

MASTER LICENSE AGREEMENT FOR USE AND IMPROVEMENT OF SCHOOL FACILITIES

This Master License Agreement for Use of School Facilities (this "**Agreement**") is made and entered into as of July 22, 2010 (the "**Effective Date**"), by and between the Board of Education of the City of Chicago, a school district organized under the laws of the State of Illinois (the "**Board**"), and **Openlands**, an Illinois not for-profit corporation ("**Openlands**"). The Board and Openlands are also referred to each as a "**Party**" and collectively as the "**Parties**."

BACKGROUND

- A. The Board owns, manages, possesses, maintains and controls numerous high schools, middle schools, elementary schools and other educational facilities throughout the City of Chicago.
- B. Openlands protects, preserves and enhances open space in Northeastern Illinois. Openlands works with numerous schools throughout Chicago to lay out, install and connect school gardens into the classroom curriculum.
- C. The Board and Openlands desire to collaborate and to work with certain schools to: work with garden teams at individual schools to lay out and install gardens; raise the funds necessary to install gardens at schools and provide insurance coverage for the garden installations; hire appropriate subcontractors for work deemed inappropriate for students; work with the Board's Department of Operations to approve garden layouts; require professional development of garden team members at the schools for successful integration of the garden into classroom curricula; provide all the materials needed for the installations; create a maintenance plan; provide on-going assistance for upkeep as needed; and donate landscape materials to the Board. Openlands will select schools for garden installation projects based on a school's commitment to maintain gardens through classroom programs, volunteer labor, and external resources and funds, and, subject to the applicable Budget and the provisions of this Agreement, Openlands will provide all funding for the installation of gardens, training and support to facilitate ongoing upkeep by the Schools (hereinafter defined).

TERMS AND CONDITIONS

SECTION 1. COOPERATIVE AGREEMENT

1.1. As provided herein, the Board and Openlands hereby agree to cooperate in coordinating programs and activities conducted on all the respective school facilities listed on Attachment A, (each, individually, a "**School**" and collectively, "**Schools**", or "**Board Property**") owned, operated and occupied by the Board. The Board and

Openlands shall have the right to add or exclude Schools during the Term (as hereinafter defined); provided that any such change shall be in writing and approved by both the Board and Openlands. Reference to Board Property in this Agreement shall include Schools, the facilities and the property upon which the Schools are located.

SECTION 2. GRANT OF LICENSE

2.1. The Board hereby grants Openlands and its employees and contractors a non-exclusive license to utilize Board Property during normal schools hours as and pursuant to the applicable license agreement between each individual School principal and Openlands (each, a "**License Agreement**"); provided Openlands and a school principal may agree to installation of a garden during hours outside of normal school hours if the parties agree on the payment of any additional costs required in connection with such after-hours access. Each License Agreement shall specify the days and times of usage, the specific facilities to be utilized, and any other specific terms for such usage, and shall be in writing in substantially the form shown on Attachment B attached hereto and incorporated herein as though set forth in full. Each such License Agreement shall become an appendix to this Agreement and shall be subject to the terms and conditions contained herein. All such License Agreements shall be collectively referred to herein as "**License Agreements**". If there is any inconsistency between the terms of any License Agreement and this Agreement, the terms of this Agreement shall prevail.

2.2. Notwithstanding any other language in this Agreement to the contrary, Openlands and the Board acknowledge and agree that:

- a. any permits granted to Openlands under this Agreement by the Board constitute a license and a privilege personal to Openlands; and
- b. Openlands' usage pursuant to this Agreement does not and will not create, constitute or convey an interest in real estate for Openlands or any other person.

2.3. Openlands shall not use any School or any portion thereof covered by a License Agreement in any way or manner which violates any Laws (hereinafter defined) or the rules and regulations of the Board.

SECTION 3. TERM

3.1. The term of this Agreement shall begin on the Effective Date and shall end on the last day of the 59th full calendar month after the Effective Date ("**Term**"), unless extended or terminated as provided in this Agreement.

3.2. The Term may be renewed by mutual, written consent for an unlimited number of options. Each renewal option may extend the Term by one year.

3.3. This Agreement may be terminated by either Party in accordance with Sections 8 or 9 of this Agreement, or as otherwise specifically provided in this Agreement.

3.4. The duration of each License Agreement shall not exceed a one (1) year from the date of execution of the respective License Agreement.

