

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF CHICAGO AND  
THE BOARD OF EDUCATION OF THE CITY OF CHICAGO  
REGARDING THE BOARD OF EDUCATION OF THE CITY OF CHICAGO'S  
USE OF 4814-26 NORTH KEDZIE AVENUE**

This Intergovernmental Agreement (this "Agreement") is entered into as of this 25<sup>th</sup> day of APRIL, 2011 (the "Effective Date"), by and between the **CITY OF CHICAGO** ("CITY"), an Illinois municipal corporation and **THE BOARD OF EDUCATION OF THE CITY OF CHICAGO** (hereinafter referred to as "BOE") a body politic and corporate. The City and BOE are sometimes referred to herein each as a "Party" and collectively as the "Parties".

**BACKGROUND**

**WHEREAS**, the City owns approximately 18,800 square feet of vacant land located at 4814-26 North Kedzie Avenue, Chicago, Illinois, as legally described on Exhibit A attached hereto; and

**WHEREAS**, BOE owns the Albany Park School and the Edison Regional Gifted Center located at 4929 N. Sawyer, Chicago, Illinois 60625 ("School"); and

**WHEREAS**, the School does not have any parking for its staff; and

**WHEREAS**, BOE desires to use approximately 18,800 square feet of vacant land located at 4814-26 North Kedzie Avenue as parking for staff of the School;

**NOW THEREFORE**, in consideration of the above background recitals, each of which is made a contractual part hereof, and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**SECTION 1. GRANT**

Grant. The City hereby leases to BOE the following described premises situated in the City of Chicago, County of Cook, State of Illinois, to wit:

Approximately 18,800 square feet of vacant land located at 4814-26 North Kedzie Avenue, Chicago, Illinois (PIN# 13-11-431-026 - the "Premises").

**SECTION 2. TERM**

The term of this Agreement ("Term") shall commence on the date of execution and shall end on December 31, 2013 unless sooner terminated as set forth in this Agreement.

**SECTION 3. COVENANTS AND REPRESENTATIONS**

3.1 Authority. Each Party represents and warrants to the other Party that it has the authority to enter into and perform its obligations under this Agreement, sign and deliver this Agreement, and perform its respective obligations under this Agreement, as duly authorized by all requisite corporate actions.

3.2 BOE Representations. BOE represents as follows:

(a) BOE shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders that are in effect from time to time that pertain to or affect the Premises, BOE, or this Agreement.

(b) BOE agrees that provisions required to be inserted in this Agreement by laws, ordinances, rules, regulations or executive orders are deemed inserted whether or not they appear in this Agreement and that in no event will the failure to insert such provisions prevent the enforcement of this Agreement.

(c) Signing, delivery and performance by BOE of this Agreement does not violate its resolutions, or any applicable provision of law, or constitute a material breach of, default under or require any consent under, any agreement, instrument or document, including any related to borrowing monies, to which BOE is party or by which it is bound.

(d) There are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting BOE that would materially impair its ability to perform under this Agreement.

#### **SECTION 4. RENT, LEVIES, AND UTILITIES**

4.1 Rent. BOE shall pay City base rent for use of the Premises pursuant to this Agreement in the amount of:

One Dollar (\$1.00) for the entire Term the receipt and sufficiency of said sum being herewith acknowledged by the Parties.

4.2 Taxes and Other Levies. BOE shall pay when due all duties, assessments, water charges, sewer charges, and other levies assessed against the Premises, except for those charges which this Agreement specifies that the City shall pay. BOE may contest any such charges as permitted by applicable laws and regulations.

4.3 Leasehold Taxes. To the extent that BOE is not exempt from taxes or fees, BOE shall pay when due any and all leasehold taxes or other taxes assessed or levied on the Premises assessed on or after the Effective Date and in connection with this Agreement or BOE's use of the Premises. BOE shall cooperate with the City in resolving any leasehold or other tax issues that may arise. The City will provide notice to BOE of any taxes assessed against BOE's leasehold or use of the Premises and acknowledges that BOE may seek an exemption from such taxes. BOE shall not be responsible for any taxes assessed against third parties or the City's use or ownership of the

Premises.

4.4 Utilities and Other Services.

(a) Interruptions. City does not warrant that any of the services mentioned in this Agreement will be free from interruptions caused by repairs, improvements, accidents, or other causes beyond the reasonable control of City. Any such interruption of services shall never be deemed an eviction or disturbance of BOE's use and possession of the Premises or any part thereof, or render City liable to BOE for damages, or relieve BOE's obligations under this Agreement.

