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July 14, 2022

Kari Steele, President
Board of Commissioners of the Metropolitan Water
Reclamation District of Greater Chicago
100 E. Erie Street
Second Floor, Room 229
Chicago, Illinois 60611-3154
Kari.Steele@mwr.org

Re: Petition of City Colleges of Chicago, Appeal and Request for Hearing, Appeal No. 22D-001

Dear Ms. Steele,

On behalf of City Colleges of Chicago Community College District No. 508, enclosed please find its Petition for Appeal and Request for Hearing pursuant to Section 9(b) of the User Charge Ordinance of the Metropolitan Water Reclamation District of Greater Chicago.

Very truly yours,

A handwritten signature in blue ink that reads "Ruth E. Krugly".

Ruth E. Krugly

cc: Edward W. Podczewinski, P.E.
Director of Monitoring and Research
Pamela Saindon, Principal Attorney

APPEAL NUMBER 22D-001

**PETITION OF THE CITY COLLEGES OF
CHICAGO**

APPEAL AND REQUEST FOR HEARING REGARDING:

DECISION OF DIRECTOR DATED JUNE 13, 2022, CLASSIFYING CITY

COLLEGES OF CHICAGO FACILITIES AS TAX-EXEMPT USERS

UNDER USER CHARGE ORDINANCE

SUBMITTED TO:

THE PRESIDENT OF THE BOARD OF COMMISSIONERS

and

DIRECTOR OF MONITORING AND RESEARCH

METROPOLITAN WATER AND RECLAMATION DISTRICT

OF GREATER CHICAGO



City Colleges of Chicago Community College District No. 508 (“CCC”), through its attorneys, submits its Petition for Appeal and Request for Hearing (“Petition”) pursuant to Section 9(b) of the User Charge Ordinance of the Metropolitan Water Reclamation District of Greater Chicago (the “District”). The Petition appeals the June 13, 2022 Decision of the Director of the Monitoring and Research Department of the District, a copy of which is included in the accompanying Appendix as Exhibit A (“Decision”).¹

INTRODUCTION

CCC was established more than 100 years ago; its first facility opened its doors in 1911 as Crane Junior College (now Malcolm X College). It is the largest community colleges system in Illinois and one of the largest in the nation, with more than 3,800 faculty and staff serving 54,000 students annually at seven colleges and five satellite sites. The mission of CCC is to ensure the success of every student and serve as an economic engine for the City of Chicago. Indeed, CCC is widely regarded as a sister agency of the City.² Since its founding, CCC has transformed the lives of more than one million students through the educational services it provides.

The District is also more than 100 years old; it was first established in 1889 as the Sanitary District of Chicago. The District’s User Charge Ordinance, which is at the center of this dispute, was adopted on October 4, 1979, and has been amended many times since then (the

¹This Petition is timely submitted within 30 calendar days of CCC’s counsel’s receipt of the Decision on June 16, 2022.

²For example, in addition to carrying out its educational mission as prescribed by the Public Community College Act, 110 ILCS 805/1-1, as a sister agency of the City CCC facilities can be activated as needed by the City’s Office of Emergency Management and Communications as heating and cooling centers in weather emergencies, and many CCC facilities serve as early voting and election day voting sites.

“User Charge Ordinance”). A copy of the User Charge Ordinance, as amended from time to time and most recently on November 18, 2021, is included in the Appendix as Exhibit B.

During the long history of CCC, the District, and the District’s almost 43-year-old User Charge Ordinance, a user charge (“User Charge”) has never been imposed on CCC. This comes as no surprise, since “Local Government Users” are exempt from User Charges under the User Charge Ordinance. As detailed below, CCC was established under the Public Community College Act, 110 ILCS 805/1-1 *et seq.*, as a body politic and corporate, and numerous cases have explicitly recognized that community colleges districts such as CCC are units of local government and municipal corporations.

While the District does not dispute that CCC is a unit of local government, it has determined that it falls outside of the definition of Local Government User because it charges an “admission fee.” But, as discussed below, CCC does not charge an admission fee to students or anyone else – it charges tuition, which is very different than tuition and is imposed for an entirely different purpose. Specifically, an admission fee is a fee paid for entering a place such as a theater or museum. Tuition, on the other hand, is the payment required to receive instruction at an educational institution. One may enter the facilities of any of the City Colleges without paying an admission fee. If someone wants to enroll in a class for educational instruction, however, tuition will likely be required. Since CCC does not charge an admission fee, it is a Local Government User which is exempt from the payment of a User Charge.

I. Statement of Facts

This dispute first arose in late October 2021 when the District began sending notices to various CCC Colleges stating that the District had classified those Colleges as Tax-Exempt Users under the District’s User Charge Ordinance. The District asked the Colleges to submit

sampling data and a certified statement setting forth the User Charge amount owed to the District. The notices were sent to Richard J. Daley College and Wilbur Wright College on October 29, 2021, to Harry S. Truman College on November 2, 2021, and to Malcom X College on February 4, 2022.³ Copies of the four notices are included in the Appendix as Group Exhibit C.

At around the same time as the first three tax classification notices were sent out by the District, District employees began showing up, without prior notice, at colleges facilities for the purpose of conducting inspections.⁴ At the time, these unannounced visits created some confusion and alarm on the part of college officials because those officials did not understand why the inspectors were there, what the purpose of the inspection was, or where on the campus they planned to go to conduct the inspection. There was concern that the inspectors might not be who they said they were, and that the inspection itself might not be legitimate. These general security and safety concerns were magnified to a considerable degree because of the nature of the facilities to be inspected – college campuses filled with students. Since this type of inspection had never happened before and since it was not clear by what right and under what authority the inspectors were there, they were turned away by college officials.

In subsequent communications with CCC, the District indicated that the inspections were for the purpose of establishing a baseline for a proposed User Charge against the four colleges which received the notice. Significantly, it is CCC's understanding that this was the first time in

³The first three tax status notices were sent to the individual colleges, rather than to CCC's headquarters at 180 N. Wabash, Chicago, Illinois. The fourth notice regarding Malcolm X College was sent to CCC's Associate Vice Chancellor of Administrative Services at the Dawson Technical Institute.

⁴ The notices sent by the District to the Colleges did not mention that the District intended to conduct inspections on college grounds; indeed, the notices did not refer to inspections at all.

its long history that the District had ever suggested that any of the City Colleges were subject to the payment of a User Charge.

On November 29, 2021, Ralph Passarelli, the Director of Risk Management of CCC, sent an email regarding the proposed User Charge to Pamela Saindon, one of the District's principal attorneys. Mr. Passarelli advised Ms. Saindon that CCC considers itself to be a public body and Local Government User under the User Charge Ordinance and should therefore be exempt from the payment of User Charges. Also on November 29, 2021, David Anthony, CCC's Associate Vice Chancellor of Administrative Services, sent an email to Mathew DeGutes, an Environmental Specialist at the District, stating that CCC considered itself a Local Government User not subject to the User Charge Ordinance. Copies of the November 29, 2021 emails are included in the Appendix as Group Exhibit D.

On February 4, 2022, the District issued a fourth notice advising CCC that the District had determined that Malcom X College was a Tax-Exempt User subject to the User Charge. (*See Appendix, Group Exhibit C.*)

On February 7, 2022, pursuant to the provisions of Article IV, Section 3 of the Sewage and Waste Control Ordinance, the District issued a Cease and Desist Order to CCC noting that District inspectors had twice been denied access to Truman. The Cease and Desist Order stated that to attain compliance with the Order, CCC was required to grant representatives of the District access to complete an inspection of the facility. It also stated that CCC would be invoiced a noncompliance enforcement charge (NCE) of \$843.00. That charge was subsequently assessed against CCC on April 6, 2022. Copies of the Cease and Desist Order and invoice are included in the Appendix as Group Exhibit E.

On February 8, 2022, Mr. Anthony sent another email to Mr. DeGutes stating that CCC is a sister agency of the City and a Local Government User and that CCC and its facilities are therefore not subject to the User Charge Ordinance. (The February 8, 2022 email is included in Group Exhibit D in the Appendix.) In the following days, CCC's legal counsel and the District's General Counsel engaged in telephone and email communications regarding the dispute over CCC's tax classification and the basis of the Cease and Desist Order.

On March 2, 2022, after the parties failed to resolve the dispute and the District reiterated its original classification of CCC campuses as Tax-Exempt Users (rather than Local Government Users), CCC filed a formal appeal of the District's determination. A copy of the March 2, 2022 appeal is included in the Appendix as Exhibit F. On this date, CCC also agreed to schedule an inspection at Truman based on its understanding that the Cease and Desist Order was based on the provisions of the Sewage and Waste Control Ordinance, rather than the User Charge Ordinance.⁵

On March 30, 2022, the District notified CCC that it had set an appeal meeting for April 27, 2022, and also advised CCC that it could submit additional information in support of its appeal. The letter also requested that CCC furnish the District with a certification on or before the appeal meeting that all relevant technical information and data had been provided to the District. A copy of the March 30, 2022 letter from the District to CCC is included in the Appendix as Exhibit G.

On April 13, 2022, CCC submitted a letter to the District setting forth supplemental authority in support of CCC's position that it does not charge an "admission fee" and

⁵ It is CCC's understanding that the inspection has not taken place and is being held in abeyance pending the outcome of this proceeding.

accordingly should be considered a Local Government User under the User Charge Ordinance. A copy of the April 13, 2022 letter from CCC to the District is included in the Appendix as Exhibit H. The certification requested by the District in its March 30, 2022 letter was submitted to the District at the April 27, 2022 appeal meeting. It states that for the reasons set forth in CCC's April 13, 2022 letter, the types of data described in the certification have not been submitted to the District. The certification is included in the Appendix as Exhibit I.

At the meeting on April 27, representatives of each party offered arguments in support of their respective positions.⁶ The crux of CCC's argument was (and is) that it is a unit of local government and is exempt from the User Charge Ordinance because it does *not* charge an admission fee. Rather, it charges tuition, which is very different from and cannot properly be characterized as an admission fee. CCC also pointed out that in the long history of both CCC and the District, a User Charge has never been assessed against it by the District.

The gist of the District's position was that the term "admission fee" can be read broadly to include the term "tuition." The District also stated that the Cease and Desist Order was issued to enforce the inspection provisions of the User Charge Ordinance, even though the Order explicitly states on its face that it was issued pursuant to the inspection provisions of the Sewage and Waste Control Ordinance. (*See* Group Exhibit E.) The District agreed to hold in abeyance during the appeal process the charges assessed in connection with the Cease and Desist Order. (*See* April 27, 2022 email communication between Ruth Krugly and Pamela Saindon, included in the Appendix as Exhibit J.)

⁶The meeting was attended on behalf of CCC by Karla Gowen (General Counsel), David Anthony (Vice Chancellor of Administrative Services), and Ruth Krugly (outside legal counsel from Riley Safer Holmes & Cancila), and on behalf of the District by Jennifer Wasik (Assistant Director), Gregory Yarnik (Supervising Environmental Specialist), Mathew DeGutes (Environmental Specialist), Pamela Saindon (Principal Attorney), and Christopher Murray (Head Assistant Attorney).

On June 13, 2022, the Director of the Monitoring and Research Department of the District issued his Decision denying CCC’s appeal of its classification as a Tax-Exempt User. (See Exhibit A.) There are no reasons offered in support of the Decision; it simply states that: “The District has reviewed the available evidence and arguments presented by CCC at the Director Appeal meeting and upholds the classification of CCC campuses as TXEs [Tax-Exempt Users] under terms and conditions of the UCO [User Charge Ordinance]. The Director Appeal of CCC’s classification is herein denied.” *Id.*

Because CCC does not concur with the Decision, it is filing this Petition with the Board of Commissioners of the District pursuant to Section 9.b of the User Charge Ordinance.

II. Issue Presented for Review

The issue raised in this appeal is whether CCC is a “Local Government User” under the District’s User Charge Ordinance and is therefore exempt from the payment of User Charges, or whether it is a Tax-Exempt User which is not exempt from such charges under the Ordinance.

III. Pertinent Statutory and Ordinance Provisions

A. Key Provisions of the District’s User Charge Ordinance

Section 1 of the User Charge Ordinance defines “Local Government User” as:

Publicly owned facilities used to perform local governmental functions which discharge solely domestic waste. Such functions are limited to administration or legislative activities of a local government, such as police and fire departments, public elementary and public high schools, and municipal office buildings. Publicly owned facilities charging an admission fee, or publicly owned facilities leased to non-public entities are not considered Local Government Users.

Section 1 of the User Charge Ordinance defines “Tax-Exempt User” as:

A User, excluding Local Government Users as defined herein, which:

- (1) Pays no ad valorem taxes, or
- (2) Pays ad valorem taxes on some but not all Facility parcels that do not offset the User’s Gross User Charges in its entirety.

Section 1 of the User Charge Ordinance defines “User Charge” as:

The operations, maintenance, and replacement costs incurred by the District to collect, treat, and dispose of the domestic wastes, process waste, industrial waste, and other wastes of the User. The User Charge includes the administrative costs for the District’s Sewage and Waste Control Ordinance and User Charge Ordinance. The User Charge of any User shall be directly proportional to its use of the District’s sewage treatment, collection and disposal services when compared to the total operations, maintenance, and replacement costs incurred by the District in providing the same services when compared to the total operations, maintenance, and replacements costs incurred by the District in providing the same services to all Users in the District’s jurisdiction. A User Charge is a fee, not a tax; therefore, Tax-Exempt Users are not exempt from paying User Charges.

Section 4(e) of the User Charge Ordinance provides that:

Local Government Users as defined herein are not subject to the payment of User Charges.

B. Key provisions of the Illinois Compiled Statutes

Section 3-11 of the Public Community College Act, 110 ILCS 805/1-1 *et seq.* (which is the enabling statute for CCC) provides that:

The board of each community college district is a body politic and corporate by the name of "Board of Trustees of Community College District No., County (or Counties) of and State of Illinois" or "Board of Trustees of (common name of community college), County (or Counties) of and State of Illinois" and by that name may sue and be sued in all courts and places where judicial proceedings are had. The State Board shall issue a number to each community college district, which number may be incorporated in the name of the board of that district. In conducting its operations, a community college may refer to itself by the common name of the community college.

Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101, provides, in pertinent part, as follows:

“Local public entity” includes a county, township, municipality, municipal corporation, school district, school board, educational service region, regional board of school trustees, trustees of schools of townships, treasurers of schools of townships, **community college district**, community college board, forest preserve district, park district, fire protection district, sanitary district, museum district, emergency telephone system board, and all other local governmental bodies.

Section 1-5 of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1, defines a “governmental entity” as follows:

"Governmental entity" means a unit of local government (including a community college district) or a school district but not a State agency or a Regional Transit Board.

For the reasons discussed below, CCC and the colleges and facilities comprising CCC fall within the definition of “Local Government User” and are therefore not subject to the payment of User Charges under the User Charge Ordinance.

IV. Argument

A. CCC is a Unit of Local Government, Municipal Corporation and Body Politic and Corporate

As noted above, the User Charge Ordinance provides that “Local Government Users” are not subject to the payment of User Charges. The District, however, has classified various CCC facilities as Tax-Exempt Users, which *are* subject to User Charges. (*See* User Charge Ordinance, Sections 1 and 4(e).) Accordingly, the key issue in this appeal is whether CCC is a “Local Government User” or a “Tax-Exempt User” under the User Charge Ordinance.

In analyzing this issue, it is important to note that CCC is without question a unit of local government, municipal corporation, and body politic and corporate. The enabling statute for CCC expressly states that the “board of each community college district is a body politic and corporate.” Public Community College Act, 110 ILCS 805/3-11. Likewise, the definition of “local public entity” in the Tort Immunity Act includes community colleges districts (745 ILCS 10/1-206), as does the definition of “governmental entity” in the State Officials and Employees Ethics Act (5 ILCS 430/1-5). (*See* Section III, *supra*.)

Moreover, the courts interpreting the Public Community College Act have held that a community college district is a unit of local government, political subdivision, and municipal

corporation. See *Board of Trustees of Community College Dist. No. 502 v. Dept. of Professional Regulation*, 363 Ill. App. 3d 190, 202 (2nd Dist. 2006) (“a community college district is a ‘unit of local government’ and therefore a ‘political subdivision . . .’”); *Swann v. William Rainey Harper College*, 2008 WL 4681950, at *7 (N.D. Ill. May 20, 2008)(same, citing *Board of Trustees Community College District No. 502* and *Luciano v. Waubensee Community College*, 245 Ill. App. 3d 1077, 1082-84 (2d Dist. 1993); *Hostrop v. Board of Junior College District No. 515*, 523 F.2d 569, 576 (7th Cir. 1975) (board of community college district “is a body politic and corporate” and “municipal corporation”); and *American Center for Excellence in Surgical Assisting Inc. v. Community College Dist. 502*, 315 F. Supp. 3d 1044, 1054-55 (N.D. Ill. May 29, 2018) (community college is a governmental entity).

Thus, the question in this matter is not whether CCC is a “unit of local government,” “municipal corporation,” or “body politic and corporate” – that has already been established quite definitively by the Illinois legislature and the Illinois and federal courts. And there is no dispute that the colleges in question are public facilities owned by CCC. Rather, the question is whether CCC charges an “admission fee” and therefore falls outside the definition of “Local Government User” in the User Charge Ordinance (which provides that “[p]ublicly owned facilities charging an admission fee . . . are not considered Local Government Users”). As discussed in the following section, it is clear under applicable law that while CCC charges tuition and related student fees, it does *not* charge an admission fee.

B. CCC Does not Charge an Admission Fee Under the User Charge Ordinance

1. The Rules of Statutory Construction Require the Term “Admission Fee” to be Given its “Plain and Ordinary” Meaning.

This case turns on the interpretation of the term “Local Government User” in the User Charge Ordinance and whether CCC is excluded from the definition of “Local Government

User” because it charges tuition, which the District equates to an “admission fee.” The Illinois Supreme Court has held that in construing a municipal ordinance such as the User Charge Ordinance, a court applies the same rules which govern the construction of statutes. *International Association of Fire Fighters, Local 50 v. City of Peoria*, 2022 IL 127040, ¶11, citing *City of East St. Louis v. Union Electric Co.*, 37 Ill. 2d 537, 542 (1967).

While CCC recognizes that an agency’s interpretation of its own ordinance is entitled to substantial deference by the courts, *Best Buy Stores, L.P. v. Department of Revenue*, 2020 IL App (1st) 191680, ¶ 17, an issue of statutory interpretation presents a question of law subject to *de novo* review. *International Association of Fire Fighters*, 2022 IL 127040, ¶11 (internal citation and quotation marks omitted). Here, the applicable rules of statutory construction do not support the District’s expansive interpretation of the term “admission fee.”

In this regard, “[t]he fundamental rule of statutory construction is to ascertain and give effect to the legislature’s intent.” *Schultz v. Performance Lighting, Inc.*, 2013 IL 115738, ¶12. Significantly, “[t]he best indicator of legislative intent is the statutory language itself, given its plain and ordinary meaning.” *Id.* (emphasis added). The court considers “the statute in its entirety, keeping in mind the subject it addresses and the apparent intent of the legislature in enacting it.” *Id.* “Moreover, to the extent there is any ambiguity, penal statutes and statutes that create ‘new liabilities’ should be strictly construed in favor of persons sought to be subject to their operation and will not be extended beyond their terms.” *Id.* (emphasis added), citing *Nowak v. City of County Club Hills*, 2011 IL 111838, ¶¶ 19, 27 for the proposition that a statute creating a new liability is strictly construed in favor of entity that would have been subject to the liability, and *Croissant v. Joliet Park District*, 141 Ill.2d 449, 455 (1990) for the proposition that a penal statute is to be construed strictly. **Further, the court presumes that the**

legislature “did not intend absurdity, inconvenience, or injustice”, and “must employ a practical and common-sense construction.” *Barnai v. Wal-Mart Stores, Inc.* 2021 IL App (1st) 191306, ¶ 28 (emphasis added), citing *Carver v. Sheriff of La Salle County*, 203 Ill 2d 497, 507-08 (2003), and *Hartney Fuel Oil Co.*, 2013 IL 115130, ¶ 25 (internal quotation marks omitted).

In addition, “[u]nder the principle of *expressio unius est exclusio alterius*, the enumeration of exceptions in a statute is construed as an exclusion of all other exceptions.” *People ex rel Sherman v. Cryns*, 203 Ill. 2d 264, 286 (2003) (emphasis added). This rule of statutory construction is “based on logic and common sense,” as “[i]t expresses the learning of common experience that when people say one thing they do not mean something else.” *Id.* (citation and internal quotation marks omitted, emphasis added). “The maxim is closely related to the plain language rule in that it emphasizes the statutory language as it is written.” *O’Connell v. County of Cook*, 2021 IL App (1st) 201031, ¶ 25, quoting *Bridgestone/Firestone, Inc. v. Aldridge*, 179 Ill. 2d 141, 152 (1997) (internal quotation marks omitted). “Simply put, where a statute lists the things to which it refers, there is an inference that all omissions should be understood as exclusions, despite the lack of any negative words of limitation.” *Id.* (internal citations and quotation marks omitted, emphasis added).

Here, the District equates the payment of “tuition” with the payment of “admission fees.” But this expansive interpretation of the term “admission fee” departs sharply from the rules of statutory construction set forth above, including the rule that the “plain and ordinary meaning” of the term is the best indicator of statutory intent; the rule that statutes that create “new liabilities” should not be extended beyond their terms and should be strictly construed in favor of persons sought to be subject to their operation (here, CCC); the presumption that the legislature “did not intend absurdity, inconvenience, or injustice,” the presumption that “a practical and common-

sense construction” must be employed by a court construing the term; and the rule that the enumeration of exceptions in a statute is construed as an exclusion of all other exceptions.