SECTION 4. SERVICES TO BE RENDERED BY OPENLANDS AND THE BOARD

4.1. The Parties acknowledge that use of certain facilities at certain times by Openlands may cause the School to incur costs above the normal costs to run such facility (i.e. use of a School after regular school hours or on a weekend). Accordingly, the Parties agree that should any such costs exceed the amounts allocated in the School's budget for such purpose, the School shall provide notice to Openlands. The Schools and Openlands shall meet within thirty (30) days of receipt of such notice to discuss the budget and to cooperate in determining how to fund costs to be incurred through the remainder of the then current fiscal year and/or how to modify the Project so that it can be completed in accordance with the applicable Budget. Notwithstanding the foregoing: (i) in no event shall a School incur such additional costs or allocate such additional costs to Openlands without Openlands' prior written consent and (ii) each School shall give Openlands prior written notice, with reasonable specificity, of the additional costs associated with any after-hours or unusual use of such School.

4.2. Except as specifically provided in this Agreement or the applicable License Agreement, each School will furnish all utilities required to operate its facility when being used by Openlands.

4.3. Each School shall remain responsible for and bear the expense of routine maintenance of its facilities.

4.4. No Openlands' program may be conducted at or on the Schools in the absence of Openlands' supervisory personnel. The supervisory personnel shall use reasonable efforts to prevent its participants from entering on, occupying, using, or interfering with School facilities that are not included in the applicable License Agreement.

4.5. Openlands is prohibited from assigning or transferring its usage or license with respect to any Board Property to any third party. Further, Openlands is prohibited from charging any person or group for use of any Board Property described in this Agreement.

4.6. Nothing in this Agreement authorizes Openlands to interfere in any way with the rights or privileges of a person operating any type of concession activity pursuant to a concession agreement, at any Board Property.

4.7 Openlands and the Board's Department of Operations will review the scope of work required for each proposed garden installation project at a School (each, a "**Project**" and collectively, the "**Projects**") as well as the preliminary layout documents and specifications for each Project. Such review shall include the cost estimates, assessments, site preparation, removal of asphalt, scheduling and any other factors that may affect the coordination or cost of the Projects. The Board's Department of Operations retains the right to approve or disapprove each Project and any changes in the plans after initial approval of a Project, and shall promptly notify Openlands of such approval or disapproval after each such review.

4.8 Openlands will be responsible for the letting of each construction contract, if any, required in connection with a Project. Each such contract shall provide that the parties to such contract will comply with all Laws as may be in effect from time to time, pertaining to or affecting the applicable Project. Each construction contract in excess of Ten Thousand dollars (\$10,000.00), including any subcontract entered into by Openlands or by a contractor of Openlands, shall be subject to the Board's Project Labor Agreement (the "**PLA**"). Upon the Board's request, Openlands shall provide evidence satisfactory to the Board of such compliance.

4.9 At such time as Openlands lets a contract or contracts for the Projects, Openlands, at Openlands' expense, shall also provide the Board with copies of all governmental licenses and permits, if any, required to develop and construct the related Project, from all appropriate governmental authorities, including, but not limited to, street and sidewalk closure permits, driveway permits and infrastructure permits.

4.10 If Openlands, in its sole discretion, determines that a survey is required for any Project, Openlands shall be responsible for obtaining such survey at Openlands' expense.

4.11 Openlands will prepare a budget for each Project, describing on a line item basis the various hard and soft construction costs relating to the development of the Project (each, a "**Budget**" and collectively, the "**Budgets**"). Each Budget will be delivered to the Board's Department of Operations for review and approval by the Board prior to the commencement of any construction.

4.12 Openlands shall pay for the costs of the development and construction of each Project based on the applicable Budget for such Project. In no event shall Openlands be responsible for any costs or expenses of a Project exceeding the applicable Budget. In the event that either party believes that a Budget may not provide sufficient funds for the completion of the applicable Project, such party shall notify the other party and the parties shall cooperate to modify the Project so that it can be completed in accordance with the Budget.

4.13 Openlands shall provide the Board's Department of Operations with monthly reports on the progress of the Projects and, upon prior written request, reasonable access to its books and records relating to the Projects covering the period

through the completion date of the respective Project. Notwithstanding the foregoing, Openlands shall not be obligated to provide ongoing monthly reports on any Project once such Project has been installed at the applicable School.

4.14 Openlands agrees to keep Board property free from all liens, including but not limited to, any mechanics, materialmen or construction liens and encumbrances arising out of any work performed, materials supplied or obligations incurred by or for Openlands in connection with a Project.

SECTION 5. LOSS OF USE FOR CAUSES BEYOND CONTROL

Neither Party shall be responsible for the obligations it has undertaken hereunder, or pursuant to a License Agreement, where it becomes impossible or impractical to fulfill such obligations due to any cause beyond its control, including, but not limited to, acts of God or public enemies, acts or restrictions of the government, civil disturbances, fires, floods, strikes, lock-outs, shut-downs, epidemics, quarantine restrictions and carrier delays.