(b) Other Services. All other services required by BOE shall be at BOE's sole expense.

(c) Utilities. BOE shall pay when due all charges for gas, electricity, water, sewer, light, heat, waste disposal, telephone, cable, alarm systems, all other communication systems, and all other utilities and charges that may be assessed on the Premises during, or as a result of, BOE's occupancy of the Premises. BOE shall assume full responsibility for any other utility services and telephone or other communication services used in, or supplied to, the Premises by or for BOE (City shall assume no responsibility for delivery or payment of such other utility services and telephone or other communication services).

**SECTION 5. ENJOYMENT OF PREMISES, ALTERATIONS AND ADDITIONS, SURRENDER**

5.1 Covenant of Quiet Enjoyment. City covenants and agrees that BOE, upon observing and keeping the covenants, agreements and conditions of this Agreement on its part to be kept, observed and performed, shall lawfully and quietly hold, occupy and enjoy the Premises (subject to the provisions of this Agreement) during the Term without hindrance or molestation by City or by any person or persons claiming under City.

5.2 BOE's Duty to Maintain Premises and Right of Access. Unless otherwise provided in this Agreement, BOE shall, at BOE's sole expense, keep the Premises in a condition of thorough repair and good order, and in compliance with all applicable provisions of the Municipal Code of Chicago. City shall have the right of access to the Premises for the purpose of inspecting and making repairs to the Premises, provided that except in the case of emergencies, City shall first give notice to BOE of its desire to enter the Premises and will schedule its entry so as to minimize any interference with BOE's use of Premises or BOE's workers or contractors.

5.3 Use of the Premises. BOE shall not use the Premises in a manner that would violate any Law. BOE further covenants not to do or suffer any waste or damage, comply in all respects with the laws, ordinances, orders, rules, regulations, and requirements of all federal, state and municipal governmental departments which may be applicable to the Premises or to the use or manner of use of the Premises, disfigurement or injury to any building or improvement on or adjacent to the Premises, or to fixtures or equipment thereof. Any activities on the Premises must be limited to parking for staff of Edison Regional. BOE agrees that in utilizing said Premises that it shall not discriminate against any member of the public because of race, color, sex, gender identity,

age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, or source of income.

5.4 Alterations and Additions. BOE shall not have the right to make any alterations, additions and improvements on the Premises.

## **SECTION 6. ASSIGNMENT AND LIENS**

6.1 Assignment. BOE shall not assign this Agreement in whole or in part, or enter into any use agreement, lease, sublease, or similar agreement on the Premises or any part thereof.

6.2 BOE's Covenant Against Liens. BOE shall not cause or permit any lien or encumbrance, whether created by act of BOE, operation of law or otherwise, to attach to or be placed upon City's title or interest in the Premises.

## **SECTION 7. INSURANCE AND INDEMNIFICATION**

7.1 Insurance. BOE shall procure and maintain at all times, at BOE's own expense, during the term of this Agreement, the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois.

The kinds and amounts of insurance required are as follows:

(a) Workers Compensation and Occupational Disease Insurance. Workers Compensation and Occupational Disease Insurance, in accordance with the laws of the State of Illinois, or any other applicable jurisdiction, covering all employees and Employer's Liability coverage with limits of not less than \$100,000 each accident or illness.

(b) Commercial Liability Insurance. (Primary and Umbrella.) Commercial Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence, combined single limit, for bodily injury, personal injury, and property damage liability. Coverage extensions shall include the following: All premises and operations, products/completed operations, broad for property, separation of insureds, and contractual liability (with no limitation endorsement). The City of Chicago, its employees, elected officials, agents, and representatives are to be named as additional insureds on a primary, non contributory basis for any liability arising directly or indirectly from the Agreement.

(c) Automobile Liability Insurance. (Primary and Umbrella.) When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, BOE shall provide Comprehensive Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence, combined single limit, for bodily injury and property damage.

(d) All Risk Property Insurance. All risk property insurance coverage shall be maintained by BOE for full replacement value to protect against loss, damage to or destruction of property.

7.2 BOE shall be responsible for all loss or damage to BOE's personal property (including but not limited to materials, equipment, tools and supplies), whether owned or rented.