Indeed, if the District had intended to exclude governmental bodies that charge tuition from the definition of Local Government User, it would have been easy enough for the District to say so. But that is not what the Ordinance says. Rather, the plain and ordinary meaning of the term “admission fee” is a clear indication that the District did *not* intend to subject community college districts such as CCC to the User Charge. Another strong indicator of the District’s intent is the fact that it has *not* imposed such a charge on CCC for the more than 40 years that the User Charge Ordinance has been in effect. Further, the courts have held that any attempt to create a new liability should be strictly construed in favor of the entity that would be subject to the liability. To the extent the District is now, for the first time, seeking to impose a User Charge against CCC, it is a new liability and should be disallowed. Any other result would be absurd and unjust, and fly in the face of the most fundamental rules of statutory construction. This is an outcome which the courts strive mightily to avoid, and it is an outcome which can be avoided here by re-classifying CCC and its facilities as Local Government Users.

2. Judicial Decisions and Common Sense Show that the Plain and Ordinary Meaning of the Term “Admission Fee” does not Include Tuition.

As indicated above, there is little question that the “plain and ordinary meaning” of the term “admission fee” and the term “tuition” is quite different: an admission fee is a fee paid for entering a place such as a theater or museum, while tuition is a fee paid to receive instruction at an educational institution. When people use the term “admission fee” they do not mean “tuition,” and when people use the term “tuition” they do not mean “admission fee.” *See People*

ex rel Sherman v. Cryns, 203 Ill. 2d 264, 286 (2003) (under the principles of statutory construction, “when people say one thing they do not mean something else”).

The distinction between the two terms is reflected in *Resurrection Lutheran Church v. Department of Revenue*, 212 Ill. App. 3d 964 (1st Dist. 1991). In that case, the appellate court held that a not-for-profit organization’s use of property it leased from a church was primarily for charitable purposes and the church was therefore entitled to a property tax exemption, even though the organization charged *tuition fees* for the right to attend instructional dance classes, and *admission fees* for the right to attend dance concerts and performances. In this case as well, CCC is entitled to an exemption for the User Charge since it is a public body that charges tuition fees for the right to attend college and receive an education. The case for exempting CCC from the User Charge is even more compelling here than in *Resurrection Lutheran*, since CCC does not charge an admission fee for any purpose. And there are few, if any, governmental purposes more essential than educating students.

The specific meaning of the term “admission fee” has been considered by the Illinois Supreme Court, which noted that “amounts paid for club seats and luxury suites are part of the ‘admission fees and other charges’ paid for the privilege of witnessing a Bears game.” *Chicago Bears Football Club v. Cook County Department of Revenue*, 2014 IL App (1st) 122892, at ¶ 33. And in *North Pole Corporation v. Village of East Dundee*, 263 Ill. App. 3d 327 (2nd Dist. 1994), the court upheld the constitutionality of a 5% tax on admission charges to an amusement park. In so holding, the court noted that the ordinance defined “amusement” as “any theatrical, dramatic or musical performance, circus, rodeo, animal act, athletic contest, sport, or similar exhibition or activity to which an attendee participates” and for which there is an “admission fee or other charge for spectators or participants.” *Id.* at 329 (internal quotation marks omitted).

Thus, the Illinois courts recognize that the payment of tuition carries with it the right to attend a class for educational instruction, while the payment of an admission fee allows one to enter a facility, often for purposes of entertainment. Here, there is no fee imposed by CCC to enter its facilities. If one wants to take a class, however, one is required to pay tuition. The District's position that the payment of tuition to attend college can be characterized as an "admission fee" does not comport with either the judiciary's understanding of the two terms or with common usage. Indeed, the District's interpretation of the term is inconsistent with the "plain and ordinary" meaning of the term.

The "practical and common sense" distinction between the two concepts is nicely illustrated in a scholarly article discussing when a university system needs permission to use copyrighted material. The article concludes that it is appropriate for a teacher to show a copyrighted motion picture to her class for instructional purposes: "It is fair use since it is for classroom instruction and no admission fee is charged. *Tuition and course fees do not constitute admission fees.*" *Forward*, 5 J. Intell. Prop. L. 252, 262, 265, Journal of Intellectual Property Law, Regents Guide to Understanding Copyright and Educational Fair Use (Fall 1997) (emphasis added). Thus, since the university was not charging an admission fee to see the movie, which was being shown for educational purposes, the author of the article reasoned that permission was not required under these circumstances to use copyrighted material.

Likewise, although tuition is required to enroll in a class for educational instruction at CCC colleges, there is no "admission fee" required to gain entry to the facilities of any of the City Colleges. *See* 110 ILCS 805/6-2-6.4-2 (allowing community college districts to charge tuition but making no mention of the imposition of admission fees). Here, as in the article cited

above and as is commonly understood to be the case, “[t]uition and course fees do not constitute admission fees.”

3. The Financing Structure of CCC Shows that it Does Not Charge an Admission Fee

The fact that CCC does not charge an “admission fee” is also reflected in the financing structure of community colleges in general and CCC in particular. In the context of community colleges, the courts have noted that “[p]ublic funding for community colleges under the Public Community College Act constitutes a complex legislative scheme whereby operating expenses of the various community colleges are to be paid from bonds, tax levies, and reimbursement from the State for student tuition and other fees.” *100 Lake, LLC v. Novak*, 2012 IL App (2d) 110708, at ¶ 13. The courts have also noted that a community college board “sets its own fiscal year and budget and selects its own basis of financing and system of accounting.” *Id.*, citing *Dusthimer v. Board of Trustees of the University of Illinois*, 368 Ill. App. 3d 159, 163 (4th Dist. 2006).

In the case of CCC, its funding base consists of various sources, including “student tuition and fees,” but these fees do not include admission fees. Specifically, CCC’s budget states that its major revenue sources include local tax revenue, other local revenue, grants, other state revenue, federal revenue, and “student tuition and fees.” (*See* Excerpts from CCC’s FY2022 Final Annual Operating Budget Book, at p. 3, included in the Appendix as Exhibit K.) Significantly, the term “student tuition and fees” as used in the budget does not encompass admission fees. Rather, that term is defined in the budget as including “all student tuition and student fees assessed against students for educational and general purposes. Tuition is the amount per credit hour times the number of credit hours charged a student for taking a course at the colleges. Fees include laboratory fees, activity fees, registration fees, and similar charges not

covered by tuition.” (See Exhibit K, at p. 13).⁷ There is no reference in the budget to “admission fees,” and neither tuition nor related student fees such as laboratory fees can properly be characterized as an “admission fee.”

Likewise, and consistent with the budget, CCC’s summary of the estimated cost of attendance shows costs for tuition, books and supplies, room and board, and transportation; there are no costs attributable to “admission fees” or any other type of fee. (See Estimated Cost of Attending City Colleges Academic Years 2020-2021, included in the Appendix as Exhibit L.)

In sum, there is no reference in CCC’s budget or in the Public Community College Act to “admission fees.” And that is because CCC does *not* charge an admission fee to students for the right to attend CCC colleges and does *not* charge an admission fee to the general public in order to gain admittance to CCC facilities. Accordingly, the carve-out in the definition of “Local Government User” for public facilities that charge “admission fees” has no application here. Any other interpretation of the User Charge Ordinance is contradicted by the fundamental rules of statutory construction, which require that the Ordinance be given its “plain and ordinary meaning” and which further require a “common sense and practical construction” of the Ordinance.

CONCLUSION

There is significant authority supporting CCC’s position that admission fees are different than tuition, and that CCC charges tuition but does *not* charge an admission fee for the privilege of attending college. It is telling that the Decision does not attempt to explain how an “admission fee” can be understood or interpreted to include “tuition”. It also telling that in the more than 100-year history of both CCC and the District (and the almost 43-year-old history of

⁷Likewise, “student tuition charge” is defined as “[t]he amount of money charged to students for instructional services; tuition may be charged on a per term, per course, or per credit basis.” *Id.*

the User Charge Ordinance), it has never been suggested that CCC is anything other than a public body which is exempt from the imposition of a user charge. Indeed, it is undisputed that in all that time such a charge has never been imposed on CCC facilities. CCC respectfully suggests that the District interpreted the User Charge Ordinance correctly for the past many decades, and that the reason none of the City Colleges of Chicago have (until now) been assessed with a User Charge is because they are Local Government Users under the Ordinance.

Accordingly, for the reasons set forth above and in CCC's prior submissions, CCC respectfully requests that the Board reverse the Director's determination that Richard J. Daley College, Malcolm X College, Harry S. Truman College and Wilbur Wright College are Tax-Exempt Users, and re-classify CCC and all of its facilities as Local Government Users under the User Charge Ordinance. CCC further requests that the Cease and Desist Order be vacated, together with the charges imposed under the Order.

Dated: July 14, 2022

Respectfully submitted,

/s/ Ruth E. Krugly

Riley Safer Holmes & Cancila LLP

70 W. Madison Street, Suite 2900

Chicago, Illinois 60602

(312) 471-8729

rkrugly@rshc-law.com

On behalf of City Colleges of Chicago
Community College District No. 508

APPEAL NUMBER 22D-001

APPENDIX

PETITION OF THE CITY COLLEGES OF CHICAGO

**APPEAL AND REQUEST FOR HEARING REGARDING:
DECISION OF DIRECTOR DATED JUNE 13, 2022, CLASSIFYING CITY
COLLEGES OF CHICAGO FACILITIES AS TAX-EXEMPT USERS
UNDER USER CHARGE ORDINANCE**

SUBMITTED TO:

THE PRESIDENT OF THE BOARD OF COMMISSIONERS

and

DIRECTOR OF MONITORING AND RESEARCH

METROPOLITAN WATER AND RECLAMATION DISTRICT

OF GREATER CHICAGO



Exhibit A – June 13, 2022 Decision of the District Denying CCC’s Appeal of Tax Classification

Exhibit B – User Charge Ordinance, as Amended November 18, 2021

Group Exhibit C – Notices from the District to CCC Colleges Regarding Tax Status Classification

Group Exhibit D – November 29, 2021 and February 8, 2022 emails from CCC to District.Group

Group Exhibit E – Cease and Desist Order and Initial Invoice for NCE Charge

Exhibit F - CCC’s May 2, 2022 Appeal to the District on Tax User Status

Exhibit G – District’s March 30, 2022 Notification to CCC of Appeal Meeting

Exhibit H – CCC’s April 13, 2022 Supplemental Correspondence to District in Support of Appeal

Exhibit I - CCC’s Certification of Completeness of User Charge Data Furnished to the District

Exhibit J – April 27, 2022 Email Communications between CCC and the District regarding the
Cease and Desist Administrative Charge Abeyance

Exhibit K - Excerpts from CCC’s FY 2022 Final Annual Operating Budget Book

Exhibit L – Estimated Cost of Attending City Colleges Academic Years 2020-2021

Exhibit A

June 13, 2022 Decision of the District Denying CCC's Appeal of Tax Classification

Protecting Our Water Environment

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Metropolitan Water Reclamation District of Greater Chicago

100 EAST ERIE STREET CHICAGO, ILLINOIS 60611-3154 312.751.5190 f: 312.751.5194

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research
podczerwinski@mwrdd.org

June 13, 2022

Mr. David Anthony
Vice Chancellor of Administrative Services
City Colleges of Chicago
3901 South State Street, Room 216
Chicago, Illinois 60609

Dear Mr. Anthony:

Subject: Appeal Number 22D-001 - User Charge Classification for City Colleges
of Chicago

The Metropolitan Water Reclamation District of Greater Chicago (District) refers to the meeting on April 27, 2022, at the office of the District's Monitoring and Research Department, regarding the subject appeal. In attendance at the meeting representing City Colleges of Chicago (CCC) were you, Ms. Karla Mitchell Gower, General Counsel, and Ms. Ruth Krugly of Riley Safer Holmes & Cancila LLP. Representing the District were Mses. Jennifer Wasik and Pamela Saindon, and Messrs. Mathew DeGutes, Christopher Murray, and Gregory Yarnik of my staff.

In multiple letters dated November 2, 2021, the District classified several campuses of CCC (Richard J. Daley, Malcolm X, Harry S. Truman, and Wilbur Wright) as Tax Exempt Users (TXE), which are required to report their User Charge liability annually to the District under terms and conditions of the User Charge Ordinance (UCO). Subsequent to this classification, in an electronic mail correspondence on November 29, 2021, CCC asserted that its campuses were not subject to the UCO and should not be classified as TXEs, but rather should be classified as Local Government Users (LGU), which are not required to report User Charge liability annually to the District. Because the District reiterated its original classification of CCC campuses as TXEs, a formal Director Appeal by CCC was initiated on March 2, 2022, followed by the above referenced meeting, wherein CCC argued that it is a unit of local government that does not charge an "admission fee." Conversely, the District maintained that tuition and/or fees charged to users of CCC's services does, in fact, constitute an "admission fee," under Section 2 of the UCO, and therefore prohibits CCC's classification of its campuses as LGUs.

Mr. David Anthony

2

June 13, 2022

Subject: Appeal Number 22D-001 - User Charge Classification for City Colleges
of Chicago

The District has reviewed the available evidence and arguments presented by CCC at the Director Appeal meeting and upholds the classification of CCC campuses as TXEs under terms and conditions of the UCO. The Director Appeal of CCC's classification is herein denied. In accordance with Section 9.b. of the UCO, if the User does not concur with the determination of this office, it may petition the District's Board of Commissioners (Board) for a hearing. Any such request for a hearing by the Board shall be made within 30 days after receipt of this letter.

If you have any questions regarding this matter, please contact Mr. DeGutes, Environmental Specialist, at (312) 751-3005 or DeGutesM@mwr.org.

Very truly yours,



Edward W. Podczerwinski, P.E.
Director
Monitoring and Research Department

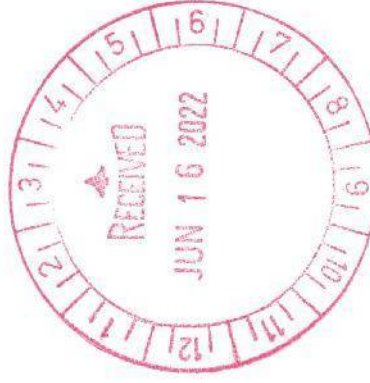
EWP:JW:MJD:lh
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Certified No. 7014 1200 0000 7895 2307
cc: Ms. Mitchell Gower
Ms. Krugly ✓



Protecting Our Water Environment
Metropolitan Water Reclamation District of Greater Chicago
Industrial Waste
Enforcement / Pretreatment Section
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Chicago, Illinois 60610



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Ms. Ruth Krugly
Riley Safer Holmes & Cancila LLP
70 West Madison Street, Suite 2900
Chicago, Illinois 60602

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Exhibit B

User Charge Ordinance, as Amended November 18, 2021

**Metropolitan Water Reclamation District
of
Greater Chicago**



User Charge Ordinance

As Amended

November 18, 2021

(Amendments effective January 1, 2022)

**METROPOLITAN WATER RECLAMATION DISTRICT
OF GREATER CHICAGO
100 EAST ERIE STREET
CHICAGO, ILLINOIS 60611
(312) 751-5600**

BOARD OF COMMISSIONERS

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AN ORDINANCE

AN ORDINANCE TO PROVIDE FOR THE RECOVERY OF EACH USER'S PROPORTIONAL SHARE OF THE OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS INCURRED BY THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO FOR THE TREATMENT AND DISPOSAL OF SEWAGE, INDUSTRIAL WASTE, AND OTHER WASTES GENERATED BY EACH USER, PURSUANT TO THE REQUIREMENTS OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972 AND THE CLEAN WATER ACT OF 1977 (33 U.S.C. §§ 1251-1387) AND THE RULES AND REGULATIONS OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PROMULGATED PURSUANT THERETO, FOR DISCHARGES OF SEWAGE, INDUSTRIAL WASTES, AND OTHER WASTES MADE TO SEWERS UNDER THE JURISDICTION OF THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, HEREINAFTER KNOWN AS THE "USER CHARGE ORDINANCE," ADOPTED BY THE BOARD OF COMMISSIONERS, METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, ON OCTOBER 4, 1979 AND AS AMENDED TO, AND INCLUDING, MARCH 19, 1992, OCTOBER 6, 1994, NOVEMBER 3, 1994, OCTOBER 19, 1995, NOVEMBER 7, 1996, NOVEMBER 6, 1997, JULY 9 AND NOVEMBER 5, 1998, FEBRUARY 4, 1999, OCTOBER 7, 1999, FEBRUARY 17 AND DECEMBER 7, 2000, NOVEMBER 15, 2001, NOVEMBER 7, 2002, NOVEMBER 6, 2003, NOVEMBER 4, 2004, NOVEMBER 3, 2005, OCTOBER 19, 2006, NOVEMBER 1, 2007, NOVEMBER 6, 2008, NOVEMBER 5, 2009, NOVEMBER 4, 2010, DECEMBER 15, 2011, DECEMBER 20, 2012, DECEMBER 5, 2013, SEPTEMBER 18, 2014, SEPTEMBER 17, 2015, SEPTEMBER 15, 2016, SEPTEMBER 14, 2017, SEPTEMBER 6, 2018, NOVEMBER 7, 2019, NOVEMBER 19, 2020, AND NOVEMBER 18, 2021.

Section 1. Authority and General Purpose

This Ordinance is promulgated pursuant to the statutory authority contained in 70 ILCS 2605/1, et seq., as amended.

The purpose of this Ordinance is to establish an orderly and fair system whereby the operations, maintenance, and replacement costs incurred by the Metropolitan Water Reclamation District of Greater Chicago in treating and disposing of the sewage, industrial wastes, and other wastes generated by each User is charged to that User for his or her use of the sewage collection and treatment facilities of the Metropolitan Water Reclamation District of Greater Chicago, as required by The Federal Water Pollution Control Act Amendments of 1972 and the Clean Water Act of 1977 (33 U.S.C. §§ 1251-1387) and the rules and regulations of the United States Environmental Protection Agency, promulgated pursuant thereto.

Section 2. Definitions

For the purpose of this Ordinance, the following definitions shall apply unless the context specifically indicates otherwise:

"Agent"

A representative of the User who is a third-party individual or company retained to perform environmental services for the User. Such an Agent is not an Authorized Representative as defined herein, unless said Agent has express written authority to bind the User.

"Authorized Representative"

The User's owner, corporate officer, designated employee, or legal counsel with full binding authority of the User, by virtue of their position, or an individual with express written authority to bind the User.

"Board of Commissioners"

The Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago.

"Biochemical Oxygen Demand (BOD)"

The quantity of dissolved oxygen required for biochemical oxidation of decomposable matter under aerobic conditions in a period of five days at a temperature of 20°C.

"Contaminated Stormwater"

Discharges to the District's sanitary sewers from detention basins or containment facilities, which are designed to collect stormwater contaminated by chemicals from tank farms, or used in the process of deicing airport equipment, or as otherwise permitted or allowed by legal agreement between the User or an Authorized Representative as defined herein, and the District. For purposes of this Ordinance, such wastes are considered industrial wastes as defined herein.

"Director"

The Director of the Monitoring and Research Department of the Metropolitan Water Reclamation District of Greater Chicago.

"District"

The Metropolitan Water Reclamation District of Greater Chicago, a unit of local government, organized and existing under, and by virtue of, the laws of the State of Illinois.

"Domestic Wastes"

Water-carried human wastes from sanitary conveniences such as toilets, wash bowls, bathtubs, and residential laundry facilities.

"Executive Director"

The Executive Director of the Metropolitan Water Reclamation District of Greater Chicago.

"Facility"

Land, buildings, structures and improvements other than buildings, and permanent fixed equipment attached to or incorporated in any such buildings, that are used as part of a single business establishment and located within a single block. Noncontiguous lands, including lands separated from one another by any public right-of-way, are not considered the same Facility unless physically and permanently connected to one another by central utilities.

"Gross User Charge"

The sum of the Total Wastewater Loading Charge as defined in this Ordinance plus the administrative costs recovered through charges applicable to the User as provided in Appendix E of this Ordinance.

"Industrial Wastes"

Any solid, liquid, or gaseous wastes, including cooling water resulting from any industrial, commercial, or manufacturing process, or from the development, recovery, or processing of natural resources.

"Large Commercial-Industrial User"

Any nongovernmental User engaged in commercial or industrial activities which:

- (1) discharges any wastes exceeding any of the following: a flow of 25,000 gallons per day; a BOD loading of 25 pounds per day; or a suspended solids loading of 35 pounds per day, or
- (2) is designated as a Significant Industrial User.

"Local Government User"

Publicly owned facilities used to perform local governmental functions which discharge solely domestic waste. Such functions are limited to administration or legislative activities of a local government, such as police and fire departments, public elementary and public high schools, and municipal office buildings. Publicly owned facilities charging an admission fee, or publicly owned facilities leased to non-public entities are not considered Local Government Users.

"Net User Charge"

The balance owed by a User remaining after deducting

the operations, maintenance and replacement portion of the ad valorem taxes paid by that User for the District from the Gross User Charge.

"Operations, Maintenance, and Replacement (OM&R) Costs"

Those funds dedicated by the District to discharge its duty for collection, treatment, and disposal of sewage, industrial wastes, and other wastes.

"Operations, Maintenance, and Replacement (OM&R) Factor"

The ratio of costs incurred by the District for operations, maintenance, and replacement directly related to the collection, treatment, and disposal of industrial wastes, process wastes, domestic wastes, and other wastes to the total tax levy of the District.

"Ordinance"

The User Charge Ordinance as promulgated by the Board of Commissioners of the District.

"Other Wastes"

All decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastes.

"Residential User"

The nongovernmental, non-tax-exempt owner of any single-family or multi-family residence.

"Sewage"

Water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, storm, or other wastes as may be present.