SECTION 6. NO WARRANTY

The Board does not make and has made no representations, statements, warranties or agreements to Openlands in or in connection with this Agreement. The Board does not make and has made no representations, statements, warranties or agreements to Openlands in or in connection with the Schools.

SECTION 7. EVENTS OF DEFAULT

The occurrence of any one or more of the following matters shall constitute a **"Default"** under this Agreement:

- A. Failure of Openlands to comply with any agreement, representation or warranty made by Openlands in this Agreement, if such failure is not cured within fifteen (15) days after written notice;
- B. Assignment by Openlands for the benefit of creditors or consent by Openlands to the appointment of a trustee or receiver or the filing by or against Openlands of any petition or proceeding under any bankruptcy, insolvency or similar law;
- C. Failure of Openlands to supply the services required in accordance with the terms and conditions of this Agreement or the applicable License Agreement, if such failure is not cured within fifteen (15) days after written notice; or
- D. Failure of the Board to perform in accordance with the terms and conditions of this Agreement or the applicable License Agreement, if such failure is not cured within fifteen (15) days after written notice.

- E. Any action or failure to act by Openlands which affects the safety or welfare of students or Board staff if such action or failure to act is not cured within fifteen (15) days after written notice, except in the event of an emergency in which event no prior notice shall be required.

Notwithstanding anything to the contrary in this Agreement, in the event that any of the foregoing failures requires more than fifteen (15) days to cure, then the time for such cure shall be extended as long as the applicable party has commenced and is diligently pursuing such cure.

SECTION 8. REMEDIES

Provided that the applicable notice and cure period, if any, has expired, the occurrence of any Default on behalf of a party shall give the other party, in addition to all other remedies available at law or in equity, the right, but not the obligation, to terminate this Agreement (in which event all License Agreements shall terminate) or to terminate one or more License Agreements without termination of this Agreement, in each case by written notice to the defaulting party delivered within ten (10) days after the expiration of the applicable notice and cure period, if any, in which event the Agreement and/or License Agreements, as applicable, shall terminate as of the date such termination notice is delivered to the defaulting party.

In addition, provided that the applicable notice and cure period, if any, has expired, upon the occurrence of any Default by Openlands, the Board may also: (i) suspend any and all Projects during the applicable cure period if the Default results from Openlands' action or failure to act which affects the safety or welfare of students or Board staff pursuant to Section 7(E) of this Agreement; and (ii) use the Default as a basis to deem Openlands non-responsible in future contracts to be awarded by the Board.

Each party may elect not to declare the defaulting party in Default. The parties acknowledge and agree that, if the non-defaulting party elects to continue with this Agreement despite one or more Defaults by the other party, the defaulting party shall in no way be relieved of any responsibilities, duties or obligations under this Agreement nor shall such election by the non-defaulting party waive or relinquish any of the non-defaulting rights under this Agreement, at law, equity or statute.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any Default shall be construed as a waiver of any Default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

SECTION 9. EARLY TERMINATION

Notwithstanding anything to the contrary in this Agreement, either Party may terminate this Agreement or any License Agreement, in whole or in part, without cause, upon thirty (30) days written notice to the other Party (and, with regard to any License Agreement, upon thirty (30) days written notice to the School Principal identified in the applicable License Agreement). After such notice is received, the Parties shall cooperate to determine a reasonable termination date before which the Parties shall work to complete or discontinue any current Projects.

Openlands agrees to include in its contracts with subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the Board arising from termination of subcontracts after the early termination of this Agreement.

Openlands shall not be entitled to make any early termination claims against the Board resulting from any subcontractor's claims against Openlands or the Board to the extent inconsistent with this provision.

SECTION 10. ASSIGNMENT

This Agreement shall be binding on the Parties and their respective successors and assigns, provided however, that Openlands may not assign this Agreement without the prior written consent of the Board, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 11. REPRESENTATIONS, WARRANTIES AND COVENANTS OF OPENLANDS

Openlands represents and warrants that, to Openlands' knowledge, the following are true and correct as of the Effective Date and covenants the following shall continue to be true and correct during the Term of this Agreement. For purposes of this Agreement, "Openlands' knowledge" shall mean the actual knowledge, without investigation or inquiry, of Jaime Zaplatosch.

