to the same insurance requirements of Contractor unless otherwise specified in this Contract.

If Contractor or subcontractor desires additional coverage, the party desiring the additional coverage is responsible for the acquisition and cost.

Contractor must submit the following at the time of award:

1. Standard ACORD form Certificate of Insurance issued to the Public Building Commission of Chicago as Certificate Holder including:
  - a. All required entities as Additional Insured
  - b. Evidence of waivers of subrogation
  - c. Evidence of primary and non-contributory status
2. All required endorsements including the CG2010 04 13 and the CG2037 04 13 or equivalents

The Public Building Commission of Chicago maintains the right to modify, delete, alter or change these requirements.

**(Remainder of page – Intentionally left blank)**