"Significant Industrial User"

Any User which:

- (1) is subject to categorical pretreatment standards, or
- (2) discharges greater than 25,000 gallons per day of process wastewater to the sewerage system, excluding water-carried human wastes from sanitary conveniences such as toilets, wash bowls, bathtubs, showers and residential laundries, noncontact cooling water, boiler blowdown water, and uncontaminated storm water, or
- (3) discharges process wastewater in excess of five percent or more of the average dry weather hydraulic or organic capacity of the receiving water reclamation facilities, or
- (4) is designated by the District as having a reasonable potential for adversely affecting the operations of the water reclamation facilities or for violating any standard or requirement of the District's Sewage and Waste Control Ordinance.

"Small Nonresidential Commercial-Industrial User"

A nongovernmental User engaged in non-residential

activities which discharges any waste not exceeding any of the following: a flow of 25,000 gallons per day, a BOD loading of 25 pounds per day, or a suspended solids loading of 35 pounds per day; and is not a Significant Industrial User.

"Suspended Solids (SS)"

Solids which either float on the surface of or are in suspension in the waste discharge and which are removable by laboratory filtering.

"Tax-Exempt User"

A User, excluding Local Government Users as defined herein, which:

- (1) Pays no ad valorem taxes, or
- (2) Pays ad valorem taxes on some but not all Facility parcels that do not offset the User's Gross User Charges in its entirety.

"Total Wastewater Loading Charge"

The sum of charges for flow, BOD and SS. These charges are calculated by multiplying the quantities of wastes by the billing rates specified in Appendix F to this Ordinance.

"Unlawful Discharge"

Any discharge of sewage, industrial wastes, or other wastes by any User into the sewers or sewage works of the District, or any sewer connected thereto, wherein such User has not paid to the District its User Charge as provided herein.

"USEPA Approved Methods"

The analytical methods listed in 40 CFR Part 136, effective on the date approved in the Federal Register.

"User"

Any person, firm, corporation, partnership, trust, or any other entity which utilizes the services of the District for sewage collection, treatment, and disposal. In instances where certification of submittals, a notification, or a request is required of the User, the term "User" includes the User's "Authorized Representative" as defined herein.

"User Charge"

The operations, maintenance, and replacement costs incurred by the District to collect, treat, and dispose of the domestic wastes, process wastes, industrial wastes, and other wastes of the User. The User Charge includes the administrative costs for the District's Sewage and Waste Control Ordinance and User Charge Ordinance. The User Charge of any User shall be directly proportional to its use of the District's sewage treatment, collection and disposal services when compared to the total operations, maintenance, and replacement costs incurred by the District in providing the same services to all Users in the District's jurisdiction. A User Charge is a fee, not a tax; therefore, Tax-Exempt Users are not exempt from paying User Charges.

Section 3.

This Section deleted effective January 1, 2013.

Section 4. User Class Determination and Reporting

- a. Class Determination

Each User, except a Residential User, shall make an evaluation of its waste discharge in accordance with the requirements of this Ordinance and determine its User classification status on forms supplied by the District. Such User classification determination shall be based on the User's current operation and use of the sewage collection and treatment facilities of the District. Such determination shall be subject to verification by the District.
- b. Change in Classification

A User which requires or requests a change in its classification must submit its classification determination forms within 45 calendar days of said change in User classification status.
- c. Small Nonresidential Commercial-Industrial Users

A Small Nonresidential Commercial-Industrial User, after the District has verified its User classification status, shall not file any further reports with the District except as specified in Section 4b.
- d. Residential Users

Residential Users who pay real estate taxes shall under no circumstances file any reports with the District.
- e. Local Government Users

Local Government Users as defined herein are not subject to the payment of User Charges.
- f. Tax-Exempt Users

Each Tax-Exempt User shall submit a User Charge Annual Certified Statement, designated as an RD-925 Statement, to the District, as provided herein, on forms supplied by the District, certifying the quantities and concentrations of its sewage, industrial wastes, and other wastes discharged into the sewers and sewage works of the District or into any sewer connected therewith. The quantity of flow and the concentrations reported on the RD-925 Statement shall be for a reporting period of operation during a calendar year and such reports shall be certified by the User and filed with the District on or before February 20 of the following year.

Copies of pertinent corroborative documents, including laboratory reports, water bills, meter readings from municipal and privately owned water meters, direct discharge meter readings, calibration documentation, real estate tax bills, water loss determinations, and other documentation requested by the District in writing shall be submitted with the RD-925 Statement. A separate RD-925 Statement must be filed for each Facility, business establishment, or industrial plant. The total quantities and concentrations of sewage, industrial wastes, and other wastes to be measured and certified by the User shall be:

 - (1) Liquid in gallons (gal)
 - (2) 5-day BOD in milligrams per liter (mg/L) and in pounds
 - (3) SS in milligrams per liter (mg/L) and in pounds
- g. Large Commercial-Industrial Users

Each Large Commercial-Industrial User shall submit an RD-925 Statement to the District, as provided herein, on forms supplied by the District, certifying the quantities and concentrations of its sewage, industrial wastes, and other wastes discharged into the sewers and sewage works of the District or into any sewer connected therewith. The quantity of flow and the concentrations reported on the RD-925 Statements shall be for a reporting period of operation during a calendar year, and such reports shall be certified by the User and filed with the District on or before February 20 of the following year. Copies of pertinent corroborative documents, including laboratory reports, water bills, meter readings from municipal and privately owned water meters, direct discharge meter readings, calibration documentation, real estate tax bills, water loss determinations, and other documentation requested by the District in writing, shall be submitted with the RD-925 Statement. A separate RD-925 Statement must be filed for each Facility, business establishment, or industrial plant. The total quantities and concentrations of sewage, industrial wastes, and other wastes to be measured and certified by the User, shall be:

 - (1) Liquid in gallons (gal)
 - (2) 5-day BOD in milligrams per liter (mg/L) and in pounds
 - (3) SS in milligrams per liter (mg/L) and in pounds
- h. District Verification of User Reports

The District shall have the right to inspect or otherwise verify any statement of quantities or other information filed by the User. If the District determines that said statement of quantities or other information does not accurately reflect actual conditions, the District shall adjust the quantities and information according to the District's determinations.

To the extent that this adjustment is reflected in the User Charge bill, the User shall have the right to appeal as set forth in Section 9.
- i. User Self-Monitoring Reporting Requirements

A User shall notify the District, in writing, no less than 14 calendar days prior to any commencement of its self-monitoring program, whether required by this Ordinance or any other District Ordinances, to allow the District to observe the User's sampling techniques, sample preservation, flow measurements, and other sampling protocols. The written notification shall be made on forms provided by the District, submitted to the District's Pretreatment and Cost Recovery Section by one of the following methods: U.S. mail addressed to the Pretreatment and Cost Recovery Section, P.O. Box 10689, Chicago, IL 60610; facsimile transmission sent to 312-894-2150; or as a PDF sent via electronic mail to mwrducs@mwrducs.org.

The User shall provide the District with split samples of the User-collected samples, provided sufficient volume is available and the District furnishes the sample containers.

A User shall report the results of laboratory analyses and other pertinent information to the District on a current User Charge Certified Sampling Analysis Reporting Statement (RD-920 Report) provided by the District within 45 calendar days of completion of the User's sampling program.

The Director may extend this 45-day period for the submittal of the RD-920 Report upon request of the User and a showing of just cause for the extension. If the User fails to notify the District prior to the sampling or fails to submit the RD-920 Report within the 45-day period or as extended by the Director, the use of the User's data for purposes of User Charge calculation may not be allowed.

RD-920 Report submittals shall be considered "not received" if deficient or incomplete, including for any of the following reasons:

- (1) The RD-920 Report has not been signed and dated by the User.
- (2) The User has failed to enclose all supporting documents necessary to aid in the District's review of the self-monitoring data, including field sample collection logs/notes, chain of custody reports, certified laboratory reports, daily incoming meter readings, daily direct discharge meter readings, and other documentation requested by the District in writing.

j. All Data Reported and Used in User Charge Determination

A User shall report to the District the results of all measurements of flow and analyses of samples collected pursuant to the requirements of this Ordinance for the period/year being reported regardless of whether or not the data so obtained is in addition to the minimum reporting requirements of this Ordinance. A User shall include all flow measurement and sampling results thus obtained in determining its Gross and Net User Charges. If a User considers any self-monitoring data inappropriate for inclusion in calculating its User Charges, the User must submit such data with its RD-920 Report, together with a written report detailing the basis for the User's assessment that such data were not representative for purposes of inclusion when calculating its User Charges. The District will review all data and the User's detailed report to determine whether reported data are representative.

k. Penalty for Filing Deficient or Incomplete Reports

A User may be subject to a penalty of \$1,000.00, as provided under Section 8d of this Ordinance, for filing a deficient or incomplete RD-925 Statement.

A filing shall be deemed deficient or incomplete for any of the following reasons:

- (1) The RD-925 Statement has not been signed by the User.
- (2) The User has failed to remit, with the RD-925

Statement, all monies owed to the District and reported on the RD-925 Statement.

- (3) The User has failed to enclose all underlying documents necessary for the District to verify any representation in the filing, including laboratory reports, water bills, meter readings from municipal and privately owned water meters, direct discharge meter readings, calibration documentation, real estate tax bills, water-to-product determinations, and other documentation requested by the District in writing.

The filing penalty provided under this Section shall be assessed separately from any other penalties assessed against the User under the provisions of this Ordinance. If the User disputes the penalty, the User must notify the Director, in writing, of such dispute within 30 calendar days of receipt of the penalty invoice, together with the reasons why the User disputes the penalty. All disputes regarding filing penalties will be handled in accordance with Section 9(a)(2) through 9(f) of this Ordinance.

When a User, an Authorized Representative of the User, or its Agent knowingly submits false information in any report required under this Ordinance, the District may refer such activity to the Office of the State's Attorney or the United States Attorney for investigation and civil and criminal enforcement action. Any such referral will be made in addition to any appropriate action that the District may take pursuant to this Ordinance, and such referral shall not affect the District's right to pursue relief under this Ordinance.

l. Revised, Resubmitted or Subsequently Refined RD-925 Statements

Revised, resubmitted or subsequently refiled RD-925 Statements received after the February 20 deadline will supersede the initial submittal and may be considered late submittals, subject to penalty and interest under Sections 8a and 8d, based upon the most recent mail postdate.

Users who wish to revise a timely filed and complete RD-925 Statement after the February 20 due date, due to the User's error or omission in calculating the Net User Charge, may be required to do so under the appeal provisions found in Section 9.

Section 5. Measurement of Wastes

a. USEPA Approved Methods

The District will use USEPA Approved Methods when conducting measurements, tests, sampling and analyses provided hereunder. In the absence of a USEPA Approved Method, the District may use any accepted engineering or scientific practice, method or device which will lead to such a determination.

b. Sampling Chamber

In order to provide for accurate sampling and measurement of wastes discharged by the User, each Large Commercial-Industrial User and Tax-Exempt User shall provide, on each of its final outlet sewers, a large control manhole or sampling chamber. The

sampling chamber should be located outside or near its plant boundary line where feasible.

The sampling chamber shall be safely and directly accessible to the District at all times. Access to each control manhole or sampling chamber shall not be obstructed by temporary or permanent construction, manufacturing operations or activities, landscaping, parked vehicles or any other activities of the User.

District equipment placed in a sampling chamber for the purpose of determining the quantity and/or strength of the User's sewer discharge, or verification of a User's reports with respect thereto, shall not be moved, tampered with, adjusted, relocated, removed, or otherwise damaged by the User.

c. Right of Access

Representatives of the District may, during reasonable hours of all working shifts of the User, enter upon the premises of each User subject to this Ordinance for the purpose of installing, maintaining and inspecting measurement or sampling devices or equipment; for conducting necessary measuring, gauging and sampling operations; for inspecting or examining facilities, premises, installations and processes; and for inspection and copying of records.

Users shall, when required by the District, pump out vaults where water meters are located to provide safe access to District personnel for the purpose of meter reading and meter verification.

d. Liquid Quantity Measurements

Each sampling chamber wherein flow-proportional sampling is or must be performed pursuant to the requirements of Appendices B, C, and D of this Ordinance shall contain an accurate flow measuring device acceptable to the District.

Users shall repair or replace a primary or secondary flow measuring device, to the satisfaction of the District, if said flow measuring device is damaged, unsound or otherwise unsuitable for accurately measuring the existing flow conditions as determined by the District. Users shall, when required by the District, install remote reading devices on flow measuring devices (flow meter, water meter, magnetic meter) so that a User's meter(s) can be verified by District personnel without entering an unsafe or confined space.

e. Sampling

Minimum requirements for determining representative concentrations of BOD and SS shall include evaluation at least once during each calendar year period. The determination of representative concentrations shall be based on composite samples that are representative of the sewage, industrial wastes, or other wastes discharged by a User during normal daily operations. A User which reevaluates its discharge once during the calendar year shall apply the resulting representative concentrations to the entire year.

Reevaluations of discharges by a User when made more than once per calendar year shall be reported and employed in a manner which most reasonably

characterizes the User's discharge. The requirements for representative sampling are further defined in Appendix B, Section I.

Users who conduct more frequent (more than 14 consecutive days of sampling) or continuous self-monitoring must submit the RD-920 Report within 45 calendar days of the last day of the month during which the samples were obtained.

Section 6. Billing Rates for Computing the User Charge

The billing rates, the administrative costs recovered through charges, and the OM&R Factor to be used in computing the User Charge are subject to revision. Revisions may be made, not more than once a year, on recommendation of the Executive Director and approval by the Board of Commissioners.

For the purpose of computing the User Charge to be paid to the District by Large Commercial-Industrial Users and Tax-Exempt Users, the billing rates and OM&R Factor found under Appendix F shall be used for reporting the Net User Charge.

Section 7. Calculating, Paying and Billing of User Charges

a. Calculating the Gross and Net User Charge

The Gross User Charge of each Large Commercial-Industrial User and Tax-Exempt User shall be the sum of the Total Wastewater Loading Charge as defined in Section 2 plus the administrative costs recovered through charges applicable to the User as provided in Appendix E. Where applicable, the amount of real estate taxes paid by the User to the District for the particular Facility of the User, as evidenced by the most recently fully paid Cook County real estate tax bill, shall be multiplied by the OM&R Factor and the resulting amount will be deducted from the User Charge.

Irrespective of the identity of the person paying the property taxes, where the User is not the owner of record of the real estate parcel(s) upon which the User is located, the User must provide a certification executed by the owner of the parcel, identifying the portion of real estate taxes paid for the parcel to be assigned to the User for User Charge ad valorem tax credit. The assigned real estate taxes must be attributable to the portion of the parcel utilized by the User. The remainder is the Net User Charge which shall be paid by the User to the District simultaneously with the submittal of the RD-925 Statement.

b. Quarterly Payments

The District will send to Users, whose estimated annual Net User Charge exceeds \$12,000.00 for the year, quarterly payment notification. These payments are due and payable 45 days after the date on the invoice. Following the end of the year, such User shall reconcile its actual payments with the calculated Net User Charge as provided in Section 7a when submitting its RD-925 Statement. Additional amounts owed to the District

shall be remitted with the RD-925 Statement.

The quarterly payments shall be automatically updated by the District after processing the most recently submitted RD-925 Statement. A User may request revision of its quarterly payments during the year and, if approved, the quarterly payments may be updated by the District based on the most recent data. It is the obligation of the User to pay the quarterly payments unless notified by the District to do otherwise.

c. Billing

The District shall bill any User who is in any manner delinquent in the performance of its obligations under this Ordinance. The billing frequency shall not be more than once per month nor less than once per year. All such bills shall be due and payable 45 days after the date on the invoice. In the absence of a timely filing, the District reserves the right to bill delinquent Users based on estimated quantities or best available data as determined by the District.

d. Interest

Interest at the rate of 0.75% per month or for any fraction thereof shall be added to any overdue payments as provided in 815 Illinois Compiled Statutes 205/4. Such interest shall accrue from the date any remittance was due until same is paid. Interest shall not be charged upon previously assessed and unpaid interest.

e. Verification of Remitted Amounts – Additional Bills

- (1) The District shall verify any and all data and RD-925 Statements submitted to it by a User pursuant to this Ordinance, evaluate its own data, call for more data, or develop additional data as it deems necessary, and subsequently bill the User for any deficiency indicated as due thereafter. The transmittal of any bill to a User shall not stop the District from rebilling for any deficiency determined to exist due to any subsequent reevaluation of User or District data.
- (2) The District reserves the right to bill Users subject to this Ordinance for past wastewater treatment services provided. Such billing will commence from the date the District identifies such Users by notification, inspection or certified mailing regarding requirements of this Ordinance.
- (3) Requests to revise or otherwise modify an RD-925 Statement that has previously been certified as correct by the User and received by the District, may be subject to the provisions of Section 9a of this Ordinance.

f. Tax-Exempt Users' Reporting Option for Automatic Annual Billing

A Tax-Exempt User whose sewer discharges do not exceed:

- (1) A flow of 25,000 gallons per day; and
- (2) A BOD of 25 pounds per day; and
- (3) A SS of 35 pounds per day

may petition the Director, in writing, to report and pay its User Charges annually on the basis of District-approved

estimates for flow or annual consumption based on water bills or water meter readings, if available, BOD concentrations of 119 mg/L and SS concentrations of 168 mg/L.

Should the petition be granted under this option, the District will bill the User annually for the User Charge due. Once approved, a User may petition the Director, in writing, to request withdrawal from reporting under Section 7f, and will be subject to annual reporting on the RD-925 as required.

Should the Director deny this petition, the User shall have the right to appeal this denial to the Board of Commissioners as set forth in Section 9.

Alternatively, the Director may select and approve use of this option for Tax Exempt Users based upon either the User's data and/or District data for discharge quantities and/or concentrations. The Director will not invoke this option if the User objects thereto within 30 calendar days of notification.

g. Large Commercial-Industrial and Tax-Exempt Users' Reporting Option for the Use of Standard Domestic Waste Strength Concentrations

Notwithstanding sampling requirements specified in Section 5e, any Large Commercial-Industrial or Tax-Exempt User whose sewer discharges do not exceed:

- (1) A BOD concentration of 119 mg/L and
- (2) An SS concentration of 168 mg/L,

may petition the Director, in writing, to report and pay its User Charges on the basis of documented intake water volumes or metered discharge volumes, BOD concentrations of 119 mg/L, and SS concentrations of 168 mg/L. Such petitions may be granted or denied upon such reasonable terms and conditions as may be determined by the Director. Requirements and conditions are outlined in Appendix D of the Ordinance.

Should the Director deny this request, the User shall have the right to appeal this denial to the Board of Commissioners as set forth in Section 9.

Alternatively, the Director may select and approve use of this option for Users based upon either the User's data and/or District data for discharge quantities and/or concentrations. The Director will not invoke this option if the User objects thereto within 30 calendar days of notification.

h. Large Commercial-Industrial and Tax-Exempt Users' Reporting Option for the District's Determination of Representative Concentrations

In lieu of the sampling requirements specified in Section 5e, any Large Commercial-Industrial or Tax-Exempt User whose sewer discharges exceed:

- (1) A BOD concentration of 119 mg/L and/or
- (2) An SS concentration of 168 mg/L

after approval by the District, may elect to forgo the annual sampling requirements by allowing the District to sample the Facility's discharge outlets and determine the User's representative concentrations. Such requests must be made in writing to the Director. These

requests may be granted or denied upon such reasonable terms and conditions as may be determined by the Director. Once approved, a User may petition the Director, in writing, to request withdrawal from reporting under Section 7h and conduct the required self-monitoring annually. Requirements and conditions are outlined in Appendix D of the Ordinance.

Should the Director deny this request, the User shall have the right to appeal this denial to the Board of Commissioners as set forth in Section 9.

Alternatively, the Director may select and approve use of this option for Users based upon either the User's data and/or District data for discharge quantities and/or concentrations. The Director will not invoke this option if the User objects thereto within 30 calendar days of notification.

i. Large Commercial-Industrial and Tax-Exempt Users' Reporting Option for the District's Determination of Historically Representative Concentrations

In lieu of the sampling requirements specified in Section 5e, any Large Commercial-Industrial or Tax-Exempt User whose sewer discharges have exhibited uniform concentrations of BOD and SS for three consecutive representative years, as verified by the District, may elect, upon approval of the Director, to forgo the annual sampling requirement by allowing the District to determine its representative concentrations based on historical data. Such requests must be made in writing to the Director. These requests may be granted or denied upon such reasonable terms and conditions as may be determined by the Director. Once approved, a User may petition the Director, in writing, to request withdrawal from reporting under Section 7i and conduct the required self-monitoring annually.

Should the Director deny this request, the User shall have the right to appeal this denial to the Board of Commissioners as set forth in Section 9.