11.1. Compliance with Laws: Openlands is and shall remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, and regulations relating to this Agreement, including, as applicable, the PLA, in effect now or later and as may be amended from time to time (collectively, "**Laws**"), including but not limited to the Prevailing Wage Act, 820 ILCS 130/1 *et seq.*, the Drug-Free Workplace Act, the Illinois Student Records Act, the Family Educational Rights and Privacy Act, the Protection of Pupil Rights Act and any others relating to non-discrimination. Further, Openlands is and shall remain in compliance with all Board policies and rules that are specifically applicable to this Agreement and/or a Project. Board policies and rules are available at <http://www.cps.edu/>. Notwithstanding the foregoing, in no event shall Openlands be required to comply with any Laws that are not specifically applicable to

Openlands, this Agreement or a Project, and nothing in this Agreement shall be construed to indicate that Openlands has agreed to satisfy or comply with higher, different or more burdensome standards, statutes, laws, ordinances, and regulations. The Board acknowledges that Board policies and rules may change or be added to from time to time, and the Board shall use good faith efforts to provide Openlands with prior written notice of any such changes or additions to the extent that such changes or additions apply to this Agreement or a Project.

Notwithstanding anything to the contrary in this Agreement, the parties acknowledge and agree that Openlands, prior to the Effective Date, contracted for Projects at the following schools: Vaughn Occupational High School, Harold Washington Elementary, Mark Sheridan Academy, Christa McAuliffe Elementary and Tonti Elementary School (collectively, the "**Grandfathered Schools**"). The parties agree that the Projects for the Grandfathered Schools shall not be required to comply with this Agreement.

11.2. Licensed Professionals: Project services required by Laws or by this Agreement to be performed by professionals shall be performed by professionals licensed to practice by the State of Illinois in the applicable professional discipline.

11.3. Good Standing: Openlands and each of its subcontractors, if any, have not been deemed by the Board's Chief Purchasing Officer to be in default under any other agreement with the Board during the five (5) year period immediately preceding the Effective Date, and have not been debarred under the Board's Debarment Policy during the three (3) year period immediately preceding the Effective Date. Notwithstanding the foregoing, the Board acknowledges that Openlands may not know which subcontractors will be used for the Projects as of the Effective Date and shall cooperate with Openlands to determine the standing of subcontractors within a reasonable period after Openlands notifies the Board of same.

11.4. Authorization: Openlands has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf of Openlands is duly authorized by Openlands and has been made with complete and full authority to commit Openlands to all terms and conditions of this Agreement which shall constitute valid, binding obligations of Openlands.

11.6. Gratuities: No payment, gratuity, or offer of employment was made to or by Openlands, any of its directors, officers or employees or members (if a limited liability company or joint venture) or, to the best of Openlands' knowledge, to any subcontractors, in relation to this Agreement or as an inducement for award of this Agreement. Openlands is and shall remain in compliance with all applicable anti-kickback laws and regulations.

11.7. Background Investigations and Criminal Background Investigations: Openlands represents and warrants that, at its own cost and expense, it shall have a complete fingerprint-based criminal history records check ("**Records Check**")

conducted on each Openlands employee or Openlands volunteer who will have direct contact with CPS students while providing services under this Agreement in accordance with the Illinois School Code (§105 ILCS 5/34-18.5); the *Sex Offender and Child Murderer Community Notification Law*, created under Illinois Public Act 94-219, eff. August 2005; and the *Child Murderer Violent Offender Against Youth Notification Law*, created under Public Act 94-945. Such complete Records Check consists of the following:

- fingerprint-based checks through the Illinois State Police (ISP) and the FBI,
- check of the Illinois Sex Offender Registry (IL-SOR), and
- check of the Violent Offender Against Youth Registry (see below).

The purpose of the Records Check is to confirm that no Openlands employee or Openlands volunteer who will have direct contact with CPS students while providing services under this Agreement has been convicted of any of the criminal or drug offenses enumerated in subsection (c) of §105 ILCS 5/34-18.5 or any offenses enumerated under the *Sex Offender and Child Murderer Community Notification Law*, or the *Child Murderer Violent Offender Against Youth Notification Law*, or have been convicted within the past seven (7) years of any other felony under the laws of Illinois or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in the State of Illinois, would have been punishable as a felony under the laws of Illinois.

Openlands understands and agrees that it shall not allow any of its employees or volunteers to have contact with a CPS student until a Records Check has been conducted for such person and the results of the Records Check satisfies the requirements of §105 ILCS 34-18.5 and the requirements of the Acts and Laws referenced in the preceding paragraph, as amended from time to time.

It is understood and agreed that Openlands' non-compliance with this Section 11.7 will constitute a material breach of this Agreement, and the Board also will have the right to withhold payments due hereunder until Openlands remedies such non-compliance to the Board's reasonable satisfaction, or take any other action or remedy available under this Agreement.