7.3 Other Terms of Insurance. BOE will furnish the City of Chicago, Department of General Services, Office of Real Estate Management, 30 North LaSalle Street - Suite 300, Chicago, Illinois 60602 ("DGS"), original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. BOE shall submit evidence on insurance prior to the execution of this Agreement. The receipt of any certificates does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from BOE shall not be deemed to be a waiver by the City. BOE shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve BOE of its obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate the Agreement until proper evidence of insurance is provided.

The insurance shall provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by BOE.

BOE agrees that insurers shall waive their rights of subrogation against the City, its employees, elected officials, agents or representatives.

BOE expressly understands and agrees that any coverages and limits furnished by BOE shall in no way limit BOE's liabilities and responsibilities specified within the Agreement documents or by law.

BOE expressly understands and agrees that any insurance or self insurance programs maintained by the City shall apply in excess of and not contribute with insurance provided by BOE under the Agreement.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

7.4 BOEs' Self-Insurance. To the extent permitted by law, BOE may self insure for the insurance requirements specified above. BOE will provide the City with a letter executed by an authorized official indicating that BOE is self-insured for applicable coverage required in this Section 7. This letter shall be tendered to DGS when this Agreement is executed.

7.5 BOE's Indemnification. To the extent permitted by applicable law, BOE shall indemnify and hold City, its elected officials, employees, officers, agents, and representatives harmless against all liabilities, judgment costs, damages, and expenses which may accrue against, be charged to, or be recovered from City to the extent that such losses arise from (a) a material breach of this Agreement by BOE; or (b) the negligence or intentional misconduct of BOE.

## **SECTION 8. CONFLICT OF INTEREST AND GOVERNMENTAL ETHICS**

8.1 Conflict of Interest. No official or employee of the City of Chicago, nor any member of any board, commission or agency of the City of Chicago, shall have any financial interest (as defined in Chapter 2-156 of the Municipal Code), either direct or indirect, in the Premises; nor shall any such official, employee, or member participate in making or in any way attempt to use his/her position to influence any City governmental decision or action with respect to this Agreement.

8.2 Duty to Comply with Governmental Ethics Ordinance. City and BOE shall comply with Chapter 2-156 of the Municipal Code of Chicago, "Governmental Ethics," including but not limited to section 2-156-120, which states that no payment, gratuity, or offer of employment shall be made in connection with any City of Chicago contract as an inducement for the award of that contract or order. Any contract negotiated, entered into, or performed in violation of any of the provisions of Chapter 2-156 shall be voidable as to the City of Chicago.

## **SECTION 9. DEFAULT AND REMEDIES**

9.1 Default Grounds for Termination. In the event BOE fails to perform, keep or observe any of its covenants, conditions, promises, agreements or obligations under this Agreement, and the same is not cured as described in Section 9.2 hereof, the City may terminate this Agreement.

9.2 Notification Prior to Termination for Default. Prior to termination for default, the City shall give BOE notice of intent to terminate 60 days prior to termination, and shall state the nature of the default. In the event BOE does not cure such default within the 60-day notice period, such termination shall become effective at the end of such period; provided, however, with respect to those defaults which are not capable of being cured within such 60-day period, BOE shall not be deemed to have committed such default and no termination shall occur if BOE has commenced to cure the alleged default within such 90-day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

## **SECTION 10. MISCELLANEOUS**

10.1 Notice. All notices, demands or requests which may be or are required to be given, demanded or requested by either party or to the other shall be in writing. All notices, demands and requests by BOE to City shall be delivered by national overnight courier or shall be by United States registered or certified mail, return receipt requested, postage prepaid, addressed to City as follows:

City of Chicago  
Department of General Services  
Office of Real Estate Management  
30 North LaSalle - Suite 300  
Chicago, Illinois 60602

or at such other places as City may from time to time designate by written notice to BOE. All notices, demands, and request by City to BOE

Board of Education of the City of Chicago  
Department of Real Estate  
125 South Clark Street, 17<sup>th</sup> Floor  
Chicago, Illinois 60603

or at such other place as BOE may from time to time designate by written notice to City. Any notice, demand or request which shall be served upon BOE by City, or upon City by BOE, in the manner aforesaid, shall be deemed to be sufficiently served or given for all purposes hereunder at the time such notice, demand or request shall be mailed.