Alternatively, the Director may select and approve use of this option for Users based upon either the User's data and/or District data for discharge quantities and/or concentrations. The Director will not invoke this option if the User objects thereto within 30 calendar days of notification.

j. Adequate Measurement Facilities Option

A User presently without adequate individual facilities (sampling chamber, metering of intake water or metering of discharge volumes, if required) for the measurement of wastes as required in Section 5, must request approval of reasonable estimates of concentrations of BOD and SS during the period of construction of such facilities, until such time as adequate facilities for measurement are installed. This reporting option will be granted for a period of no more than one year from the initial request provided that the following requirements are met:

(1) The User proposes estimated wastewater concentrations for each discharge to the District for approval prior to the reporting year;

(2) The Director approves the estimated concentrations for the requested reporting year and notifies the User in writing with a schedule for progress reports and a final date for implementation of the measurement facilities;

(3) The volume of flow used for reporting quantities is based on measured intake water consumed by the User, or a previously approved methodology for flow measurement;

(4) The estimated concentrations are used throughout the year;

(5) A date approved by the Director for the completion of the measurement and sampling facilities, as required in Section 5, is given;

(6) A sampling program, as described in Section 5, is instituted upon completion of the measurement and sampling facilities. The results of this sampling program are to be used to calculate the Gross and Net User Charge liability during the period covered by the approval;

(7) The User pays the District the additional User Charge within 90 calendar days of the measurement and sampling facilities completion date, if the results of the sampling program (as mentioned in the foregoing subsection 6) indicate that the User Charge liability of the company is greater than the amount estimated during the election filing period. If the results of the sampling program indicate that the User's User Charge liability is less than the amount estimated during the election filing period, the District will credit the overcharge to the company's future User Charge liability; and

(8) The User pays interest to be assessed by the District as described in Section 7d of this Ordinance, if the User fails to pay the additional User Charge liability, as set forth in the foregoing subsection (7), within the 90 day period.

k. Residential, Local Government and Small Nonresidential Commercial-Industrial Users

Users in these classifications shall under no circumstances be billed by the District nor be liable to pay User Charges, nor be subject to the annual reporting requirements as described herein.

l. Large Commercial-Industrial and Tax-Exempt Users' Reporting Option for Automatic Annual Billing and Historical or Standard Concentrations

Any Large Commercial-Industrial or Tax-Exempt User that has been approved to report under Section 7g or Section 7i of this Ordinance may request to be automatically billed and pay its User Charge liability annually on the basis of District-approved estimates for flow or annual consumption, and the standard BOD and SS concentrations as defined in Section 7g or the User's approved historical BOD and SS concentrations as defined in Section 7i. The User must demonstrate a consistent historical annual discharge volume over the most recent five-year period, subject to verification by the District.

Such requests must be made in writing to the Director. These requests may be granted or denied upon such reasonable terms and conditions as may be determined by the Director. Once approved, a User may petition the Director, in writing, to request withdrawal from reporting under Section 71 and will be subject to annual reporting on the RD-925 as required.

Should the Director deny this request, the User shall have the right to appeal this denial to the Board of Commissioners as set forth in Section 9.

Alternatively, the Director may select and approve use of this option for Users based upon either the User's data and/or District data for discharge quantities and concentrations. The Director will not invoke this option if the User objects thereto within 30 calendar days of notification.

Section 8. Penalties

a. Failure to Submit Certified Statement

Should any User subject to the Ordinance fail to file its RD-925 Statement as required herein, the District will estimate the amount owed to the District and bill the User for such delinquent amount owed, together with interest and penalties as provided herein. Said bill shall be paid by the User within 45 calendar days after the date on the invoice.

The penalty for failing to file the RD-925 Statement by the due date shall be at a rate of two and one-half percent (2.5%) per month or for any fraction of a month thereof, of such unpaid amounts billed by the District. Such penalty shall accrue on the amounts owed from the date any remittance was due until paid, or the date of filing. In addition to such penalty, interest shall also be assessed as provided under Section 7d, except that no interest shall accrue on any unpaid penalty.

b. Failure to Perform or Report User Data

In the event a User fails to perform and/or report its annual evaluation for representative concentrations as required by Section 5e, the District may assess a penalty against the User of \$2,000.00 per day for each sewage outfall that the District samples and performs chemical analyses on the effluents obtained therefrom in order to complete the annual RD-925 Statement, due to such failure to perform or report such data by a User. This penalty shall be in addition to all other penalties and administrative costs imposed by this Ordinance.

c. Failure to Timely Submit Classification Statement

In the event a User fails to file the User Charge Facility Classification Questionnaire, as required under Section 4a and 4b, within 45 calendar days after written demand through a certified mailing, the District may assess a penalty against the User of \$200.00 per day for the time required by the District to complete the required filing for the delinquent User. This penalty is in addition to inspection and sampling charges found under Appendix E, which may be required to determine the User's classification.

d. Submittal of Deficient or Incomplete Statements Even If

Timely Filed

In the event a User files a deficient or incomplete RD-925 Statement, as defined in Section 4(k) of this Ordinance, the District may assess a penalty against the User of \$1,000.00, and such forms shall be considered "not submitted" for purposes of this Section, until the deficiencies have been resolved to the satisfaction of the District.

e. Penalty Conditions

The filing penalty provided under this Section 8 shall be assessed against the User separately from any other penalties assessed against the User under the provisions of this Ordinance. If the User disputes a penalty, the User must notify the Director, in writing, of such dispute within 30 calendar days of receipt of the penalty invoice, together with evidence or reasons why the User disputes the penalty. All disputes regarding filing penalties will be handled in accordance with Section 9a(2) through 9(f) of this Ordinance.

No interest shall accrue on the amount of any penalty imposed hereunder.

Penalties assessed against a User in an amount not to exceed \$10,000 will be neither prorated nor abated except by order of the Executive Director upon the recommendation of the Director of Monitoring and Research, Director of Finance or General Counsel, for good cause shown. Penalties assessed against a User in an amount in excess of \$10,000 will be neither prorated nor abated except by order of the Board of Commissioners, upon the recommendation of the Executive Director, for good cause shown.

A determination made by the Executive Director or Board of Commissioners relative to proration or abatement of penalties is final and is not subject to the administrative appeal process as set forth in Sections 9a and 9b.

Section 9. User Administrative Appeal Process

Any User subject to this Ordinance, or an Authorized Representative, shall have a right to appeal the amount billed, its User classification, or other matters related thereto as determined by the District. The two levels of the User Administrative Appeal Process include the Director of Monitoring and Research and the Board of Commissioners, which are outlined in this Section.

a. Appeals to the Director of Monitoring and Research

(1) Requesting an Appeal to the Director

(a) All appeals shall be by written request, specifying the reason(s) for the appeal, to the Director within 90 calendar days of the date of the User Charge bill, or notification by the District regarding the User classification, or any other related matter.

(b) In the event the request for an appeal is not made within 90 calendar days, as specified above, but is made within 120 calendar days of the User Charge related action, the District will waive the 90 calendar day requirement, provided the User first pays an amount, which when added to the amount already paid, makes the total payment made

equivalent to 50% of the Net User Charge calculated by the District as a deposit toward the Director's eventual determination of the amount owed. Should the appeal process conclude with an amount less than the deposit paid by the User, the difference shall be refunded to the User, provided there are no outstanding User Charges due the District.

- (c) No request for an appeal will be accepted if it is made beyond 120 calendar days of the issuance of a User Charge-related action as described in Section 9.

(2) Director Appeal Meeting and Determination

- (a) The Director or his appointed designee will respond in writing to a request for an appeal within 45 calendar days of the receipt of a request from the User and shall schedule an appeal meeting in the letter responding to this request. The User may, prior to the original scheduled meeting date, request one rescheduling of the appeal meeting. The rescheduled appeal meeting must occur not later than 30 calendar days after the date of the originally scheduled Director Appeal meeting.
- (b) When a meeting is scheduled by the Director, the User must submit all data pertinent to the appeal which must include all sampling data taken by or for the User during the year or years under appeal and all data during any prior or subsequent year, on which the User wishes to base the appeal. This data must be submitted to the Director at least 14 calendar days prior to the scheduled appeal meeting.
- (c) Failure of the User to provide, on or before the date of the meeting, written, unqualified certification on forms supplied by the District that he/she has provided all relevant technical information, flow data or User Charge sampling data for all samples taken for the year(s) under appeal, shall result in rejection of the appeal by the Director.
- (d) The Director or his appointed designee shall attempt to resolve any bona fide claims, disputes, or inquiries which the User may have based on factual or technical information. All determinations made by the Director shall be reduced to a written determination and a copy thereof transmitted to the User. The Director will use his best efforts to transmit these determinations to the User within 60 calendar days of the appeal meeting.
- (e) Should the User fail to appear at a scheduled Director Appeal meeting without first notifying the Director, another appeal meeting will not be scheduled unless the User requests such a meeting, in writing, to the Director, not later than 10 calendar days after the date of the scheduled Director Appeal meeting, and the User makes a 50 percent payment of the amount billed by the District as set forth in Section 9a(1)(b). A second Director Appeal meeting may be granted at the discretion of the Director upon a finding of good cause as

to why the initial Director Appeal meeting was missed. The rescheduled appeal meeting must occur not later than 30 calendar days after the date of the originally scheduled Director Appeal meeting.

- (f) If a properly filed request for a second Director Appeal meeting under this Section is denied by the Director, the User may file an appeal to the Board of Commissioners for the sole purpose of determining the propriety of the Director's denial. If the Board of Commissioners grants the User's appeal request, then the matter shall be remanded for a Director Appeal under the provisions of this Section.
- (g) Failure of the User to appear for a second scheduled appeal meeting will result in cancellation of the appeal and the matter will be considered closed.

b. Appeals to Board of Commissioners

(1) Requesting an Appeal to the Board of Commissioners

In the event the User does not concur with the appeal determination of the Director, the User, or an Authorized Representative, may petition the Board of Commissioners for a hearing. Any petition for a hearing by the Board of Commissioners shall be made by the User within 30 calendar days after receipt of the determination by the Director.

- (a) This petition must be in writing by the User and sent to the President of the Board of Commissioners, at 100 East Erie Street, Chicago, Illinois 60611, with a copy to the Director. Within 30 calendar days after receipt of this petition, the Director will use his best efforts to advise the User in writing, regarding the date on which the Board of Commissioners would consider the petition made by the User. If the petition to the Board of Commissioners is regarding a User Charge bill, the User shall deposit an amount which when added to the amount already paid, makes the total amount paid equivalent to 75 percent of the Net User Charge calculated by the District as a result of the Director's determination. Should the hearing conclude with an amount less than the deposit paid by the User, the difference shall be refunded to the User, provided there are no outstanding User Charges due the District.
- (b) In the event the request for review by the Board of Commissioners is not made within 30 calendar days after receipt of the determination by the Director, the District shall invoke its authority, as granted in Section 11 of this Ordinance, and recover any and all amounts due and owing. However, the District may waive the 30-day requirement, provided the request is made by the User within 90 calendar days after receipt of the determination by the Director and provided the User first deposits an amount which, when added to the amount already paid, makes the total amount paid equivalent to 85 percent of the net

User Charge calculated by the District as a result of the Director's determination. Should the hearing conclude with an amount less than the deposit paid by the User, the difference shall be refunded to the User, provided there are no outstanding User Charges due the District.

- (c) No request by the User for review of the Director's determination will be accepted by the Board of Commissioners if such a request is made beyond 90 calendar days after the receipt of the determination by the Director.
- (2) The Board of Commissioners shall review this petition and determine whether the petition for an appeal shall be heard by the Board of Commissioners itself or by such persons as it may designate. Within 30 calendar days after the meeting, the Director will use his best efforts to notify the User in writing as to the action taken by the Board of Commissioners regarding said petition.
- (3) When such an appeal hearing is conducted by the designee of the Board of Commissioners, the designated appeal officer shall submit a written report of findings to the Board of Commissioners with respect to such appeal.
- (4) The scope of the hearing shall be limited to the issues raised by the User in its appeal to the Director. No sampling data or technical information which the User did not submit to the Director under Section 9(a)(2)(b) shall be utilized for any purpose in a hearing before the Board of Commissioners.
- (5) All appeal hearings before the Board of Commissioners shall be concluded as soon as practicable.
- (6) The Board of Commissioners shall promulgate procedural rules governing the proceedings.
- c. Refund of Deposits
In making refunds of deposits, or any portion of a deposit, interest shall be paid for the time the deposit or portion thereof is held by the District at a rate equal to 0.75% per month or for any fraction thereof as provided in 815 Illinois Compiled Statutes 205/4.
- d. Bond in Lieu of Cash Deposits for Appeals
Whenever a cash deposit is required to pursue an appeal to the Director or the Board of Commissioners, a User may elect to post a bond for the amount due in lieu of a cash deposit to perfect the appeal. The bond must be issued by a commercial bonding company approved by the District on terms that are acceptable to the District.
- e. Accrual of Interest During Appeal
Any monies owed to the District for the reporting year under appeal will accrue interest during the appeal process as provided under Section 8.
- f. Administrative Review
The Administrative Review Law of the State of Illinois, and the rules adopted under such law, shall govern all proceedings for judicial review of final orders of the Board of Commissioners issued under this Section.

Section 10. Administrative Cost Recovery

Annually, for the most recent year for which complete records are available, the District makes a determination of its costs in administering the Sewage and Waste Control Ordinance (SWCO) and the User Charge Ordinance for the Large Commercial-Industrial User classification, the Small Nonresidential Commercial-Industrial User classification, the Residential User classification and the Tax-Exempt User classification, and includes these administrative costs as part of the User Charge.

The cost for administering the minimum pretreatment requirements (MPR) of the SWCO shall be segregated from the OM&R costs and recovered from the Significant Industrial Users (SIU). Users will be subject to MPR costs for a calendar year if at any time during the calendar year the User was designated as an SIU. MPR costs are for activities which include, but are not limited to the following: review and processing of Discharge Authorization Requests (RD-118), Continued Compliance Reports (RD-115), Spill Prevention, Control and Countermeasure (SPCC) Plans or other pollution control plans; annual SIU inspection and review and annual SIU sampling, laboratory analysis and review; preparation of IEPA/USEPA Pretreatment Program reports; maintenance and quality assurance of electronic and hard copy files; search and identification of new SIUs; and annual evaluation of local limits for the discharge of pollutants. The MPR cost shall be recovered through a series of charges based on the flow volume and number of sample points of SIUs. The series of charges shall reflect the grouping of SIUs by ranges in flow volume and are set forth in Appendix E.

The cost for administering the User Charge Verification (UCV) requirements under this Ordinance shall be included in the OM&R cost. UCV costs are for activities which include, but are not limited to the following: review, evaluation and processing of RD-925 Statements and RD-920 Reports; UCV inspection, sampling, laboratory analysis and review; review, inspection and evaluation of technical proposals for reporting methodologies; preparation of User Charge reports, correspondence and notifications; maintenance and quality assurance of electronic and hard copy files; search and identification of new Users subject to the Ordinance; and the evaluation of User Charge rates and administrative costs.

Section 11. Enforcement

The District may recover any and all amounts due and owing as provided herein and take such other and further legal action as may be necessary to recover all such sums due it hereunder, restrain any unlawful discharge, and compel compliance with the provisions of this Ordinance.

Users who have ceased operations prior to the close of the filing year are required to calculate an estimated User Charge liability for the portion of the year or period of operation and submit payment. The District reserves the right to calculate the User Charge liability and bill the User for any amounts due during the year in which the liability was incurred.

Section 12. Severability Clause

The invalidity of any portion of this Ordinance shall in no way affect the validity of any other portion thereof which can be given effect without such invalid part. Any portion repealed or adjudged invalid or unconstitutional is severable from the remaining provisions and said remaining provisions shall continue in full force and effect.

Section 13. Effective Date

This Ordinance remains in full force and effect and the amendments hereto adopted on November 18, 2021, shall be effective on January 1, 2022.

Approved:

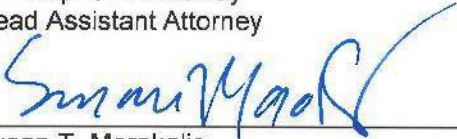


Kari K. Steele
President of the Board of Commissioners of the
Metropolitan Water Reclamation District of
Greater Chicago

Approved as to form and legality:



Christopher M. Murray
Head Assistant Attorney



Susan T. Morakalis
General Counsel

**APPENDIX A
TO THE USER CHARGE ORDINANCE**

**REQUIREMENTS FOR REPORTING
FLOW VOLUME AND ESTABLISHING
DEDUCTIBLE QUANTITIES**

**SECTION I. REPORTING WASTEWATER FLOW
VOLUME**

Wastewater flow volume shall be reported in accordance with either Option 1 or 2. Whenever the wastewater flow volume discharged into the District's sewerage system cannot be accurately quantified solely by means of total metered water usage, the User shall report on the basis of direct discharge measurement. In the absence of accurate direct discharge measurement as described herein, the User may be required to report the maximum daily discharge as determined by the District until a means of accurate measurement is provided by the User.

**Option 1. Reporting of Wastewater Flow Based on
Total Metered Water Usage**

Reporting of wastewater flow based on total metered water usage will be allowed as follows:

- a. Use of municipally owned meters for water billing purposes: Users must submit copies of water bills with the RD-925 Statement to document the reported flow volume.
- b. Use of privately owned water meters for wells, river water, or other water sources or purposes: Water meters must have nonresettable totalizers. Meters must also be calibrated according to the following schedule:

| Meter Size (inches) | Frequency of Calibration (Years) |
|---------------------|----------------------------------|
| ½ to ¾ | 10 |
| ¾ to 1 | 6 |
| 1½ to 4 | 4 |
| 6 or larger | 1 |

- c. Calibration requirements: Users must submit details of the calibration procedure, including the meter reading prior to the calibration date, and certification with the RD-925 Statement for the year in which calibration was performed. Meter calibration and certification documents for newly installed meters, whether new or repurposed, must be submitted.

Calibration procedures must conform to the methods recommended by the American Water Works Association (AWWA) and the American Society for Testing of Materials (ASTM). Where a User can demonstrate to the satisfaction of the District that the requirement for calibration of water meters cannot be reasonably complied with, without undue economic burden and/or disruption to the User's operations, the Director may relax the meter calibration requirements established under this Section. Any such relaxation in calibration requirements shall not apply to incoming water meters or to meters installed for direct discharge

measurement.

- d. Privately owned meters must be read a minimum of once per week; a log of such readings, including the proper units, must be submitted with the RD-925 Statement.
- e. Privately owned meters must be sealed with District seals. Requirements regarding these seals are in Section II.
- f. Bypasses around privately owned meters are not allowed unless additional meters are installed and approved to monitor bypass flows.
- g. Use of privately owned water meters must receive prior written approval as described in Section III.

**Option 2. Reporting of Wastewater Flow Based on
Direct Discharge Measurement**

Reporting of wastewater flow based on direct discharge measurement will be allowed as follows:

- a. Wastewater flow measurement must be continuous.
- b. Each wastewater flow measurement device shall be provided with a secure nonresettable totalizer acceptable to the District and with a record of continuous flow data acceptable to the District. The record of continuous flow data must be stored at the User's Facility for not less than three years, and must be made available to the District upon demand. Totalizers must be read a minimum of once per week; a log of such readings, including the appropriate conversion factors, must be submitted with the RD-925 Statement.
- c. Flow measurement devices (e.g., bubbler-type, float-type, or ultrasonic-type) must be calibrated monthly. At least annually, the accuracy of the device must also be certified by a factory-authorized representative. Documentation of this certification must be submitted with the RD-925 Statement.
- d. Flow measurement systems and facilities and procedures for flow determination must receive the prior written approval of the Director before implementation as described in Section III.

**SECTION II. ESTABLISHING DEDUCTIBLE
QUANTITIES BY DIRECT METERING**

Users reporting on the basis of total metered water usage (Section I, Option 1) may deduct water-to-product and/or water used in other plant processes that is not discharged as wastewater flow to the sewer system. These deductions will be allowed only after receipt of prior written approval. Prior written approval shall be based on water meters installed to measure deducted quantities and other credible evidence as required by the District. Reporting and calibration of these meters (e.g., boiler supply and blowdown meters, water-to-product meters, irrigation supply meters, etc.) to measure deducted quantities must adhere to the requirements of Section I, Option 1b, and the following:

- a. Meters must be sealed with District seals. The District must be notified at least one week before the start-up date of the proposed meters in order for District seals to be installed on these meters.
- b. When a seal is to be removed for calibration or meter repair, the District must be notified immediately by calling the Pretreatment and Cost Recovery Section at (312) 751-3000 during normal business hours. Such notification shall be confirmed in writing by the User and received by the District within five calendar days by one of the following methods: U.S. mail addressed to the Pretreatment and Cost Recovery Section, 111 East Erie Street, Chicago, IL, 60611; facsimile transmission sent to the Pretreatment and Cost Recovery Section at (312) 894-2150; or by electronic mail sent to mwrducts@mwrdd.org.
- c. Upon notification, District personnel will, within one week, schedule with the User a date and time to install a new seal. Removal of a District seal without providing the foregoing notification may result in a loss of credit for deducted water volumes for the entire year in which the failure of compliance occurred.

- c. Specifications for wastewater flow measurement equipment.
- d. Locations, manufacturer, model, serial number, and size, if appropriate, for all water meters and flow measurement equipment.

Once a proposal is found acceptable, the User will be notified to proceed with the installation of the metering equipment as stated in the proposal. It is incumbent upon the User to notify the District, in a timely manner, upon completion of the installed equipment. The District will inspect the installed metering equipment for conformity with the proposal and will notify the User in writing of approval to use the methodology when reporting its User Charge liability. Until the approval of the installation is granted, the User must use metered intake or a current, approved metering methodology when reporting its User Charge liability, unless otherwise approved by the District. The User must notify the Pretreatment and Cost Recovery Section immediately upon finding that the approved meters are either no longer being used, broken, or removed.

SECTION III. APPROVAL PROCEDURE AND REQUIRED SUBMITTALS

In reference to Section I, Options 1b and 2d, and Section II, use of the metering system and/or methodology outlined will be allowed only after receipt of prior written approval by the Director. This approval will be effective for the year stated in the approval and subsequent years until the approval is revoked by the Director. Upon written request by the User and with written authorization by the Director, the approval will also be effective for a maximum of one prior year immediately preceding the approval provided operations at the User's Facility in the preceding year remained identical to those of the year when approval is granted.