11.8. Contractor's Disclosure Form: The disclosures in the Contractor's Disclosure Form (or any ratification thereof) submitted by Openlands are true and correct. Openlands shall promptly notify the Board of any material change in the information set forth therein, including, but not limited to, change in ownership or control, and any such change shall be subject to Board approval, which shall not be unreasonably withheld.

11.9. Financially Solvent: Openlands warrants that it is financially solvent, is able to pay all debts as they mature, and is possessed of sufficient working capital to supply all services and perform all obligations under this Agreement.

11.10. Research Activities and Data Requests: Openlands acknowledges and agrees that in the event Openlands seeks to conduct research activities in any School or use Board student data for research purposes, Openlands shall comply with the Board's Research Study and Data Policy adopted on March 25, 2009, as may be amended from time to time. Openlands acknowledges and agrees that it may not begin any research activities or obtain data for research purposes without the prior written consent of the Board's Chief Performance Officer or their designee.

11.11. Intellectual Property: In performance of the Projects, Openlands will not intentionally violate or infringe upon any patent, copyright, trademark, trade secret or other proprietary or intellectual property right of any third party, and will not improperly use any third party's confidential information; and shall have, without encumbrance, all ownership, licensing, marketing and other rights required to furnish all materials and products that it furnishes to the Board under this Agreement and can grant or assign all rights granted or assigned to the Board pursuant to this Agreement.

11.12. No Legal Actions Preventing Performance: As of the Effective Date, there is no action, suit, proceeding, or material claim or investigation pending against Openlands in any court, or by or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, would materially affect Openlands' ability to perform its obligations under this Agreement.

11.12. Prohibited: Within the three (3) years prior to the Effective Date, Openlands or any of its directors, officers or employees: (i) have not been convicted of bribery or attempting to bribe a public officer or employee of any public entity and (ii) have not been convicted of agreeing or colluding among contractors or prospective contractors in restraint of trade, including bid-rigging or bid-rotating, as those terms are defined under the Illinois Criminal Code.

11.13. Ethics: No officer, agent or employee of the Board is or will be employed by Openlands or has or will have a financial interest, directly or indirectly, in this Agreement or the compensation to be paid hereunder except as may be permitted in writing by the Board's Ethics Policy (04-0623-PO4), adopted June 23, 2004, as may be amended from time to time, which policy is incorporated herein by reference as if fully set forth herein.

SECTION 12. INDEPENDENT CONTRACTOR

It is understood and agreed that the relationship of Openlands to the Board is and shall continue to be that of an independent contractor and neither Openlands nor any of Openlands' staff or employees shall be entitled to receive Board employee benefits. It is further understood and agreed that the Board shall not be responsible for, nor incur any liability for, any State or Federal withholding or other taxes or for FICA or

State unemployment insurance for Openlands, its agents, employees or subcontractors, and the payment of any such taxes incurred or due by Openlands shall be the sole responsibility of Openlands. Openlands agrees that neither Openlands, nor its staff or employees shall represent themselves as employees or agents of the Board. Openlands shall provide the Board with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including, but not limited to, a Social Security Number or a Federal Employer Identification Number.

SECTION 13. INDEMNIFICATION

Openlands agrees to indemnify and hold harmless the Board, its members, employees, agents, officers and officials, from and against any and all liabilities, taxes, tax penalties, interest, losses, penalties, damages and expenses of every kind, nature and character, including without limitation, costs and attorney fees, arising out of, or relating to, any and all claims, liens, damages, obligations, actions, suits, judgments, settlements or causes of action of every kind, nature and character, in connection with or arising out of the acts or omissions of Openlands or its staff or employees under this Agreement.

In addition, Openlands will indemnify, hold harmless, and defend the Board from any claim, demand, cause of action, debt or liability (including reasonable attorneys' fees and expenses) that any services provided in connection with a Project infringe, misappropriate, or otherwise violate any intellectual property (patent, copyright, trade secret or trademark) rights of a third party.

Openlands shall, at its own cost and expense, appear, defend and pay all attorney fees and other costs and expenses arising hereunder. In addition, if any judgment shall be rendered against the Board in any such action, Openlands shall, at its own expense, satisfy and discharge such obligation of the Board. The Board shall have the right, at its own expense, to participate in the defense of any suit, without relieving Openlands of any of its obligations hereunder. The Board retains final approval of any and all settlements or legal strategies which involve the interest of the Board.