10.2 Partial Invalidity. If any covenant, condition, provision, term or agreement of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining covenants, conditions, provisions, terms and agreements of this Agreement shall not be affected thereby, but each covenant, condition, provision, term or agreement of this Agreement shall be valid and in force to the fullest extent permitted by law.

10.3 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to the principles of conflicts of law thereof. If there is a lawsuit under this Agreement, each Party agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

10.4 Entire Agreement. All preliminary and contemporaneous negotiations are merged into and incorporated in this Agreement. This Agreement contains the entire agreement between the parties and shall not be modified or amended in any manner except by an instrument in writing executed by the parties hereto.

10.5 Captions and Section Numbers. The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Agreement nor in any way affect this Agreement.

10.6 Binding Effect of Agreement. The covenants, agreements, and obligations contained in this Agreement, shall extend to, bind, and insure to the benefit of the parties and their representatives, heirs, successors, and assigns.

10.7 Time is of the Essence. Time is of the essence of this Agreement and of each and

every provision hereof.

10.8 No Principal/Agent or Partnership Relationship. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

10.9 Authorization to Execute Agreement. The parties executing this Agreement hereby represent and warrant that they are the duly authorized and acting representatives of City and BOE respectively and that by their execution of this Agreement, it became the binding obligation of City and BOE respectively, subject to no contingencies or conditions except as specifically provided herein.

10.10 Termination of Agreement. In addition to any City right to terminate for default pursuant to Section 9 hereinabove, both City and BOE shall have the right to terminate this Agreement for any reason without penalty any time after June 30, 2010 by providing each other with one sixty (60) days prior written notice.

10.11 Force Majeure. When a period of time is provided in this Agreement for either Party to do or perform any act or thing, the Party shall not be liable or responsible for any delays due to strikes, lockouts, casualties, acts of God, wars, governmental regulation or control, and other causes beyond the reasonable control of the Party, and in such event the time period shall be extended for the amount of time the Party is so delayed.

10.12 Amendments. From time to time, the Parties hereto may amend this Agreement with respect to any provisions reasonably related to BOE's use of the Premises and/or City's administration of said Agreement. Provided, however, that such amendment(s) shall not serve to extend the Term hereof nor serve to otherwise materially alter the essential provisions contained herein. Such amendment(s) shall be in writing, shall establish the factual background necessitating such alteration, shall set forth the terms and conditions of such modification, and shall be duly executed by both City and BOE. Such amendment(s) shall only take effect upon execution by both Parties. Upon execution, such amendment(s) shall become a part of this Agreement and all other provisions of this Agreement shall otherwise remain in full force and effect.

10.13 No Other Rights. This Agreement does not give BOE any other right with respect to the Premises. Any rights not specifically granted to BOE by and through this document are reserved exclusively to City. Execution of this agreement does not obligate the City in any manner and the City shall not undertake any additional duties or services including, but not limited to, landscaping, maintenance, security, or snow removal.

10.14 No Personal Liability. No elected or appointed official or member or employee or agent of the City or BOE shall be individually or personally liable in connection with this Agreement because of their execution or attempted execution or because of any breach hereof. This limitation on liability survives any termination or expiration of this Agreement.



10.15 Further Assurance. The Parties shall perform such acts, execute and deliver such instruments and documents, and do all such other things as may be reasonably necessary to accomplish the transactions contemplated in this Agreement.

10.16 No Implied Waivers. No waiver by either Party of any breach of any provision of this Agreement shall 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 shall, of itself, entitle that Party to any further notice or demand in similar or other circumstances.

10.17 Parties' Interest/No 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). This Agreement 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. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of the Parties shall 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.

10.18 Remedies Cumulative. The remedies of a Party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such Party unless specifically so provided herein.

## **SECTION 11. ADDITIONAL RESPONSIBILITIES OF BOE**

11.1 BOE Inspection. BOE agrees that BOE has inspected the Premises and all related areas and grounds and that BOE accepts the Premises in "AS IS" condition.

11.2 Maintenance. BOE, at its sole cost and expense shall maintain the Premises and shall provide trash removal.

11.3 Snow Removal. Snow removal services, if any, for the Premises shall be provided by BOE. City shall not provide any snow removal services for the Premises.

11.4 Security. BOE shall provide security for the Premises if necessary in BOE's opinion. City shall provide not security services for the Premises.