To obtain approval, the User must submit an acceptable written proposal to the Director which specifies the measures which will be taken to comply with these requirements. The proposal must be signed by the authorized representative of the User, and certified as accurate and complete by a Registered Professional Engineer licensed by the state of Illinois. Proposals should include the following information as appropriate:

- a. Description of the methodology for total metered water usage, direct wastewater flow measurement or measurement of deductible quantities, water-to-product, or other water losses.
- b. Plans for wastewater measurement and/or sampling facilities which include a site plan showing the location of municipal water supply lines and private wells and other water sources such as rivers, lakes, and ponds; discharge points to water sources; layout of sewers and sampling locations; details of primary measuring devices; a system for identifying sampling locations; onsite wastewater treatment facilities; and any other information affecting the measurement and sampling of wastewater discharges.

**APPENDIX B
TO THE USER CHARGE ORDINANCE**

**REQUIREMENTS FOR
WASTEWATER SAMPLING TO
DETERMINE REPRESENTATIVE
CONCENTRATIONS**

SECTION I. Representative Sampling

Sampling of a Facility's wastewater flow(s) must be performed at a time, or at times, such that the resulting BOD and SS concentrations obtained are representative or typical of normal operating conditions either throughout the calendar year or for that portion of the year for which concentrations are applied. Sampling during periods of reduced production (e.g., vacation periods, holiday periods, post-holiday periods, plant start-up or shake-down operations, etc.) or any other periods that affect the normal character of the User's effluent is not considered representative of normal operating conditions.

Daily composite samples are used to determine the representative concentrations for BOD and SS during the workday. Composite samples may be collected by one of the following methods:

Time Composite Sampling is used to provide representative samples when the flow rate of the sampled stream is relatively constant. Time composite samples are composed of constant volume discrete samples collected at constant time intervals.

Flow-Proportional Sampling is used to provide representative samples when the flow rate of the sampled stream varies by more than ten percent over the workday. The primary measuring device used for flow-proportional sampling for User Charge reporting purposes must receive prior written approval by the Director. Temporary primary measuring devices are not permitted.

Variable Volume Flow-Proportional Sampling is used to provide representative samples when the time between samples is constant, and the volume of each sample is proportional to the flow at that given moment in time (i.e., the volume of the sample varies over time as the flow changes). This method requires that discrete samples be collected over the operating day and then composited.

Constant Volume Flow-Proportional Sampling involves collecting a constant sample volume for each fixed volume of waste stream flow (e.g., 200 ml sample collected for every 5,000 gallons of waste stream flow).

SECTION II. Sample Collection

A. General Sampling Methodology

Users whose wastewater discharge throughout a calendar year is consistent in volume and concentration are required to sample based on wastewater discharge volume and/or characteristics as follows:

1. Users discharging an average wastewater volume of more than 200,000 gallons per day (gpd) must comply with the following requirements:

- a. Such Users must sample said outfalls in proportion to flow during normal daily operations for one normal workweek at least once per calendar year. Users may use either of two methods referenced in Section I above for obtaining flow-proportional samples.
- b. Such Users must provide a primary flow measurement device (i.e., accurate weir or flume), found acceptable and approved in writing by the District, on each outfall for which flow-proportional sampling is required.

2. Users discharging an average wastewater volume less than 200,000 gpd must sample during normal daily operations for two consecutive, normal workdays at least once per calendar year. These Users may use the time composite sampling method referenced in Section I above, provided the flow rate is relatively constant, and the wastewater discharged throughout a calendar year is consistent in volume and concentration.

3. Each User's sampling installation(s) and program(s) are subject to District verification. The District may impose additional requirements on a case-by-case basis.

B. Sampling Requirement for Users with Wide Fluctuations in Quantity and/or Concentration of Wastes

Users whose discharge flow and/or BOD and SS concentrations are subject to wide fluctuations during a calendar year due to seasonal or cyclical operational variations are required to sample as often as is necessary to establish representative data for its waste streams for specific time periods. The frequency of sampling may be increased and/or the duration of sampling may be extended, but each sampling program must adhere to the methodology and the minimum consecutive day requirements. Random day sampling during a calendar year is not acceptable for reporting purposes.

Any change in a User's sampling methodology shall be approved by the District. The User shall demonstrate, to the District's satisfaction, by a written proposal and adequate documentation, that the change in sampling methodology is proper to obtain representative concentrations. Any combination of the forgoing sampling methodologies may be imposed by the District to establish representative concentrations for a User's discharge.

C. Sampling of Multiple Outfalls

Users whose wastewater discharges through more than one outfall of a Facility must sample all outfalls simultaneously during each sampling program.

D. Automatic Sampling Devices

Users may utilize automatic sampling equipment for performing sampling requirements. These devices must be properly installed, adjusted, and maintained, have refrigeration capability, and comply with USEPA Approved Methods. Refrigeration must be used, when required, to maintain the temperature of the sample as specified in Section III.

E. Use of Standard Concentrations for Sanitary Waste and/or Non-Contact Cooling Water

Users with multiple outfalls who have one or more outfalls which discharge strictly domestic wastes and/or noncontact cooling water may elect to sample such discharge(s) on a onetime-only, two-day, time-composite basis (Sections II.A.2) to characterize such discharge(s). If analyses indicate that BOD and SS concentrations are less than standard domestic waste concentrations of 119 mg/L for BOD and 168 mg/L for SS, then these outfalls need not be sampled again and standard concentrations of 119 mg/L for BOD and 168 mg/L for SS may be used for subsequent reporting purposes, unless operational changes affect the nature of the representative discharges. However, the volume of domestic wastes and/or non-contact cooling water wastes must be determined by measurement at the outfalls or by in-plant installation of water meters. Alternatively, a User may elect to sample these outfalls during each sampling program.

SECTION III. Preservation and Compositing of Samples

Individual samples obtained by the methodology of either Section II.A.1 or II.A.2 or by automatic sampling devices must be kept at or below 40°F, but above freezing, during collection and compositing. Individual samples must be composited daily (compositing period must not be less than 22 hours or more than 26 hours). Composite samples should be refrigerated in transit to the laboratory and analysis should begin within six hours of compositing.

SECTION IV. Analyses of Samples

All analyses for BOD and SS must be in accordance with USEPA Approved Methods. Special attention to the procedures stipulated for the BOD analysis is stressed, specifically relative to the seeding of samples and to the technique of preparing an adequate number of dilutions. (Note: Upon written request to the Director, seed material may be obtained free of charge at the District's Monitoring and Research Laboratory in Stickney, Illinois.)

SECTION V. Independent Sampling

The User Charge system is a self-reporting one; therefore, unless otherwise approved by the Director, the User must conduct flow measurement and/or sampling of the Facility independently of the District in accordance with the notification requirements under Section 4i and the sampling requirements under Section 5e of this Ordinance. The District may provide the User with split samples, upon the User's request, provided sufficient sample volume is available and the User furnishes sample containers.

However, the District shall not allow the use of analytical results of these split samples in the computation of User Charges.

If a User is precluded from conducting independent sampling of its discharge because access to the User's control manhole or sampling chamber is prevented by the presence of the District's monitoring equipment, the User may make a request for, and obtain splits of District samples and, following proper chain of custody procedures, analyze these samples, and use the data for the purpose of

completing and submitting the RD-925 Statement required under Section 4 of this Ordinance. However, in such cases, the User shall obtain prior written permission from the District.

SECTION VI. Calculation of Representative BOD and SS Concentrations

Users must calculate the representative BOD and SS concentrations that are to be used for reporting purposes either by performing flow-proportional sampling or by performing equal-volume, time-composite sampling as required herein. Users must submit the daily flows (intake and/or discharge volumes) corresponding to the BOD and SS analyses for each day of the sampling period with the RD-920 Report. Irrespective of whether a User performs flow-proportional sampling or equal-volume, time-composite sampling, the average BOD and SS concentrations, for the period of sampling, must be computed by weighted average using the representative concentrations and the corresponding daily flows. Arithmetic averaging of daily BOD and SS concentrations obtained during the sampling period is not permissible for reporting purposes. Users must submit this data in the RD-920 Report.

SECTION VII. Application of BOD and SS Concentrations for Multiple Samplings per Calendar Year

Users conducting sampling more frequently than the minimum requirement of once per calendar year must apply BOD and SS concentrations to discharge volumes for the specific time frames (e.g., two months, six months, etc.) for which the wastewater concentrations are considered representative. The User's methodology for applying sampling data must be identified in the User's sampling proposal and approved by the District.

**APPENDIX C
TO THE USER CHARGE ORDINANCE**

**REQUIREMENTS FOR REPORTING
WASTEWATER DISTRIBUTION
ACROSS MULTIPLE OUTFALLS**

SECTION I. MONITORING OPTIONS

A User with multiple outfalls from its Facility may report the wastewater flow volume distributed through each outfall individually on the RD-925 Statement, provided the quantity of wastewater is determined by continuous measurement of each outfall. Continuous measurement of discharge flows will be allowed by either Option 1 or Option 2 (below), and in accordance with the Ordinance and Appendices A and B, thereto.

Option 1. Use of Water Meters for Continuous Measurement

Municipal or privately owned water meters that continuously measure intake water to a Facility or building may be used for documenting the discharge volume from the Facility or building subject to the following conditions and requirements, as applicable:

- a. The Facility or building has a single outfall.
- b. Privately owned water meters are approved and sealed by the District as per applicable portions of Appendix A. Procedural provisions of Appendix A must be implemented.

Option 2. Use of Direct Discharge Flow Measurement Devices

Wastewater discharged through any outfall may be measured continuously with a flow measurement device and the quantity reported accordingly, subject to the following conditions and/or requirements:

- a. The outfall contains an accurate primary flow measurement device (e.g., weir or flume) located in an adequate sampling chamber or manhole which has been approved by the District.
- b. The flow measurement system has been approved by the District, in writing, and the applicable procedural provisions of Appendix A are implemented.

SECTION II. ALTERNATE REPORTING

In accordance with Section I of this Appendix, a User with multiple outfalls, who does not have a flow-distribution methodology approved by the District, must report on the basis of total metered water intake to its Facility (minus any in-plant water losses approved by the District) and apply the highest values of the BOD and SS concentrations obtained by sampling each of its outfalls to that volume of water, unless otherwise warranted.

APPENDIX D TO THE USER CHARGE ORDINANCE

REQUIREMENTS FOR LARGE COMMERCIAL- INDUSTRIAL AND TAX- EXEMPT USERS' REPORTING OPTIONS AND DETERMINATION OF REPRESENTATIVE CONCENTRATIONS

Sections 7g, 7h and 7i of the Ordinance provide a User with options to report and pay its User Charge on the basis of application of approved wastewater concentrations to the documented intake water volumes or metered discharge volumes. These options relieve the User from performing annual sampling of wastewater flows to determine representative concentrations for BOD and SS. This Appendix is intended to clarify requirements and conditions of the District which govern the implementation of the provisions of Sections 7g, 7h and 7i of the Ordinance.

SECTION I. USER REPORTING OPTION REGARDING REPRESENTATIVE CONCENTRATIONS

A. Use of Standard Concentrations

A User seeking approval to report under Section 7g of the Ordinance must sample wastewater discharges from all of its outfalls, or provide relevant data from prior years which characterize such discharges. If such analyses indicate that BOD and SS concentrations at all of its outfalls are less than the standard domestic waste concentrations of 119 mg/L for BOD and 168 mg/L for SS, then the User may petition the Director for approval to report based on standard concentrations.

Future sampling will not be required unless directed by the District or until operational changes occur that affect the nature of the wastewater discharges. The User must report any changes in the character of its discharge to the Director and provide new sampling data when changes in waste discharge occur. A User may not report under Section 7g for User Charge purposes without written approval from the Director.

B. Use of Representative Concentrations Determined by the District

If the sampling analyses, previously submitted by a User and on file with the District, or submitted by a User as a part of the petition to the Director, indicate that either the BOD or SS concentrations at any outfall exceed the standard domestic waste strength concentrations of 119 mg/L for BOD and 168 mg/L for SS, then according to Section 7h of the Ordinance, the User may petition the Director for permission to forgo the required annual sampling, and allow the District to sample the Facility. The User would apply the resulting BOD and SS concentrations to User- documented intake water volumes or metered discharge volumes when filing the RD-925 Statement.

Any sampling that the User utilizes as a basis for a petition to the Director must conform to the following requirements:

1. Users discharging an average wastewater volume of more than 200,000 gpd, or having wide fluctuations in volume and waste loadings, must sample all outfalls in proportion to flow during normal daily operations for at least one normal workweek. Additional sampling, if not provided, must be submitted if required by the Director.
2. Users discharging an average wastewater volume of 200,000 gpd or less must sample during normal daily operations for at least two consecutive, normal workdays. An equal volume of sample must be obtained no less frequently than once per hour during each day in the sampling period. Sampling durations exceeding two consecutive days may be required on a case-by- case basis.

C. Use of Historical Concentrations

Users seeking approval to report under Section 7i of the Ordinance for any final outfall must have sampled wastewater discharges from those specified outfalls in accordance with the requirements under Section 5e. All valid and relevant data from a minimum of three consecutive, prior years will be used to characterize such discharges. If such analyses indicate that BOD and SS concentrations at the specified outfall remain consistent over a consecutive, historical period, the User may petition the Director for approval to be allowed to report based on the historically representative average flow-weighted concentrations. The District will review all available data obtained by both the User and the District when making its determination. The approved BOD and SS concentrations, applied to a specific outfall, will be valid for the reporting year as stated in the approval and thereafter, unless revoked by the District.

Future sampling will not be required unless directed by the District or until operational changes occur that affect the nature of the wastewater discharges. The User must report any substantial changes in the character of its discharge to the Director and provide new sampling data when changes in waste discharge occur. The District may perform inspection and/or verification sampling programs periodically to verify that the approved historical concentrations remain valid.

SECTION II. APPROVAL PROCEDURE AND REQUIRED SUBMITTALS

Users must receive prior written approval from the Director before implementation of any User reporting option specified in Sections 7g, 7h or 7i of the Ordinance. To obtain approval, a User must submit a written request to the Director. Adequate documentation must accompany such request.

- A. A User discharging an average wastewater volume of 200,000 gpd, or less, and who has never sampled its Facility, must submit the following documentation with the request:
1. Laboratory data sheets listing individual analytical results and signed by the User's consulting engineer and/or authorized laboratory supervisor.
 2. A completed, certified RD-920 Report.
- B. A User discharging an average wastewater volume exceeding 200,000 gpd, who never previously sampled its Facility, must submit:
1. Documents under item A of the section.
 2. Log of flowmeter totalizer readings, including appropriate conversion factors and flow meter recorder charts, that pertain to the sampling period.
- C. A User who has prior years' data for information requested in A and B above may submit this information with its petition to the Director or certify that the data submitted with previous annual filings is appropriate for its current discharge. If this existing information is determined not to be representative of the User's Facility at the time of the petition to the Director, the User must conform to the requirements of A and B above.
- D. Upon receipt of a User's written request for approval to report under Section 7g, Section 7h or Section 7i, the District will do the following:
1. Acknowledge a User's request, in writing, within 30 calendar days of receipt of the request.
 2. Render the Director's determination, in writing, within 90 calendar days of receipt of a User's request, for a User who petitions to report under Section 7g or Section 7i of the Ordinance.
 3. Render the Director's determination, within 90 calendar days after receipt of a User's request, for a User who petitions to report under Section 7h of the Ordinance. Factors which will be considered by the Director in the evaluation of a User's request, include, but are not limited to, the following:
 - a. Suitable sampling/flow measurement chambers exist on all the outlets of the User's Facility which will accommodate the use of the District's automatic sampling apparatus in a safe and secure manner.
 - b. The wastewater discharges from all outlets of the User's Facility are amenable to sampling via the use of the District's automated sampling equipment.
 - c. The User's operation is fairly consistent throughout the year such that the representative concentrations obtained from a sampling study over one normal workweek are adequate to determine the User's User Charge liability for the reporting year.
- E. All applications for the Section 7g option approved during a given year apply for that entire year and subsequent years until revoked.
- F. All applications for the Section 7h option approved prior to and including June 30 of a given year are effective for that year and for subsequent years until revoked.
- G. All applications for the Section 7h option approved after June 30 of a given year are effective for January 1 of the following year and for subsequent years until revoked.
- H. A User who is approved for sampling by the District under Section 7h will receive a written report of the field and laboratory analytical data and the representative concentrations to be used in calculating its User Charge liability within 60 calendar days of completion of the District's sampling program.
- I. Participation in this program by a User does not in any way alter the right of said User to appeal under Section 9 of the Ordinance. However, any User who appeals the District's representative concentrations for two consecutive years will be disqualified from reporting under Sections 7g and/or Section 7h of the Ordinance.
- J. A User who wishes to appeal the representative concentrations established by the District under the Section 7h option must do so within 90 calendar days of receipt of this data from the District. After 90 calendar days, no appeals will be accepted by the District.
- K. Users approved to report under Section 7g or Section 7h or Section 7i of this Ordinance may not submit self-monitoring data for a reporting year or a portion thereof in lieu of the standard concentrations, the District-supplied concentration data or the approved historical concentration data, respectively, for the year when an approval under any reporting option was in effect. Such data will not be accepted for use when calculating the annual RD-925 Statement.

APPENDIX E

TO THE USER CHARGE ORDINANCE RECOVERY OF PRETREATMENT PROGRAM ADMINISTRATIVE COSTS

SECTION I. Minimum Pretreatment Requirement (MPR) Charges

In accordance with Section 10, the charges for annual account administration and review of mandatory reports, and charges for annual inspection and verification of discharges permitted under the District's Pretreatment Program and the Sewage and Waste Control Ordinance shall be recovered from Significant Industrial Users (SIU) based on the following schedule:

| SIU Annual Flow Volume (gallons) | Charge |
|-------------------------------------|----------|
| <1,296,760 | \$1,000 |
| 1,296,760 to 3,478,200 | \$2,000 |
| 3,478,200 to 6,036,040 | \$4,000 |
| 6,036,040 to 10,464,520 | \$6,000 |
| 10,464,520 to 18,613,980 | \$8,000 |
| 18,613,980 to 28,329,770 | \$10,000 |
| 28,329,770 to 56,498,000 | \$12,000 |
| >56,498,000 | \$14,000 |

| Activity | Charge |
|---------------------------------------------------------------------|--------|
| Inspection | \$400 |
| Each sample point specified in the SIU's Discharge Authorization | \$600 |

SECTION II.

This section deleted effective January 1, 2014.

SECTION III. Charge Assessment and Payment

The MPR charges, where applicable, will be included in the estimated User Charge and notification will be provided to the User. Payment shall be included in the quarterly or annual remittance submitted to the District.

APPENDIX F

TO THE USER CHARGE ORDINANCE USER CHARGE RATES

SECTION I LARGE COMMERCIAL-INDUSTRIAL USER AND TAX EXEMPT USER RATES

In accordance with Section 6, for the purpose of computing the User Charge to be paid to the District by Large Commercial-Industrial Users and by Tax-Exempt Users, the following billing rates shall be used for the 2022 reporting year:

- 1) Volume: \$277.48 per million gallons
- 2) 5-day BOD: \$181.07 per thousand pounds of BOD
- 3) SS: \$123.05 per thousand pounds of SS

SECTION II

This section deleted effective January 1, 2014.

SECTION III OM&R FACTOR FOR TAX CREDIT

In accordance with Section 6 and Section 7, for the purpose of computing the allowed deductible portion of ad valorem taxes paid to the District, the following OM&R Factor shall be used for the 2022 reporting year:

OM&R Factor: 0.341

Group Exhibit C

Notices from the District to CCC Colleges Regarding Tax Status Classification

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Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research

October 29, 2021

Mr. Mike Martin
Auxiliary Services Director
City Colleges of Chicago – Richard J. Daley College
7500 South Pulaski Road
Chicago, Illinois 60652

Dear Mr. Martin:

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Richard J. Daley College, Located at 7500 South Pulaski Road

The District has reviewed tax records and determined that the subject facility is exempt from paying ad valorem taxes. Therefore, pursuant to Section 2 of the District's User Charge Ordinance (Ordinance), the District has classified the subject facility as a Tax-Exempt User, effective 2021.

Each year, you are required to submit the following certified documents:

1. Results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920).
2. A completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year, that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings.

Both the RD-920 and RD-925 forms are available on our website at www.mwrd.org, via [Documents/Forms/User Charge Forms](#). Your first RD-925 is due by February 20, 2022.

Mr. Mike Martin

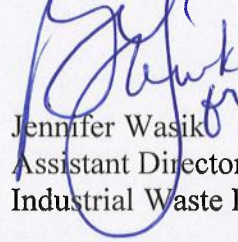
2

October 29, 2021

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Richard
J. Daley College, Located at 7500 South Pulaski Road

The Ordinance is available on the District's website, at www.mwrd.org, via Documents/Rules and Ordinances. If you have any further questions or require assistance in completing your RD-925 and/or RD-920, please contact Mr. Mathew Degutes, Environmental Specialist, at mathew.degutes@mwrd.org, or 312-751-3005. For a faster response, please contact us via e-mail during the COVID-19 restoration period in Illinois.

Very truly yours,



Jennifer Wasik
Assistant Director of Monitoring and Research
Industrial Waste Division

JW:MJD:mdm

Certified No. 7019 1640 0000 6212 6614

U30960/#21-0803

cc: Finance Billing Unit/Wasik/Degutes

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Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research

October 29, 2021

Ms. Anna Morales
Auxiliary Services Director
City Colleges of Chicago – Wilbur Wright College
4300 North Narragansett Avenue
Chicago, Illinois 60634

Dear Ms. Morales:

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Wilbur Wright College, Located at 4300 North Narragansett Avenue

The District has reviewed tax records and determined that the subject facility is exempt from paying ad valorem taxes. Therefore, pursuant to Section 2 of the District's User Charge Ordinance (Ordinance), the District has classified the subject facility as a Tax-Exempt User, effective 2021.

Each year, you are required to submit the following certified documents:

1. Results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920).
2. A completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year, that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings.