However, if Openlands, after receiving notice of any such proceeding, fails to promptly begin the defense of such claim or action, the Board may (without further notice to Openlands) retain counsel and undertake the defense, compromise or settlement of such claim or action at the expense of Openlands, subject to the right of Openlands to assume the defense of such claim or action at any time prior to settlement, compromise or final determination thereof. The cost and expense of counsel retained by the Board in these circumstances shall be borne by Openlands and Openlands shall be bound by, and shall pay the amount of any settlement, compromise, final determination or judgment reached while the Board was represented by counsel retained by the Board pursuant to this paragraph, or while Openlands was conducting the defense.

The indemnities set forth herein shall survive the expiration or termination of this Agreement.

SECTION 14. INSURANCE REQUIREMENTS

Openlands, at its own expense, shall procure and maintain insurance covering all operations under this Agreement, whether performed by Openlands or by subcontractors. All insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service and policies shall not contain non-standard exclusions. Openlands shall submit to the Board satisfactory evidence of insurance coverage prior to the supply of any services and upon request, shall promptly provide a certified copy of any applicable policy of insurance. Minimum insurance requirements are:

14.1. Workers' Compensation and Employers' Liability Insurance: Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by Laws and Employers' Liability Insurance covering all Openlands' employees, with limits of not less than One Hundred Thousand and 00/100 Dollars (\$100,000.00) per occurrence. The workers' compensation policy shall contain a waiver of subrogation clause.

14.2. Commercial General Liability Insurance: Commercial General Liability Insurance or equivalent with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, Two Million and 00/100 Dollars aggregate, combined single limit for bodily injury, personal injury and property damage liability coverage, which shall include the following: all premises and operations; services /completed operations (for a minimum of two (2) years following completion); explosion; collapse; independent contractors; separation of insureds; defense; and contractual liability. The Board shall be named as an additional insured, on a primary non-contributory basis, for any liability arising directly or indirectly from the supply of the services;

14.3. Professional Errors and Omissions: If any of Openlands' subcontractors perform architectural or engineering services, they shall maintain such coverage with limits of not less than Two Million and 00/100 Dollars (\$2,000,000) per claim for errors and omissions in conjunction with professional services inclusive of assumption of contractual liability. The policy shall have a retroactive date effective with the commencement of services and have an extended reporting period of not less than two (2) years following completion of such professional service. Subcontractors performing professional/technical services work for Openlands must maintain limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and in accordance with the other terms of this Section 14.3. Upon the request of Openlands, the insurance requested under this Section 14.3 may be waived by the Board upon evidence that such insurance is not available in a commercially reasonable manner.

14.4. Umbrella/Excess Liability Insurance: Umbrella or Excess Liability Insurance with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, which will provide additional limits for Commercial General Liability Insurance and Automobile Liability Insurance;

Contractors Pollution Liability: When any Work is performed which may cause a pollution exposure, Contractors Pollution Liability must be provided covering bodily injury, property damage and other losses caused by pollution conditions that arise from the Work with limits of not less than \$1,000,000 per occurrence. When policies are renewed or replaced, the policy retroactive date must coincide with or precede start of Work under this Agreement. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years. The Board of Education of the City of Chicago is to be named as additional insured on a primary, non-contributory basis.

14.5. Automobile Liability Insurance: Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with any Agreement, with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage; and

14.6 Additional Insured: Openlands shall have its Commercial General Liability Insurance and Automobile Liability Insurance policies endorsed to provide that the Board of Education of the City of Chicago, an Illinois School District, and its members, employees and agents, and any other entity as may be designated by the Board are named as additional insured on a primary basis without recourse or right of contribution from the Board.

The insurance company, or its representative, shall submit an insurance certificate evidencing all coverage as required hereunder and indicating the Additional Insured status as required above. The certificate must provide thirty (30) days prior written notice of material change, cancellation, or non-renewal be given to:

Opal L. Walls, Chief Purchasing Officer
Board of Education of the City of Chicago
125 South Clark Street, 10th Floor
Chicago IL 60603

Celeste Sullivan, Director
Board of Education of the City of Chicago
Risk Management
125 S. Clark Street, 14th Floor
Chicago, IL 60603

The Board will not pay Openlands for any services, nor will Openlands have access to any School to provide services if satisfactory proof of insurance is not provided before the supply of any services. The Board reserves the right to modify, delete, alter or change insurance requirements at any time upon thirty (30) days advance notice to Openlands.

Openlands shall require any subcontractors under this Agreement to maintain insurance at the same levels described above and naming Openlands, the Board inclusive of its

members, employees and agents, and any other entity designated by the Board as additional insureds. Openlands will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

Any failure of the Board to demand or receive proof of insurance coverage shall not constitute a waiver of Openlands' obligation to obtain the required insurance. The receipt of any certificate does not constitute agreement by the Board that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. Openlands' failure to carry or document required insurance shall constitute a breach of Openlands' agreement with the Board. In the event Openlands fails to fulfill the insurance requirements of this Agreement, the Board may, after the applicable notice and cure period, terminate this Agreement.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Openlands. Any insurance or self-insurance programs maintained by the Board of Education do not contribute with insurance provided by Openlands under this Agreement.