11.5 No Fee. BOE shall not charge any fees for access to the Premises.

11.6 Illegal Activity. BOE, or any of its agents or employees, shall not perform any practice that is injurious to the Premises; is illegal; or increases the rate of insurance on the Premises.

11.7 Hazardous Materials. BOE shall keep out of Premises materials which cause a fire

hazard or safety hazard and comply with reasonable requirements of City's fire insurance carrier; not destroy, deface, damage, impair, nor remove any part of the Premises or facilities, equipment or appurtenances thereto.

11.8 No Alcoholic Beverages. Tenant agrees that no alcoholic beverages of any kind or nature shall be sold, given away, or consumed on the Premises.

11.9 Permits. For any activity which BOE desires to conduct on the Premises in which a license or permit is required, said license or permit must be obtained by BOE prior to using the Premises for such activity.

11.10 Condition upon Termination. Upon termination of this Agreement, BOE shall surrender the Premises to the City in a comparable or better condition to the condition of the Premises at the beginning of this Agreement, with normal wear and tear taken into consideration.

11.11 Future Site Development. BOE understands that City's Department of Housing and Economic Development and/or its successor department shall actively continue to market the Premises for future development. In the event that the Premises, or any parts thereof, are sold or otherwise conveyed, City shall terminate this Agreement pursuant to Section 10.10. In such event, BOE's sole remedy is to vacate the Premises. City is under no obligation to provide BOE with alternative locations.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**CITY OF CHICAGO,**  
an Illinois Municipal Corporation:

**THE DEPARTMENT OF GENERAL SERVICES**

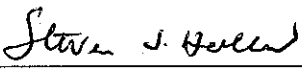
By:   
Commissioner

~~THE DEPARTMENT OF COMMUNITY DEVELOPMENT~~

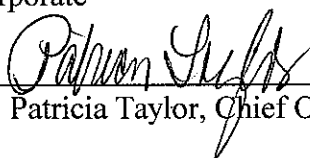
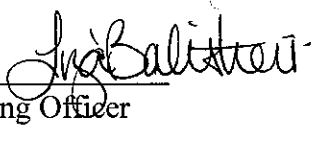
By: \_\_\_\_\_  
~~Commissioner~~

APPROVED AS TO FORM AND LEGALITY:

BY: DEPARTMENT OF LAW

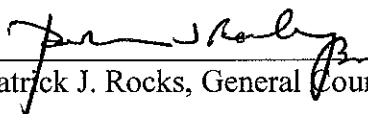
By:   
Deputy Corporation Counsel  
Real Estate Division

**BOARD OF EDUCATION OF THE CITY OF CHICAGO,**  
a body politic and corporate

By:   - Sr. Real Estate  
Patricia Taylor, Chief Operating Officer Adviser

COO Report #: 09-1210-C0013

Approved as to legal form: *500*

By:   
Patrick J. Rocks, General Counsel

Date Signed: \_\_\_\_\_, 201*0*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**CITY OF CHICAGO,**  
an Illinois Municipal Corporation:

**THE DEPARTMENT OF GENERAL SERVICES**

By: \_\_\_\_\_  
Commissioner

**THE DEPARTMENT OF HOUSING AND ECONOMIC DEVELOPMENT**

By: \_\_\_\_\_  
  
Commissioner

APPROVED AS TO FORM AND LEGALITY:  
BY: DEPARTMENT OF LAW

By: \_\_\_\_\_  
Deputy Corporation Counsel  
Real Estate Division

**BOARD OF EDUCATION OF THE CITY OF CHICAGO,**  
a body politic and corporate

By: \_\_\_\_\_  
Patricia Taylor, Chief Operating Officer

COO Report #: 09-1210-C0013

Approved as to legal form:

By: \_\_\_\_\_  
Patrick J. Rocks, General Counsel

Date Signed: \_\_\_\_\_, 2010

**EXHIBIT A**

**LEGAL DESCRIPTION OF PREMISES**

**LOTS 37 THROUGH 42 IN THOMASSON'S FOURTH RAVENSWOOD ADDITION IN BLOCKS 21 & 28 OF JACKSON'S SUBDIVISION OF THE SOUTHEAST ¼ OF SECTION 11, TOWNSHIP 40 NORTH, RANGE 13 AND THE SOUTHWEST ¼ OF SECTION 12, TOWNSHIP 40 NORTH, RANGE 12, OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY ILLINOIS.**

PIN#: 13-11-431-026

Common Address: 4814-26 North Kedzie Avenue