Both the RD-920 and RD-925 forms are available on our website at www.mwrd.org, via [Documents/Forms/User Charge Forms](#). Your first RD-925 is due by February 20, 2022.

Ms. Anna Morales

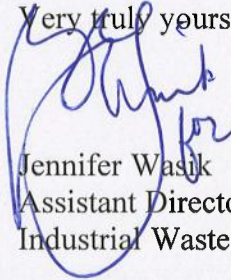
2

October 29, 2021

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Wilbur
Wright College, Located at 4300 North Narragansett Avenue

The Ordinance is available on the District's website, at www.mwrld.org, via Documents/Rules and Ordinances. If you have any further questions or require assistance in completing your RD-925 and/or RD-920, please contact Mr. Mathew DeGutes, Environmental Specialist, at mathew.degutes@mwrld.org, or 312-751-3005. For a faster response, please contact us via e-mail during the COVID-19 restoration period in Illinois.

Very truly yours,



Jennifer Wasik
Assistant Director of Monitoring and Research
Industrial Waste Division

JW:MJD:mdm

Certified No. 7019 1640 0000 6212 6607

U30856/#21-0802

cc: Finance Billing Unit/Wasik/Degutes

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Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczewski, P.E.
Director of Monitoring and Research

November 2, 2021

Mr. Charles Talbert
Operations & Purchasing Manager
City Colleges of Chicago – Harry S Truman College
1145 West Wilson Avenue
Chicago, Illinois 60640

Dear Mr. Talbert:

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Harry S Truman College, Located at 1145 West Wilson Avenue

The District has reviewed tax records and determined that the subject facility is exempt from paying ad valorem taxes. Therefore, pursuant to Section 2 of the District's User Charge Ordinance (Ordinance), the District has classified the subject facility as a Tax-Exempt User, effective 2021.

Each year, you are required to submit the following certified documents:

1. Results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920).
2. A completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year, that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings.

Both the RD-920 and RD-925 forms are available on our website at www.mwrdd.org, via Documents/Forms/User Charge Forms. Your first RD-925 is due by February 20, 2022.

Mr. Charles Talbert

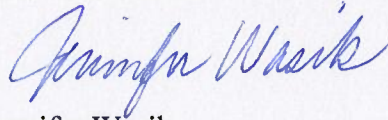
2

November 2, 2021

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Harry S
Truman College, Located at 1145 West Wilson Avenue

The Ordinance is available on the District's website, at www.mwrld.org, via Documents/Rules and Ordinances. If you have any further questions or require assistance in completing your RD-925 and/or RD-920, please contact Mr. Mathew DeGutes, Environmental Specialist, at mathew.degutes@mwrld.org or 312-751-3005. For a faster response, please contact us via e-mail during the COVID-19 restoration period in Illinois.

Very truly yours,



Jennifer Wasik
Assistant Director of Monitoring and Research
Industrial Waste Division

JW:MJD:mdm
Certified No. 7018 0360 0000 0877 5327
U30879/#21-0801
cc: Hachim/Wasik/DeGutes

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Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczerwinski, P.E.

Director of Monitoring and Research

mwr-d-u-cts@mwr-d.org

February 4, 2022

David Anthony
Associate Vice Chancellor, Administrative Services
City Colleges of Chicago
3901 South State Street, Room 216
Chicago, Illinois 60609

Dear Mr. Anthony:

Subject: Tax Exempt User Classification for City Colleges of Chicago – Malcolm X College, Located at 1900 West Jackson Boulevard

The Metropolitan Water Reclamation District of Greater Chicago (District) has reviewed tax records and determined that the subject facility is exempt from paying ad valorem taxes. Therefore, pursuant to Section 2 of the District's User Charge Ordinance (Ordinance), the District has classified the subject facility as a Tax-Exempt User, effective 2022.

Each year, you are required to submit the following certified documents:

1. Results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920).
2. A completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings.

Both the RD-920 and RD-925 User Charge Forms are available on our website at www.mwr-d.org/doing-business/forms-documents. Your first RD-925 is due by February 20, 2023.

Mr. David Anthony

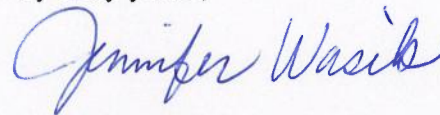
2

February 4, 2022

Subject: Tax Exempt User Classification for City Colleges of Chicago – Malcolm X College, Located at 1900 West Jackson Boulevard

The Ordinance is available on the District's website, at www.mwrdd.org/rules-and-ordinances. If you have any further questions or require assistance in completing your Forms, please contact Mr. Mathew DeGutes, Environmental Specialist, at DegutesM@mwrdd.org or (312) 751-3005. For a faster response, please contact us via email during the COVID-19 restoration period in Illinois.

Very truly yours,



Jennifer Wasik
Assistant Director of Monitoring and Research
Industrial Waste Division

JW:MJD:lh
Certified No. 7021 1970 0001 3068 3738
U30996/#22-0071
cc: Mete Hachim, Finance

Group Exhibit D

November 29, 2021 and February 8, 2022 emails from CCC to District

From: Ralph Passarelli
Sent: Monday, November 29, 2021 8:47 AM
To: Saindon, Pamela <SaindonP@mwrld.org>
Cc: David Anthony <danthony17@ccc.edu>
Subject: RE: FW: City Colleges of Chicago

Will do.

Below is the body of the original e-mail without the attachments to facilitate our conversation.

Ms. Saindon,

This communique is a follow-up to a recent conversation with Carla Davis regarding City Colleges of Chicago (“District”) and recognition of its Status as a Public Body and “Sister Agency” of the City of Chicago. Recently, member Colleges within the District have received MWRD Requests for an on-site inspection of Water & Sewer facilities in an effort to establish a baseline related to proposed ongoing financial assessments. For your review and consideration, I offer the documents recited below:

- *Illinois Community College Act*
- *City of Chicago Official Website (designates City Colleges of Chicago as “Other City Agency”)*
- *City Colleges of Chicago Board Bylaws*
- *MWRD Ordinance (establishing two Categories which may apply: 1. Tax-Exempt User; 2. Local Government User). The District considers itself to be a Public Body and Local Government User, therefore except from the proposed Assessment.*
 - Section 2 pages 4 & 5 defines “Local Government User”*
 - Section 4 paragraph “e” found on page 6 recites “Local Government Users are not subject to the payment of user charges”*

Before my Colleague David Anthony, Associate Vice Chancellor for Administrative Services files an Official Request for Exemption, we seek your opinion as to applicability of this proposed Assessment to City Colleges of Chicago. If upon review you require discussion, both David and I are prepared to do so.

From: Saindon, Pamela <SaindonP@mwrld.org>
Sent: Monday, November 29, 2021 8:42 AM
To: Ralph Passarelli <rpasarelli@ccc.edu>
Subject: RE: FW: City Colleges of Chicago

*****This message is from an external sender. Please do not open unexpected links or attachments.*****

I’m not sure. Can you give me a call: 773-587-5657?
Thank you,

Pamela Saindon
Principal Attorney
MWRDGC
100 E. Erie Street
3rd Floor
Chicago, Illinois 60611

312-751-6584/773-587-5657 (Direct Dial)

From: Ralph Passarelli <rpassarelli@ccc.edu>
Sent: Wednesday, November 24, 2021 2:47 PM
To: Saindon, Pamela <SaindonP@mwr.org>
Cc: David Anthony <danthony17@ccc.edu>
Subject: FW: FW: City Colleges of Chicago

Pamela,
I continue to receive the message below. 3 attempts. Is it something on your end?

From: Microsoft Outlook <MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@cccedu.onmicrosoft.com>
Sent: Wednesday, November 24, 2021 2:44 PM
To: Ralph Passarelli
Subject: Undeliverable: FW: City Colleges of Chicago



Your message to SaindonP@mwr.org couldn't be delivered.

mwr.org suspects your message is spam, or contains a virus, and rejected it.

rpassarelli
Sender

Office 365

mwr.org
Action Required

Spam or virus detected

How to Fix It

Try to modify your message, or change how you're sending the message, using the guidance in this article: [Bulk E-mailing Best Practices for Senders Using Forefront Online Protection for Exchange](#). Remove all attachments, and then resend your message.

If you continue to experience the problem, contact the recipient by some other means (by phone, for example) and ask them to ask their email admin to add your email address, or your domain name, to their allowed senders list.

Was this helpful? [Send feedback to Microsoft](#).

More Info for Email Admins

Status code: 550 5.7.352

When Office 365 tried to send the message to the recipient (outside of Office 365), the recipient's email filtering service (Mimecast) suspected the sender's message is spam or contains a virus.

If the sender isn't able to fix the problem by modifying their message, contact the recipient's email admin and ask them to add your domain name, or the sender's email address, to their list of allowed senders.

Although the sender may be able to alter the message contents to fix this, it's likely that only the recipient's email admin can fix this problem. Unfortunately, Office 365 Support is unlikely to be able to help fix these kinds of externally reported errors.

Original Message Details

Created Date: 11/24/2021 8:43:18 PM
Sender Address: rpassarelli@ccc.edu
Recipient Address: SaindonP@mwr.org
Subject: FW: City Colleges of Chicago

Error Details

Reported error: 550 5.7.352 Mimecast detected message as spam or virus -> 554
Email rejected due to security policies -
<https://community.mimecast.com/docs/DOC-1369#554>
[Q2ZGUJ6iPhGxliToT7uliu.us215]

DSN generated by: DM8PR04MB8039.namprd04.prod.outlook.com

Message Hops

| HOP | TIME (UTC) | FROM | TO | WITH |
|-----|-----------------------|------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------|
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| 2 | 11/24/2021 8:43:19 PM | DM8PR04MB7814.namprd04.prod.outlook.com | DM8PR04MB8039.namprd04.prod.outlook.com | Microsoft SMTP Server cipher=TLS_ECDHE... |

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ARC-Authentication-Results: i=1; mx.microsoft.com 1; spf=pass

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header.d=ccc.edu; arc=none

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DM8PR04MB8039.namprd04.prod.outlook.com (2603:10b6:5:314::16) with Microsoft
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20:43:19 +0000

From: Ralph Passarelli <rpassarelli@ccc.edu>

To: "SaindonP@mwr.org" <SaindonP@mwr.org>

CC: David Anthony <danthony17@ccc.edu>

Subject: FW: City Colleges of Chicago

Thread-Topic: City Colleges of Chicago

Thread-Index: AdfhVraotYoQquc5SUOkPXssdB16vwADcVZwAAPL2bA=

Date: Wed, 24 Nov 2021 20:43:18 +0000

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(UTC)
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From: David Anthony <>
Sent: Monday, November 29, 2021 10:01 AM
To: Degutes, Mathew <DeGutesM@mwrld.org>; John Brophy <jbrophy3@ccc.edu>
Subject: RE: MWRD/ City Colleges of Chicago

Mr. Degutes,
Thank you for the information. The ordinance states on page 6 that Local Government Users are not subject to this assessment. City Colleges of Chicago (CCC) is a Sister Agency of the City of Chicago. Therefore CCC is a Local Government User and should not be subject to this assessment. Please contact me with any questions about CCC's status as a Sister Agency.

Thanks,
David

David Anthony
Associate Vice Chancellor, Administrative Services
City Colleges of Chicago
3901 S. State Street, Room 216
Chicago, IL 60609
312.553.3440
danthony17@ccc.edu

From: Degutes, Mathew <DeGutesM@mwrld.org>
Sent: Tuesday, November 2, 2021 4:28 PM
To: John Brophy <jbrophy3@ccc.edu>
Cc: David Anthony <danthony17@ccc.edu>
Subject: RE: MWRD/ City Colleges of Chicago

*****This message is from an external sender. Please do not open unexpected links or attachments.*****

Hello Mr. Brophy,

Thank you for your call today. The Metropolitan Water Reclamation District contacted City Colleges of Chicago because the campuses fall under the definition of a Tax Exempt User according to the User Charge Ordinance in Section 2 (link [UC20-001.pdf \(mwrld.org\)](#)). Section 4f of the Ordinance outlines the reporting requirements of Tax Exempt Users. Each year, you are required to submit the results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920), and a completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings. Both the RD-920 and RD-925 forms are available on our website at www.mwrld.org, via Documents/Forms/User Charge Forms. Your first RD-925 is due by February 20, 2022.

If the facility discharge is domestic in nature and your flow is less than 25,000 gallons per day you can petition to pay user charges annually on the basis of District-approved estimates for flow, or annual consumption based on water bills or water meter readings. By completing the Section 7f form, your facility will no longer be required to submit the RD-

925 annually or any other documentation to the District. Your facility will be billed automatically each year. The Section 7f form is enclosed and is also available on our website at www.mwrdd.org, via Documents/Forms/User Charge Forms. A separate Section 7f form would need to be completed for each facility. Please contact me with any further questions.

Mathew DeGutes

Environmental Specialist
MWRDGC | Industrial Waste Division
111 E. Erie St., 7th Floor
Chicago, IL 60611
312.751.3005

From: John Brophy <jbrophy3@ccc.edu>
Sent: Tuesday, November 2, 2021 1:47 PM
To: Degutes, Mathew <DeGutesM@mwrdd.org>
Cc: David Anthony <danthony17@ccc.edu>
Subject: MWRD/ City Colleges of Chicago

Hello Mr. DeGutes,

Thanks for chatting today.

Please send me any relevant details on the MWRD user charge ordinance as it applies to City Colleges of Chicago.

Thanks,

~John
John Brophy
City Colleges of Chicago
jbrophy3@ccc.edu
312-553-2932

From: David Anthony <>
Sent: Tuesday, February 8, 2022 7:34 AM
To: Degutes, Mathew <DeGutesM@mwrld.org>
Cc: John Brophy <jbrophy3@ccc.edu>
Subject: RE: City Colleges of Chicago Kennedy-King College FCQ

Good morning Mr. Degutes,
As I wrote to you via email on November 29, 2021, the City Colleges of Chicago are a sister agency of the City of Chicago and a Local Government User. Therefore, CCC and all our facilities are not subject to this ordinance.
Thank you.
David

David Anthony
Associate Vice Chancellor, Administrative Services
City Colleges of Chicago
3901 S. State Street, Room 216
Chicago, IL 60609
312.553.3440
danthony17@ccc.edu

From: Degutes, Mathew <DeGutesM@mwrld.org>
Sent: Wednesday, February 2, 2022 10:00 AM
To: David Anthony <danthony17@ccc.edu>
Cc: John Brophy <jbrophy3@ccc.edu>
Subject: City Colleges of Chicago Kennedy-King College FCQ

*****This message is from an external sender. Please do not open unexpected links or attachments.*****

Hello Mr. Anthony,

I am checking in with you about an Facility Classification Questionnaire (FCQ) letter sent to Robert Graham, Auxiliary Services Director at Kennedy-King College. The letter was sent prior to you being the primary contact so it may not have gotten into the correct hands. I am resending the letter and FCQ to you in this email so that it can be completed and returned to the District. Thank you.

Mathew DeGutes
Environmental Specialist
MWRDGC | Industrial Waste Division
111 E. Erie St., 7th Floor
Chicago, IL 60611
312.751.3005

Group Exhibit E

Cease and Desist Order and Initial Invoice for NCE Charge

Protecting Our Water Environment

BOARD OF COMMISSIONERS

- Kari K. Steele
President
- Barbara J. McGowan
Vice President
- Marcelino Garcia
Chairman of Finance
- Cameron Davis
- Kimberly Du Buclet
- Josina Morita
- Chakena D. Perry
- Eira L. Corral Sepúlveda
- Mariyana T. Spyropoulos

Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

CEASE AND DESIST ORDER

| | | |
|--------------------------------|---|---------------------|
| METROPOLITAN WATER RECLAMATION |) | VIOLATION NO. 96635 |
| DISTRICT OF GREATER CHICAGO |) | |
| |) | RIGHT OF ACCESS |
| |) | |
| vs. |) | |
| |) | |
| |) | |
| City Colleges of Chicago – |) | |
| Harry S. Truman College |) | |

TO: David Anthony
Associate Vice Chancellor, Administrative Services
3901 South State Street, Room 216
Chicago, Illinois 60609

Article IV, Section 3 of the Sewage and Waste Control Ordinance (Ordinance) of the Metropolitan Water Reclamation District of Greater Chicago (District) grants representatives of the District access to the premises of each facility subject to this Ordinance.

On November 16, 2021, a District Environmental Specialist (ES) was denied access to the subject facility for a verification inspection, despite an explanation of Right of Access by the ES. Access was denied again after a second attempt on November 30, 2021. Therefore, you are in violation of Article IV, Section 3 of the District's Ordinance.

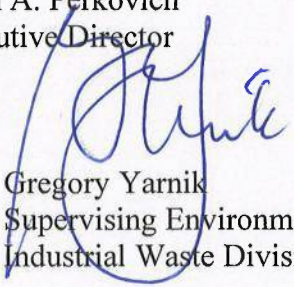
To attain compliance with this Order, you are required to grant representatives of the District access to complete an inspection of the subject facility. Please be advised that this Order is issued in response to a significant violation of the District's Ordinance and of federal pretreatment regulations. Any company identified as a significant violator is published annually in the newspaper as significantly violating the District's Ordinance or other pretreatment requirements, in accordance with 40 CFR 403.8(f)(2)(viii).

Per Appendix F, Section I of the Ordinance, you will be invoiced a noncompliance enforcement (NCE) charge of \$843.00 for the administrative costs associated with this Order. Article V, Section 10 of the Ordinance references the procedure to dispute NCE charges and lists the late filing fee schedule for a delinquent or deficient report.

WHOEVER FAILS TO COMPLY WITH ANY PROVISION OF THE SEWAGE AND WASTE CONTROL ORDINANCE SHALL BE SUBJECT TO PENALTIES OF NOT LESS THAN \$1,000.00 NOR MORE THAN \$10,000.00 BY ORDER OF THE BOARD OF COMMISSIONERS. EACH DAY'S CONTINUANCE OF SUCH FAILURE TO COMPLY SHALL CONSTITUTE A SEPARATE OFFENSE. THE PENALTIES SO IMPOSED PLUS REASONABLE ATTORNEY'S FEES, COURT COSTS AND OTHER EXPENSES OF LITIGATION, TOGETHER WITH COSTS FOR INSPECTION, SAMPLING, ANALYSIS, AND ADMINISTRATION RELATED TO THE ENFORCEMENT ACTION AGAINST THE OFFENDING PERSON, BEGINNING WITH THE ISSUANCE OF THIS CEASE AND DESIST ORDER, ARE RECOVERABLE BY THE DISTRICT IN A CIVIL ACTION.

Direct inquiries regarding this Order should be made to Mr. Mathew DeGutes, Environmental Specialist, at DegutesM@mwrdd.org or (312) 751-3005. For a faster response, please contact us via e-mail during the COVID-19 restoration period in Illinois.

Witnessed: February 7, 2022
Metropolitan Water Reclamation
District of Greater Chicago
Brian A. Perkovich
Executive Director

BY: 
Gregory Yarnik
Supervising Environmental Specialist
Industrial Waste Division

GY:MJD:lh
Certified No. 7021 1970 0001 3068 3783
U30879/EA96635/#22-0095
cc: Mr. Renante Marante, City of Chicago



Metropolitan Water Reclamation District of Greater Chicago

P.O. BOX 95089

CHICAGO, IL 60694-5089

MONITORING & RESEARCH (312) 751-3000

FINANCE (312) 751-6538

Enforcement Number: 96635

Reference: 30879-2022-D-005

Initial Invoice-NCE Charge

Date: 04/06/2022

Billing Address

CITY COLLEGES OF CHICAGO - HARRY S. TRUMAN COLLEGE
1145 WEST WILSON AVENUE

CHICAGO, IL 60640

Facility Address

CITY COLLEGES OF CHICAGO - HARRY S. TRUMAN COLLEGE
1145 W WILSON AVE

CHICAGO, IL 60640

Noncompliance Enforcement (NCE) Charge, pursuant to Appendix F of the Sewage & Waste Control Ordinance, for C&D - Administrative Cost Only

User: 30879 Year: 2022 Charge: 005

Contact: Mathew DeGutes, Environmental Specialist

Phone: 3127513005

This is written notice of the NCE Charge assessed based on the non-compliance violation above. You have 30 days from the receipt of this notice to request a conference with the Executive Director's designee to discuss or dispute the appropriateness of the assessed Charge. Unless you request, in writing, a conference with the designee of the Executive Director, you waive your right to a conference and the District may impose a lien on your property for the amount of the unpaid charge. Questions regarding the NCE Charge should be directed to the contact person listed above.

Amount

\$843.00

Pay your bill online at <http://mwr.d.org/form/user-charge-payment>

Questions? Contact Finance at UserCharge@mwr.d.org

BALANCE: \$843.00

Please detach this portion and return with your payment.

CITY COLLEGES OF CHICAGO - HARRY S. TRUMAN COLLEGE
1145 W WILSON AVE

CHICAGO, IL 60640

Industry ID : 30879

Reference Number : 30879-2022-D-005

Payable To:

Metropolitan Water Reclamation District
P.O. Box 95089
Chicago, IL 60694-5089

FOR DISTRICT USE ONLY

Check # _____

Pmnt Amt: _____

Post Date: _____

Dep Date: _____

Batch # _____

This amount is due by:

5/21/2022

PAY THIS AMOUNT: \$843.00

REMOVE SIDE EDGES FIRST, THEN FOLD, CREASE AND TEAR THIS STUB ALONG PERFORATION



B14EZ

B-1A

V-3

Exhibit F

CCC's May 2, 2022 Appeal to the District
Regarding Classification of CCC Facilities as Tax-Exempt Users



Ruth E. Krugly
312-471-8729
rkrugly@rshc-law.com

March 2, 2022

Via Email (mwr-d-u-cts@mwr-d.org)

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research
Metropolitan Water Reclamation District of Greater Chicago
111 E. Erie Street
Chicago, Illinois 60611-2893

Re: City Colleges of Chicago’s Appeal and Request for Reconsideration of User Classification

Dear Mr. Podczerwinski:

City Colleges of Chicago Community College District No. 508 (“CCC”), through its attorneys, respectfully requests that the Metropolitan Water Reclamation District of Greater Chicago (“District”) reconsider its classification of Richard J. Daley College, Malcolm X College, Harry S. Truman College and Wilbur Wright College as Tax-Exempt Users under the District’s User Charge Ordinance (“User Charge Ordinance”). CCC further requests that the District reclassify those facilities as Local Government Users under the User Charge Ordinance.¹ The reasons for CCC’s request are detailed below.