Each party agrees that its insurers shall waive their rights of subrogation against the other party.

The coverages and limits furnished by Openlands in no way limit Openlands' liabilities and responsibilities specified within this Agreement or by Laws. The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

SECTION 15. CONTINUING OBLIGATION TO PERFORM

In the event of any dispute between the Parties, each Party shall expeditiously and diligently proceed with the performance of all of its obligations under this Agreement with a reservation of all rights and remedies it may have under or pursuant to this Agreement at law or in equity.

SECTION 16. CONFLICT OF INTEREST

This Agreement is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3, which restricts the employment of, or the letting of contracts to, former Board members within a one year period following expiration or other termination of their office.

SECTION 17. INDEBTEDNESS

Openlands agrees to comply with the Board's Indebtedness Policy (96-0626-PO3) as may be amended from time to time, which is hereby incorporated by reference into and made a part of this Agreement as fully set forth herein.

SECTION 18. INSPECTOR GENERAL

Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to perform the duties of his or her office, all as more specifically provided in Article 34, Section 13.1 of the Illinois School Code.

SECTION 19. WAIVER

No delay or omission by either Party to exercise any right hereunder shall be construed as a waiver of any such right and each Party reserves the right to exercise any such right from time to time and as often as may be deemed expedient.

SECTION 20. M/WBE PROGRAM

Openlands acknowledges that it has received a copy of the Board's *"Remedial Program for Minority and Women Owned Business Enterprise Participation in Goods and Services Contracts"* (the **"M/WBE Program"**). If the Board provides funds to Openlands for any Project and the provision and/or amount of such funds triggers the application of the M/WBE Program to such Project, then with respect to such Project Openlands agrees to adhere to the minimum participation goals and to all other applicable M/BE/WBE requirements as set forth in the M/WBE Program and to submit such documentation in connection with the M/WBE Program as may be reasonably requested by the Board.

SECTION 21. FUNDING

The parties acknowledge and agree that the Board will not directly provide any funds for any of the Projects. Notwithstanding the foregoing, in the event that the Board does provide funds to Openlands for any Project and the provision and/or amount of such funds triggers the application of any laws or Board programs, rules or policies to such Project, then: (a) the Board shall provide Openlands with prior written notice (a **"Board Notice"**) of such laws and/or Board programs, rules or policies; (b) Openlands shall have the right, but not the obligation, to cancel any such Project within a reasonable period after receipt of the applicable Board Notice; and (c) if Openlands opts to proceed with such Project, then, with respect to such Project, Openlands agrees to comply with such laws and Board programs, rules or policies as they apply to such Project.

SECTION 22. LIMITATION OF LIABILITY

In the event of any Default or breach of this Agreement by a Party, no member, official, director, officer, trustee, agent, contractor, subcontractor, volunteer or employee of such Party shall be personally liable to the other Party or any successor in interest, or for any amount which may become due to or from the other Party or any permitted successor in interest or on any obligation under the terms of this Agreement.

SECTION 23. GENERAL PROVISIONS

23.1. Notices. Unless otherwise specified, any notice, demand or request required under this Agreement must be given in writing at the addresses set forth below, by any of the following means: (i) personal service; (ii) overnight courier; or (iii) first class mail.

IF TO THE BOARD: Board of Education of the City of Chicago
125 South Clark Street, 16th Floor
Chicago, Illinois 60603
Attn: Director of Real Estate

with a copy to: Board of Education of the City of Chicago
125 South Clark Street, 7th Floor
Chicago, Illinois 60603
Attn: General Counsel

IF TO OPENLANDS: Openlands
25 E Washington Street, Suite 1650
Chicago, IL 60602
Attn: President and CEO

with a copy to: Openlands
25 E Washington Street, Suite 1650
Chicago, IL 60602
Attn: Education Director

with a copy to: Katie Cunningham
Drinker, Biddle & Reath
191 N Wacker Drive, Suite 3700
Chicago, IL 60606

All notices required hereunder shall be deemed received on the date of delivery, or attempted delivery, if delivered in person, or if mailed, on the date which is two (2) days after the date such notice is deposited in the U.S. mail.

These addresses may be changed by notice to the other Party given in the same manner provided above. Any notice, demand or request sent by personal service or overnight courier is considered received when delivered and if sent by first class mail is considered received two business days following deposit in the mail with sufficient first class postage affixed. Refusal of delivery has the same effect as receipt.