I. Pertinent Provisions of User Charge Ordinance

Section 1 of the User Charge Ordinance defines “Local Government User” as:

Publicly owned facilities used to perform local governmental functions which discharge solely domestic waste. Such functions are limited to administration or legislative activities of a local government, such as police and fire departments, public elementary and public high schools, and municipal office buildings. Publicly owned facilities charging an admission fee, or publicly owned facilities leased to non-public entities are not considered Local Government Users.

Section 4(e) of the User Charge Ordinance provides that: “Local Government Users as defined herein are not subject to the payment of User Charges.”

¹ The letters from the District classifying each college as a Tax-Exempt User are submitted with this appeal.

“User Charge” is defined as:

The operations, maintenance, and replacement costs incurred by the District to collect, treat, and dispose of the domestic wastes, process waste, industrial waste, and other wastes of the User. The User Charge includes the administrative costs for the District’s Sewage and waste Control Ordinance and User Charge Ordinance. The User Charge of any User shall be directly proportional to its use of the District’s sewage treatment, collection and disposal services when compared to the total operations, maintenance, and replacement costs incurred by the District in providing the same services when compared to the total operations, maintenance, and replacements costs incurred by the District in providing the same services to all Users in the District’s jurisdiction. A User Charge is a fee, not a tax; therefore, Tax-Exempt Users are not exempt from paying User Charges.

Accordingly, although entities classified as Tax-Exempt Users are subject to User Charges under the User Charge Ordinance, Local Government Users are not subject to those charges. For the reasons discussed below, the colleges and facilities comprising CCC fall within the definition of “Local Government User” and should therefore be classified as such by the District.

II. Discussion

City Colleges of Chicago is the largest community colleges system in Illinois and one of the largest in the nation, with more than 4,000 faculty and staff serving 77,000 students annually at seven colleges and five satellite sites. For more than one hundred years, CCC has transformed the lives of more than one million students through education. CCC aims to ensure the success of every student and serve as an economic engine for the City of Chicago.

In addition to the fact that CCC is widely regarded as a sister agency of the City of Chicago, the statute governing community college districts and the case law interpreting that statute establish that CCC is a unit of local government. Specifically, CCC was established and exists under the provisions of the Public Community College Act, 110 ILCS 805/1-1. The Board of Trustees is the governing body of CCC. Significantly, under Section 3-11 of the Public Community College Act, the “board of each community college district is a body politic and corporate.” 110 ILCS 805/3-11.

Notably, the Illinois Appellate Court has interpreted this and other provisions of the Public Community College Act and held that “a community college district is a ‘unit of local government’ and therefore a ‘political subdivision . . .’” *Board of Trustees of Community College Dist. No. 502*, 363 Ill. App. 3d 190, 202 (2nd Dist. 2006). In arriving at its conclusion, the court noted that community college districts are funded by local property taxes. *Id.*

Mr. Edward W. Podczerwinski, P.E
March 2, 2022
Page 3

In this matter, the District has indicated that even if CCC is a unit of local government,² it falls outside of the definition of Local Government User set forth in the User Charge Ordinance because it charges an “admission fee.” But CCC does *not* charge an admission fee—it charges tuition, which is entirely different and for an entirely different purpose. An admission fee is a fee paid for entering a place such as a theater or museum. Tuition, on the other hand, is the payment required to receive instruction at an educational institution. One may enter the facilities of any of the City Colleges without paying an admission fee. If someone wants to enroll in a class for educational instruction, however, tuition will likely be required.

The distinction between the two concepts is nicely illustrated in an article discussing when permission is needed by a university system to use copyrighted material. The article concludes that it is appropriate for a teacher to show a copyrighted motion picture to her class for instructional purposes: “It is fair use since it is for classroom instruction and no admission fee is charged. Tuition and course fees do not constitute admission fees.” *Forward*, 5 J. Intell. Prop. L. 252, 262, 265, Journal of Intellectual Property Law, Regents Guide to Understanding Copyright and Educational Fair Use (Fall 1997).

Here, the colleges in the CCC system charge tuition, but do not charge admission fees. Moreover, CCC is clearly a unit of local government under the Public Community College Act and applicable case law. Accordingly, CCC and its facilities fall within the definition of a Local Government User under the District’s User Charge Ordinance.

III. Conclusion

For the reasons set forth above, CCC respectfully requests that the District reconsider its determination that Richard J. Daley College, Malcolm X College, Harry S. Truman College and Wilbur Wright College are Tax-Exempt Users, and re-classify them as Local Government Users under the User Charge Ordinance. Representatives of CCC would welcome the opportunity to meet with and discuss this issue further with the District. Thank you for your consideration.

²Although the District has noted that school districts are not units of local government under Article VII, Section 1 of the 1970 Illinois Constitution, CCC is not a “school district” organized under the School Code, 105 ILCS5/1-1—it is a community college district organized under the Public Community College Act.

Mr. Edward W. Podczerwinski, P.E
March 2, 2022
Page 4

Respectfully submitted,

/s/ Ruth E. Krugly
Riley Safer Holmes & Cancila

On behalf of City Colleges of Chicago
Community College District No. 508

cc: Pamela Saindon

BOARD OF COMMISSIONERS

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Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research

October 29, 2021

Mr. Mike Martin
Auxiliary Services Director
City Colleges of Chicago – Richard J. Daley College
7500 South Pulaski Road
Chicago, Illinois 60652

Dear Mr. Martin:

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Richard J. Daley College, Located at 7500 South Pulaski Road

The District has reviewed tax records and determined that the subject facility is exempt from paying ad valorem taxes. Therefore, pursuant to Section 2 of the District's User Charge Ordinance (Ordinance), the District has classified the subject facility as a Tax-Exempt User, effective 2021.

Each year, you are required to submit the following certified documents:

1. Results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920).
2. A completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year, that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings.

Both the RD-920 and RD-925 forms are available on our website at www.mwrd.org, via [Documents/Forms/User Charge Forms](#). Your first RD-925 is due by February 20, 2022.

Mr. Mike Martin

2

October 29, 2021

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Richard
J. Daley College, Located at 7500 South Pulaski Road

The Ordinance is available on the District's website, at www.mwrd.org, via Documents/Rules and Ordinances. If you have any further questions or require assistance in completing your RD-925 and/or RD-920, please contact Mr. Mathew Degutes, Environmental Specialist, at mathew.degutes@mwrd.org, or 312-751-3005. For a faster response, please contact us via e-mail during the COVID-19 restoration period in Illinois.

Very truly yours,



Jennifer Wasik
Assistant Director of Monitoring and Research
Industrial Waste Division

JW:MJD:mdm

Certified No. 7019 1640 0000 6212 6614

U30960/#21-0803

cc: Finance Billing Unit/Wasik/Degutes

BOARD OF COMMISSIONERS

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Barbara J. McGowan
Vice President
Marcelino Garcia
Chairman of Finance
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Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczerwinski, P.E.

Director of Monitoring and Research

mwr-d-u-cts@mwr-d.org

February 4, 2022

David Anthony
Associate Vice Chancellor, Administrative Services
City Colleges of Chicago
3901 South State Street, Room 216
Chicago, Illinois 60609

Dear Mr. Anthony:

Subject: Tax Exempt User Classification for City Colleges of Chicago – Malcolm X College, Located at 1900 West Jackson Boulevard

The Metropolitan Water Reclamation District of Greater Chicago (District) has reviewed tax records and determined that the subject facility is exempt from paying ad valorem taxes. Therefore, pursuant to Section 2 of the District's User Charge Ordinance (Ordinance), the District has classified the subject facility as a Tax-Exempt User, effective 2022.

Each year, you are required to submit the following certified documents:

1. Results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920).
2. A completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings.

Both the RD-920 and RD-925 User Charge Forms are available on our website at www.mwr-d.org/doing-business/forms-documents. Your first RD-925 is due by February 20, 2023.

Mr. David Anthony

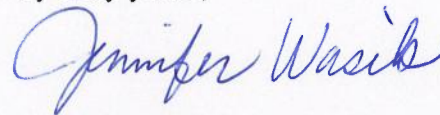
2

February 4, 2022

Subject: Tax Exempt User Classification for City Colleges of Chicago – Malcolm X College, Located at 1900 West Jackson Boulevard

The Ordinance is available on the District's website, at www.mwrdd.org/rules-and-ordinances. If you have any further questions or require assistance in completing your Forms, please contact Mr. Mathew DeGutes, Environmental Specialist, at DegutesM@mwrdd.org or (312) 751-3005. For a faster response, please contact us via email during the COVID-19 restoration period in Illinois.

Very truly yours,



Jennifer Wasik
Assistant Director of Monitoring and Research
Industrial Waste Division

JW:MJD:lh
Certified No. 7021 1970 0001 3068 3738
U30996/#22-0071
cc: Mete Hachim, Finance

Kari K. Steele
President
Barbara J. McGowan
Vice President
Marcelino Garcia
Chairman of Finance
Cameron Davis
Kimberly Du Buclet
Josina Morita
Eira L. Corral Sepúlveda
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Mariyana T. Spyropoulos

Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research

November 2, 2021

Mr. Charles Talbert
Operations & Purchasing Manager
City Colleges of Chicago – Harry S Truman College
1145 West Wilson Avenue
Chicago, Illinois 60640

Dear Mr. Talbert:

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Harry S Truman College, Located at 1145 West Wilson Avenue

The District has reviewed tax records and determined that the subject facility is exempt from paying ad valorem taxes. Therefore, pursuant to Section 2 of the District's User Charge Ordinance (Ordinance), the District has classified the subject facility as a Tax-Exempt User, effective 2021.

Each year, you are required to submit the following certified documents:

1. Results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920).
2. A completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year, that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings.

Both the RD-920 and RD-925 forms are available on our website at www.mwrd.org, via Documents/Forms/User Charge Forms. Your first RD-925 is due by February 20, 2022.

Mr. Charles Talbert

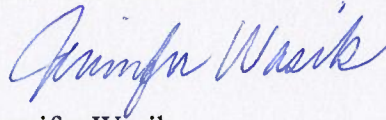
2

November 2, 2021

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Harry S Truman College, Located at 1145 West Wilson Avenue

The Ordinance is available on the District's website, at www.mwrld.org, via Documents/Rules and Ordinances. If you have any further questions or require assistance in completing your RD-925 and/or RD-920, please contact Mr. Mathew DeGutes, Environmental Specialist, at mathew.degutes@mwrld.org or 312-751-3005. For a faster response, please contact us via e-mail during the COVID-19 restoration period in Illinois.

Very truly yours,



Jennifer Wasik
Assistant Director of Monitoring and Research
Industrial Waste Division

JW:MJD:mdm
Certified No. 7018 0360 0000 0877 5327
U30879/#21-0801
cc: Hachim/Wasik/DeGutes

BOARD OF COMMISSIONERS

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Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION

111 EAST ERIE STREET CHICAGO, ILLINOIS 60611-2893 p: 312.751.3044 p: 312.751.3000

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research

October 29, 2021

Ms. Anna Morales
Auxiliary Services Director
City Colleges of Chicago – Wilbur Wright College
4300 North Narragansett Avenue
Chicago, Illinois 60634

Dear Ms. Morales:

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Wilbur Wright College, Located at 4300 North Narragansett Avenue

The District has reviewed tax records and determined that the subject facility is exempt from paying ad valorem taxes. Therefore, pursuant to Section 2 of the District's User Charge Ordinance (Ordinance), the District has classified the subject facility as a Tax-Exempt User, effective 2021.

Each year, you are required to submit the following certified documents:

1. Results of two normal consecutive calendar working days of representative composite sampling for biochemical oxygen demand (BOD) and suspended solids (SS) on the User Charge Certified Sampling Analysis Reporting Statement (RD-920).
2. A completed and certified User Charge Annual Certified Statement (RD-925), by February 20 of the following year, that provides the User Charge amount owed based on the annual wastewater flow volume and the BOD and SS loadings.

Both the RD-920 and RD-925 forms are available on our website at www.mwrd.org, via [Documents/Forms/User Charge Forms](#). Your first RD-925 is due by February 20, 2022.

Ms. Anna Morales

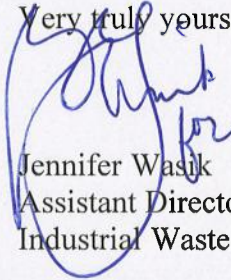
2

October 29, 2021

Subject: Tax-Exempt User Classification for City Colleges of Chicago – Wilbur
Wright College, Located at 4300 North Narragansett Avenue

The Ordinance is available on the District's website, at www.mwrdd.org, via Documents/Rules and Ordinances. If you have any further questions or require assistance in completing your RD-925 and/or RD-920, please contact Mr. Mathew DeGutes, Environmental Specialist, at mathew.degutes@mwrdd.org, or 312-751-3005. For a faster response, please contact us via e-mail during the COVID-19 restoration period in Illinois.

Very truly yours,



Jennifer Wasik
Assistant Director of Monitoring and Research
Industrial Waste Division

JW:MJD:mdm

Certified No. 7019 1640 0000 6212 6607

U30856/#21-0802

cc: Finance Billing Unit/Wasik/Degutes

Exhibit G

District's March 30, 2022 Notification to CCC Regarding April 27, 2022 Appeal Meeting

BOARD OF COMMISSIONERS

Kari K. Steele
President
Barbara J. McGowan
Vice President
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Chairman of Finance
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Josina Morita
Chakena D. Perry
Eira L. Corral Sepúlveda
Mariyana T. Spyropoulos

Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION 111 EAST ERIE STREET CHICAGO, IL 60611-2893
p: 312.751.3044 p: 312.751.3000 mwr-d-ucts@mwr-d.org

Edward W. Podczewinski, P.E.
Director of Monitoring and Research

March 30, 2022

Mr. David Anthony
Vice Chancellor, Administrative Services
City Colleges of Chicago
3901 South State Street, Room 216
Chicago, Illinois 60609

Dear Mr. Anthony

Subject: Appeal Number 22D-001 User Charge Classification for City Colleges
of Chicago

The Metropolitan Water Reclamation District of Greater Chicago (District) acknowledges receipt of your email dated March 2, 2022, regarding the subject request for an appeal.

On December 20, 2012, the Board of Commissioners of the District adopted revisions to the User Charge Ordinance (Ordinance). These revisions include clarification of the definitions for 'User,' 'Authorized Representative,' and 'Agent' used throughout the Ordinance.

In accordance with Section 9.a.(2) of the Ordinance, the Director of Monitoring and Research (Director) or his designee will respond to a User's request for an appeal and schedule a meeting, after which a final determination will be made concerning the appeal. Therefore, in response to your request, an appeal meeting has been scheduled. An Authorized Representative of your company, as defined in Section 2 of the Ordinance, is required to appear at the Industrial Waste Division, Pretreatment and Cost Recovery Section, Third Floor, 111 East Erie Street, Chicago, Illinois, on April 27, 2022, at 10:00 a.m. The Authorized Representative may be accompanied by persons familiar with the operations of the facility and the technical matters appealed. Please note that Director Appeal meetings are technical in nature and not formal hearings. Therefore, recordings and transcripts are not allowed during the appeal meeting.

If you are unable to attend the above-scheduled appeal meeting, please notify us of your inability to attend at least two business days prior to the meeting date. Only one rescheduling of the original meeting date is allowed. The rescheduled meeting must occur no later than 30 calendar days after April 27, 2022. After 30 days have elapsed, the appeal will be considered closed and the determination will be rendered in accordance with Section 9.a.(2)(g) of the Ordinance.

Subject: Appeal Number 22D-001 User Charge Classification for City Colleges
of Chicago

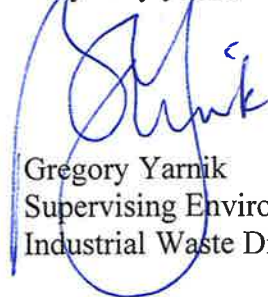
Failure to attend this appeal meeting, or to notify us of your inability to attend, may result in cancellation of this appeal. A second appeal meeting may be granted at the discretion of the Director, and if granted, must occur no later than 30 days after April 27, 2022, in addition to other requirements of Section 9.a.(2)(e) of the Ordinance.

Pursuant to Section 9.a.(2) of the Ordinance, you must submit the following:

1. All data pertinent to the appeal on which the User wishes to base the appeal so that the necessary review and evaluation can be completed prior to the meeting. This data must be submitted to the Director at least 14 calendar days prior to the scheduled appeal meeting.
2. A written, unqualified certification on forms supplied by the District that all relevant technical information, flow data or User Charge sampling data for all samples taken for the year(s) under appeal have been provided. Failure to do so shall result in rejection of the appeal by the Director. Enclosed with this letter is a blank Certification of Completeness of User Charge Data form for your use. You are required to return this form, completed and signed, prior to or at the meeting.

The Ordinance is available on the District's website at www.mwrd.org>Documents> Rules and Ordinances. If you have any questions regarding this matter and to request additional invitations, please contact Mr. Mathew DeGutes, Environmental Specialist, at (312) 751-3005 or DeGutesM@mwrd.org.

Very truly yours,



Gregory Yarnik
Supervising Environmental Specialist
Industrial Waste Division

GY:MJD:lh
Enclosure
Certified No. 7021 1970 0001 3068 2373
U30879/#22-0280

Kari K. Steele
President
Barbara J. McGowan
Vice President
Marcelino Garcia
Chairman of Finance
Cameron Davis
Kimberly Du Buclet
Josina Morita
Chakena D. Perry
Eira L. Corral Sepúlveda
Mariyana T. Spyropoulos

Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION 111 EAST ERIE STREET CHICAGO, IL 60611-2893
p: 312.751.3044 p: 312.751.3000 mwr-d-ucts@mwr-d.org

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research

CERTIFICATION OF COMPLETENESS OF USER CHARGE DATA
FURNISHED TO THE

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

I hereby certify that all relevant User-established technical data and/or laboratory analytical data (biochemical oxygen demand, suspended solids) for the year(s) have been submitted to the District.

I understand that subsequent to the furnishing of District laboratory analytical data (biochemical oxygen demand, suspended solids) to the User for the year(s) no additional User-established technical data or laboratory analytical data (biochemical oxygen demand, suspended solids) will be accepted by the District for these years.

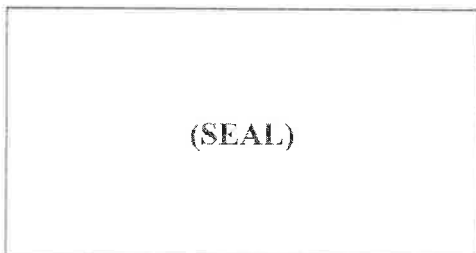
Date:
Signature: (Company Officer or Owner)
Name (Print): (Company Officer or Owner)
Title:
Company:
Address:

State of Illinois, County of Cook

This instrument was acknowledge before me on (date) by

(name of person) as (title)

of (name of party on behalf of whom instrument was executed)



(Signature of Notary Public)

- Personally Known
Produced Identification

(Identification Produced)

Exhibit H

CCC's April 13, 2022 Supplemental Correspondence to District in Support of Appeal



Ruth E. Krugly
312-471-8729
rkrugly@rshc-law.com

April 13, 2022

Via Email (mwr-d-ucts@mwr-d.org)

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research
Metropolitan Water Reclamation District of Greater Chicago
111 E. Erie Street
Chicago, Illinois 60611-2893

Re: Appeal Number 22D-001 User Charge Classification for City Colleges of Chicago

Dear Mr. Podczerwinski:

City Colleges of Chicago Community College District No. 508 (“CCC”) is in receipt of the March 30, 2022 correspondence from the Metropolitan Water Reclamation District of Greater Chicago (“District”) scheduling the appeal meeting for the above-referenced matter for April 27, 2022. The undersigned will attend the meeting as CCC’s Authorized Representative (as such term is defined in the District’s User Charge Ordinance), together with such other representatives of CCC as may be appropriate. In further response to the March 30, 2022 letter and pursuant to Section 9.a(2) of the User Charge Ordinance, CCC states as follows:

First, CCC wishes to address the District’s request that CCC submit to the District a “written, unqualified certification on forms supplied by the District that all relevant technical information, flow data or User Charge sampling data for all samples taken for the year(s) under appeal have been provided.” (See March 30, 2022 letter from the District to CCC, at page 2.) The District states that failure to submit the certification shall result in rejection of the appeal.

Although CCC understands that this request is made pursuant to Section 9.a(2) of the User Charge Ordinance, please be advised that no such information or data has been submitted to the District because that data has not, until very recently, been requested from CCC by the District. Indeed, the subject of this appeal is whether it is appropriate to impose user charges on CCC or whether it is exempt from such charges (as CCC believes). Accordingly, CCC is unable to complete the requested certification.

Second, as noted in the District’s March 30, 2022 letter, Section 9.a(2) of the User Charge Ordinance permits CCC to submit additional information to the Director of Monitoring and Research fourteen calendar days prior to the appeal meeting. Accordingly, CCC respectfully submits the supplemental information set forth below, together with the accompanying Exhibits.