23.2. Incorporation. The preamble, background and all of the Attachments are incorporated into this Agreement and shall be construed as if the same had been set forth verbatim in this Agreement.

23.3. Integration. This Agreement constitutes the entire agreement among the Parties, merges all discussions between them and supersedes and replaces any and every other prior or contemporaneous agreement, negotiation, understanding, commitments and writing with respect to such subject matter hereof. No other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this Agreement that are not expressly addressed in this Agreement.

23.4. Counterparts. This Agreement may be executed in counterparts and by a different Party in separate counterparts, with the same effect as if all Parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together, and shall constitute one and the same instrument.

23.5. No Implied Waivers. No waiver by a Party of any breach of any provision of this Agreement will be a waiver of any continuing or succeeding breach of the breached provision, a waiver of the breached provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to, or demand on, either Party in any case will, of itself, entitle that Party to any further notice or demand in similar or other circumstances.

23.6. Interpretation. Any headings preceding the text of the Sections of this Agreement are solely for convenience and do not constitute a part of this Agreement, nor do they affect the meaning, construction or effect of this Agreement. As used in this Agreement, the singular of any word shall include the plural, and vice versa. Masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires.

23.7. Amendment. This Agreement may not be altered, modified or amended except by a written instrument signed by both Parties.

23.8. Parties' Interest/Third Party Beneficiaries. This Agreement shall be binding upon the Parties, and their respective successors and permitted assigns (as provided herein), and shall inure to the benefit of the Parties, and their respective successors and permitted assigns (as provided herein), provided that this Agreement:

- a. shall not run to the benefit of, or be enforceable by, any person or entity other than a Party and its successors and permitted assigns;
- b. shall not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right; and
- c. shall not be deemed or construed by any of the Parties hereto or by third parties to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving any of the parties.


23.9 Severability. If any provision of this Agreement, or the application thereof, to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein.


23.10 Further Actions. Openlands and the Board agree to do, execute, acknowledge and deliver all agreements and other documents and to take all actions reasonably necessary or desirable to comply with the provisions of this Agreement and the intent thereof.

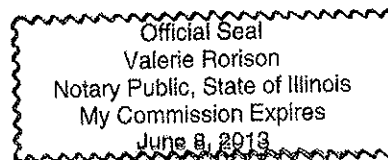
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.


OPENLANDS,
an Illinois not for profit corporation


By: 
Gerald W. Adelmann
President & CEO

Attest: 
Notary Public
State of Illinois



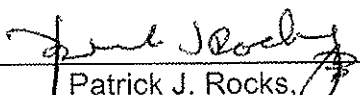
BOARD OF EDUCATION OF THE CITY OF CHICAGO,
a School District organized under Illinois law

By: 
Mary B. Richardson-Lowry
President

Attest: 
Estela G. Beltran, 7/22/10
Secretary

Board Report No: 10-0324-OP3 -1

Approved as to Legal Form:


Patrick J. Rocks,
General Counsel

ATTACHMENT A
List of Board Property

ATTACHMENT A

1. Tonti Elementary School
5815 S. Homan
Chicago, Illinois
2. Vaughn Occupational High School
4355 N. Linder
Chicago, Illinois
3. McAuliffe Elementary School
1841 N. Springfield
Chicago, Illinois
4. Mark Sheridan Academy
533 W. 27th Pl.
Chicago, Illinois
5. Harold Washington Elementary School
9130 S. University
Chicago, Illinois

ATTACHMENT B
FORM OF LICENSE AGREEMENT

LICENSE AGREEMENT
(not to exceed a one-year term)

SCHOOL:

Name: _____

Address: _____

Facilities to be Used: _____

Purpose: _____

Start Date of Usage: _____

End Date of Usage: _____

Days of Week: _____

Hours of Use: _____

Holiday Usage: _____

Other _____ Terms:

PARK:

Name: _____

Address: _____

Facilities to be Used:

Purpose:

Start Date of Usage: _____

End Date of Usage: _____

Days of Week: _____

Hours of Use: _____

Holiday Usage: _____

Other Terms:

[SIGNATURES ON FOLLOWING PAGE]

This License Agreement is subject to the terms and conditions contained in that certain Master License Agreement dated as of _____, 2010, by and between the Board of Education of the City of Chicago and Openlands. This License Agreement can only be amended by a written instrument signed by all Parties below.

School Principal

Supervisor

Approved by: _____
LSC President

Approved by: _____
Region Manager

OPENLANDS, an Illinois not for profit corporation

By: _____
Name: _____
Its: _____

Copy to: Director of Sports Administration