1. CCC is a Unit of Local Government, Municipal Corporation and Body Politic and Corporate

The key issue in this appeal is whether CCC is a “Local Government User” or a “Tax-Exempt User” under the User Charge Ordinance. The question is important because the User Charge Ordinance provides that “Local Government Users” are not subject to the payment of User Charges. The District, however, has classified various CCC facilities as Tax-Exempt Users, which *are* subject to User Charges. (*See* User Charge Ordinance, Sections 1 and 4(e).)

In analyzing this issue, it is important to note that CCC is without question a unit of local government, municipal corporation, and body politic and corporate. The enabling statute for CCC expressly states that the “board of each community college district is a body politic and corporate.” Public Community College Act, 110 ILCS 805/3-11. Likewise, the State Officials and Employees Ethics Act defines a “governmental entity” as “a unit of local government (including a community college district) or a school district . . .” 5 ILCS 430/1-5.

Moreover, the courts interpreting the Public Community College Act have held that a community college district is a unit of local government, political subdivision, and municipal corporation. *See Board of Trustees of Community College Dist. No. 502 v. Dept. of Professional Regulation*, 363 Ill. App. 3d 190, 202 (2nd Dist. 2006) (“a community college district is a ‘unit of local government’ and therefore a ‘political subdivision . . .’”); *Swann v. William Rainey Harper College*, 2008 WL 4681950, at *7 (N.D. Ill. May 20, 2008)(same, citing *Board of Trustees Community College District No. 502*); *Hostrop v. Board of Junior College District No. 515*, 523 F.2d 569, 576 (7th Cir. 1975) (board of community college district “is a body politic and corporate” and “municipal corporation”); *American Center for Excellence in Surgical Assisting Inc. v. Community College Dist. 502*, 315 F. Supp. 3d 1044, 1054 (N.D. Ill. May 29, 2018) (community college is a governmental entity).

Thus, the question in this matter is not whether CCC is a “unit of local government,” “municipal corporation,” or “body politic and corporate” – that has already been established quite definitively by the Illinois legislature and the Illinois and federal courts. Rather, the question is whether CCC charges an “admission fee” and therefore falls outside the definition of “Local Government User” in the User Charge Ordinance (which provides that “[p]ublicly owned facilities charging an admission fee . . . are not considered Local Government Users”). (Section 1 of User Charge Ordinance, definition of “Local Government User.”)

As discussed in the appeal filed by CCC on March 2, 2022, the District appears to be equating the payment of “tuition” with the payment of “admission fees.” But as CCC noted, the two concepts are quite different: an admission fee is a fee paid for entering a place such as a theater or museum, while tuition is a fee paid to receive instruction at an educational institution. *See e.g., Forward*, 5 J. Intell. Prop. L. 252, 262, 265, *Journal of Intellectual Property Law*, Regents

Guide to Understanding Copyright and Educational Fair Use (Fall 1997)(noting the difference between tuition for classroom instruction and admission fees and concluding that [t]uition and course fees do not constitute admission fees”). In this case, although tuition is required to enroll in a class for educational instruction at CCC colleges, there is no “admission fee” required to gain entry to the facilities of any of the City Colleges. *See* 110 ILCS 805/6-2–6.4-2 (allowing community college districts to charge tuition but making no mention of the imposition of admission fees).

The following authority is submitted in further support of CCC’s position that CCC does not charge “admission fees” and accordingly should be considered a Local Government User under the User Charge Ordinance.

2. CCC Charges Tuition, not Admission Fees

The distinction between admission fees and tuition is reflected in *Resurrection Lutheran Church v. Department of Revenue*, 212 Ill. App. 3d 964 (1st Dist. 1991). There, the appellate court held that a not-for-profit organization’s use of property it leased from a church was primarily for charitable purposes and that the church was entitled to a property tax exemption, even though the organization charged *tuition fees* for the right to attend instructional dance classes, and *admission fees* for the right to attend dance concerts and performances.

The specific meaning of the term “admission fee” has been considered by the Illinois Supreme Court, which noted that “amounts paid for club seats and luxury suites are part of the ‘admission fees and other charges’ paid for the privilege of witnessing a Bears game.” *Chicago Bears Football Club v. Cook County Department of Revenue*, 2014 IL App (1st) 122892, at ¶ 33. And in *North Pole Corporation v. Village of East Dundee*, 263 Ill. App. 3d 327 (2nd Dist. 1994), the court upheld the constitutionality of a 5% tax on admission charges to an amusement park and noted that the ordinance defined “amusement” as “any theatrical, dramatic or musical performance, circus, rodeo, animal act, athletic contest, sport, or similar exhibition or activity to which an attendee participates” and for which there is an “admission fee or other charge for spectators or participants.” *Id.* at 329 (internal quotation marks omitted).

Thus, the Illinois courts recognize that the payment of tuition carries with it the right to attend a class for educational instruction, while the payment of an admission fee allows one to enter a facility, often for purposes of entertainment. Here, there is no fee imposed by CCC to enter its facilities. If one wants to take a class, however, one is required to pay tuition. MWRD’s position that the payment of tuition to attend college can be characterized as an “admission fee” simply does not comport with the judiciary’s understanding of either term or with common usage.

The common understanding of these terms is also reflected in the financing structure of community colleges in general and CCC in particular. In the context of community colleges, the courts have noted that “[p]ublic funding for community colleges under the Public Community

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College Act constitutes a complex legislative scheme whereby operating expenses of the various community colleges are to be paid from bonds, tax levies, and reimbursement from the State for student tuition and other fees.” *100 Lake, LLC v. Novak*, 2012 IL App (2d) 110708, at ¶ 13. The courts have also noted that a community college board “sets its own fiscal year and budget and selects its own basis of financing and system of accounting.” *Id.*, citing *Dusthimer v. Board of Trustees of the University of Illinois*, 368 Ill. App. 3d 159, 163 (4th Dist. 2006).

In the case of CCC, its funding base consists of various sources, including “student tuition and fees,” but these fees do not include admission fees. Specifically, CCC’s budget states that its major revenue sources include local tax revenue, other local revenue, grants, other state revenue, federal revenue, and “student tuition and fees.” (*See Exhibit 1, Excerpts from CCC’s FY2022 Final Annual Operating Budget Book, at p. 3.*) Significantly, the term “student tuition and fees” does not encompass admission fees. Rather, the term is defined as including “all student tuition and student fees assessed against students for educational and general purposes. Tuition is the amount per credit hour times the number of credit hours charged a student for taking a course at the colleges. Fees include laboratory fees, activity fees, registration fees, and similar charges not covered by tuition.” (*See Exhibit 1, at p. 13.*) Likewise, “student tuition charge” is defined as “[t]he amount of money charged to students for instructional services; tuition may be charged on a per term, per course, or per credit basis.” *Id.*

Consistent with the budget, CCC’s summary of the estimated cost of attendance shows costs for tuition, books and supplies, room and board, and transportation; there are no costs attributable to “admission fees” or any other type of fee. (*See Exhibit 2, Estimated Cost of Attending City Colleges Academic Years 2020-2021.*)

In sum, there is significant authority supporting CCC’s position that admission fees are different than tuition, and that CCC charges tuition but does *not* charge an admission fee for the privilege of attending college. Moreover, CCC is clearly a unit of local government, municipal corporation, and body politic and corporate under the Public Community College Act and applicable case law. Accordingly, CCC and its facilities fall within the definition of a Local Government User under the District’s User Charge Ordinance.

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Conclusion

For the reasons set forth above and in CCC's March 2, 2022 appeal, CCC respectfully requests that the District reconsider its determination that Richard J. Daley College, Malcolm X College, Harry S. Truman College and Wilbur Wright College are Tax-Exempt Users, and re-classify CCC and all of its facilities as Local Government Users under the User Charge Ordinance.

Respectfully submitted,

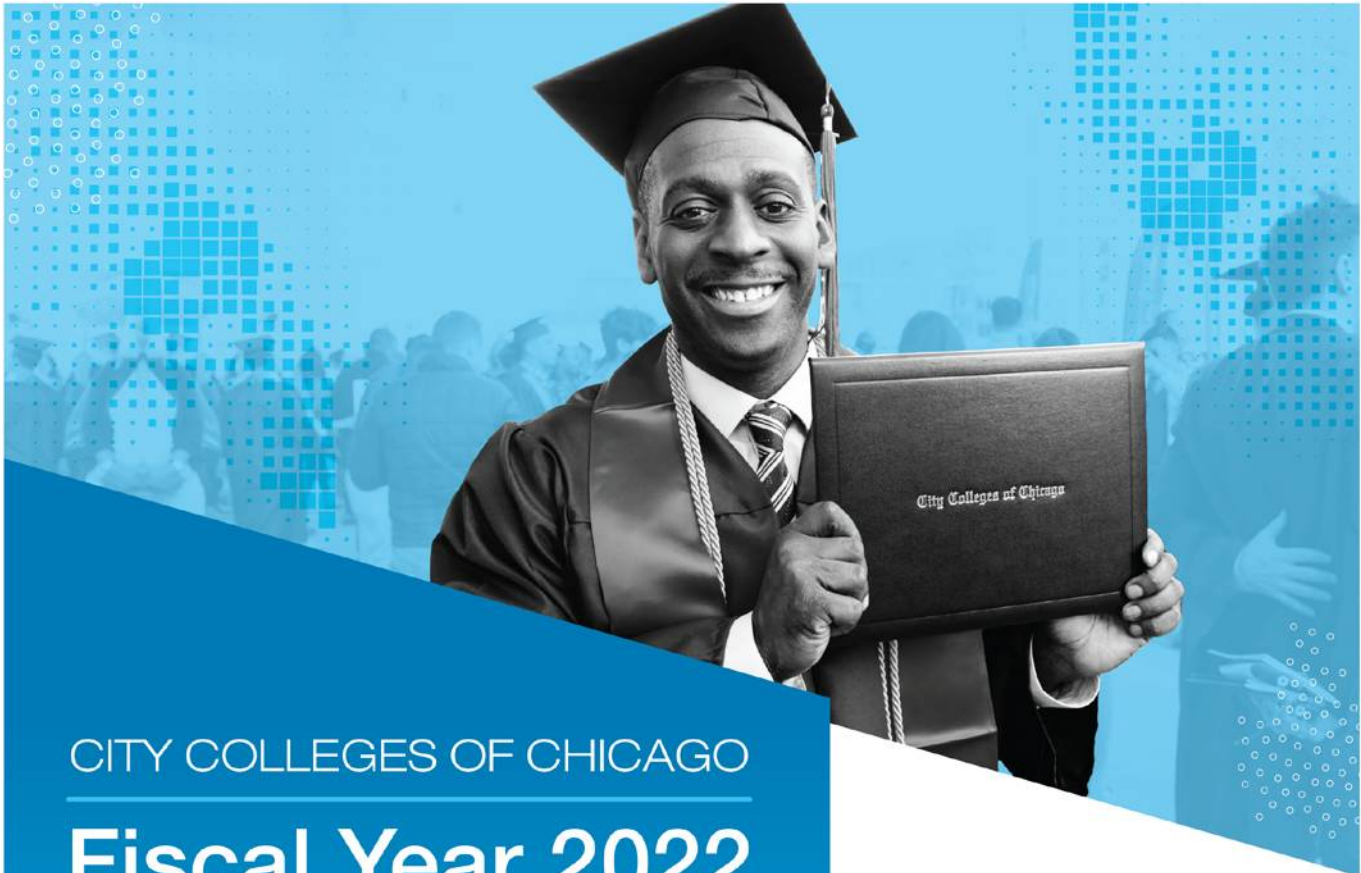
/s/ Ruth E. Krugly
Riley Safer Holmes & Cancila

On behalf of City Colleges of Chicago
Community College District No. 508

cc: Pamela Saindon

Exhibit 1

Excerpts from CCC's FY2022
Final Annual Operating Budget Book



CITY COLLEGES OF CHICAGO

Fiscal Year 2022

Annual Operating Budget

Lori E. Lightfoot
Mayor, City of Chicago

Juan Salgado
Chancellor

Walter E. Massey, Ph.D.
Chair, Board of Trustees of Community
College District No. 508

Richard J. Daley

Harold Washington

Kennedy-King

Malcolm X

Olive-Harvey

Harry S Truman

Wilbur Wright



CITY COLLEGES®
of CHICAGO

CITY COLLEGES OF CHICAGO

Community College District No. 508

REVENUES

City Colleges has a diversified funding base consisting of local property taxes, tuition and fees, state apportionment, state and federal student financial aid, and other institutionally generated revenues. The FY2022 estimated amount of resources to be appropriated for all City Colleges funds is \$468.3 million, an increase of \$56.2 million from the FY2021 budget of \$412.0 million.

The table below shows the major revenue sources of City Colleges.

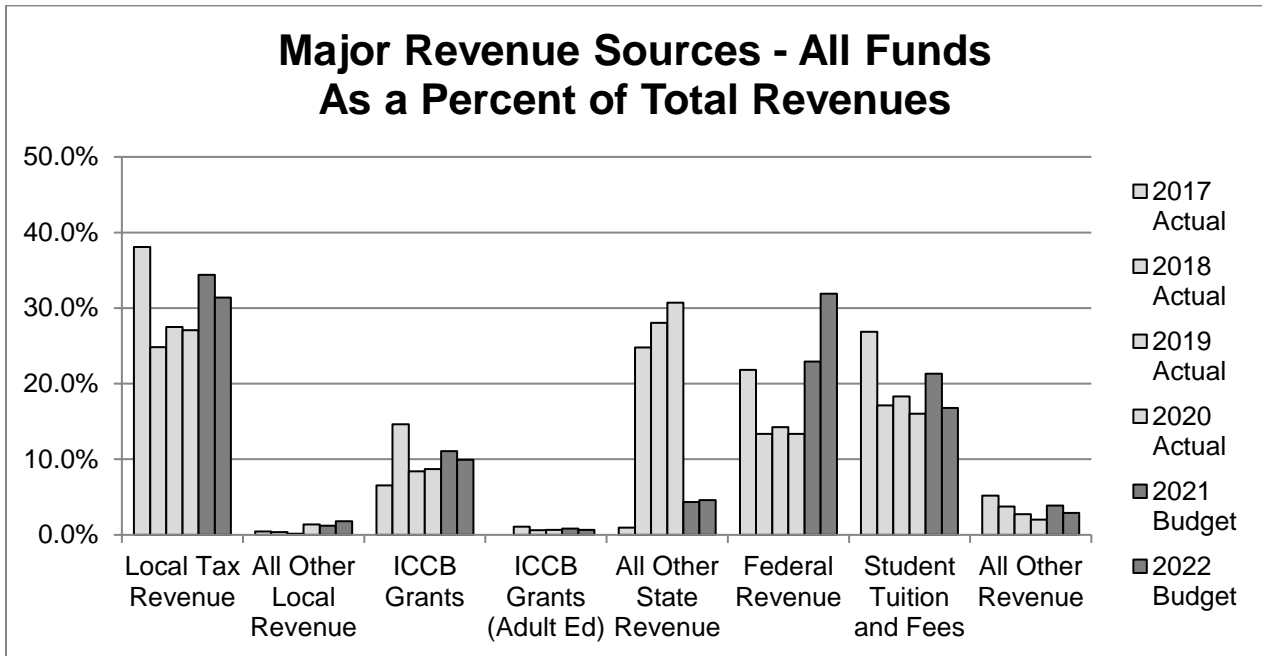
Major Revenue Sources - All Funds

| | 2017 Actual* | 2018 Actual* | 2019 Actual* | 2020 Actual* | 2021 Budget** | 2022 Budget** |
|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Local Tax Revenue | 139,686,214 | 137,489,303 | 139,038,056 | 144,946,511 | 141,747,962 | 147,054,768 |
| All Other Local Revenue | 1,653,297 | 2,057,620 | 684,934 | 7,378,002 | 5,062,068 | 8,401,439 |
| ICCB Grants | 24,017,401 | 80,891,857 | 42,470,101 | 46,646,229 | 45,621,840 | 46,481,622 |
| ICCB Grants (Adult Ed) | - | 6,069,991 | 3,164,060 | 3,648,360 | 3,464,060 | 3,164,060 |
| All Other State Revenue | 3,579,215 | 137,282,364 | 141,796,759 | 164,426,580 | 17,872,572 | 21,550,449 |
| Federal Revenue | 80,082,539 | 74,028,271 | 72,002,237 | 71,494,722 | 94,449,364 | 149,427,266 |
| Student Tuition and Fees | 98,522,610 | 94,772,150 | 92,474,467 | 85,769,183 | 87,800,000 | 78,619,750 |
| All Other Revenue | 19,060,853 | 20,735,790 | 13,785,377 | 10,806,141 | 16,023,830 | 13,562,452 |
| Total | 366,602,129 | 553,327,346 | 505,415,991 | 535,115,728 | 412,041,696 | 468,261,806 |

*Data Source: prior years CAFRs All Funds Summary, Uniform Financial Statement #1

**Budget includes Emergency GEER Grants in All Other State Revenue, FY2021 = \$3,100,000 and FY2022 = \$4,314,218

**Budget includes Emergency HEERF Grants in Federal Revenue, FY2021 = \$6,700,000 and FY2022 = \$24,532,995



CITY COLLEGES OF CHICAGO

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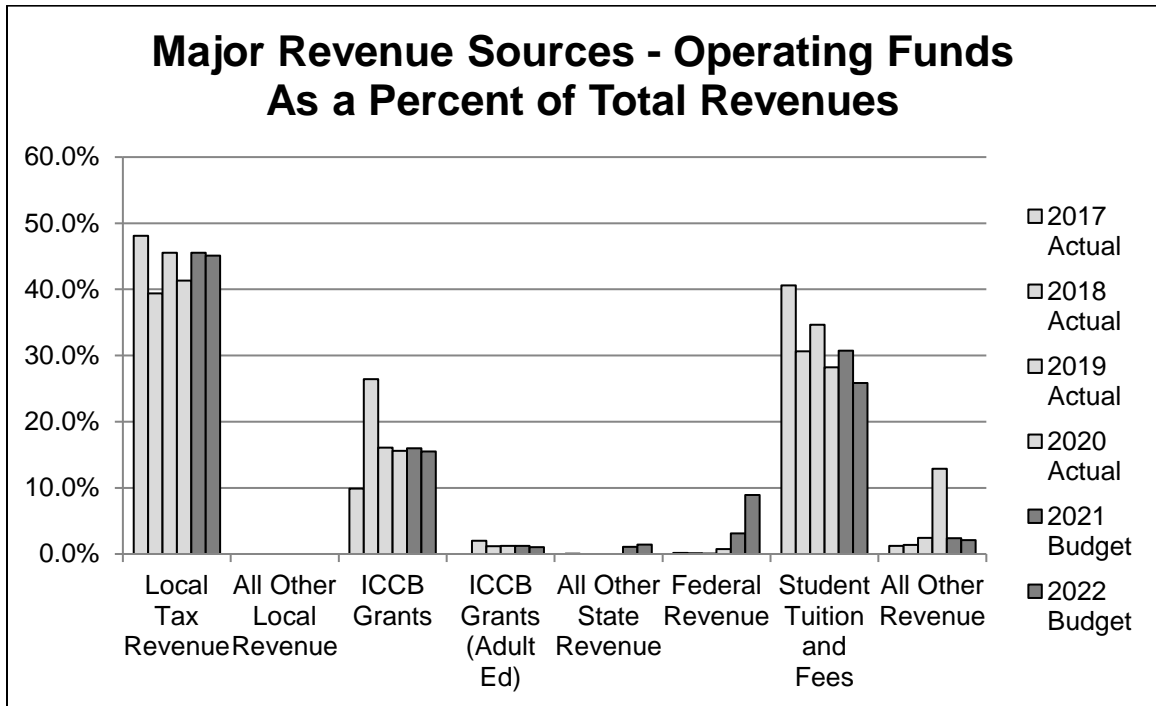
Operating Funds include the Education Fund, Operations and Maintenance Fund, Audit Fund, and Liability, Protection & Settlement Fund. The FY2022 Operating Funds revenue budget is \$300.2 million, an increase of \$14.3 million or 5.0% from the \$285.8 million budgeted in FY2021.

Major Revenue Sources - Operating Funds Includes Education, O&M, Liability, and Audit Funds

| | 2017 Actual* | 2018 Actual* | 2019 Actual* | 2020 Actual* | 2021 Budget** | 2022 Budget** |
|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Local Tax Revenue | 116,637,156 | 120,600,971 | 120,486,350 | 124,433,705 | 130,115,994 | 135,422,800 |
| All Other Local Revenue | - | - | - | - | - | - |
| ICCB Grants | 24,017,401 | 80,891,857 | 42,470,101 | 46,990,199 | 45,621,840 | 46,481,622 |
| ICCB Grants (Adult Ed) | - | 6,069,991 | 3,164,060 | 3,648,360 | 3,464,060 | 3,164,060 |
| All Other State Revenue | 2,314 | - | - | - | 3,100,000 | 4,314,218 |
| Federal Revenue | 402,859 | 343,034 | 226,647 | 2,257,185 | 8,900,000 | 26,776,995 |
| Student Tuition and Fees | 98,522,610 | 93,788,219 | 91,725,295 | 85,051,433 | 87,800,000 | 77,616,420 |
| All Other Revenue | 2,962,259 | 4,265,258 | 6,441,233 | 38,835,968 | 6,800,000 | 6,350,000 |
| Total | 242,544,599 | 305,959,330 | 264,513,686 | 301,216,850 | 285,801,894 | 300,126,115 |

*Data Source: prior years CAFRs All Funds Summary, Uniform Financial Statement #1

**Budget includes Emergency HEERF Grants in Federal Revenue, FY2021 = \$6,700,000 and FY2022 = \$24,532,995

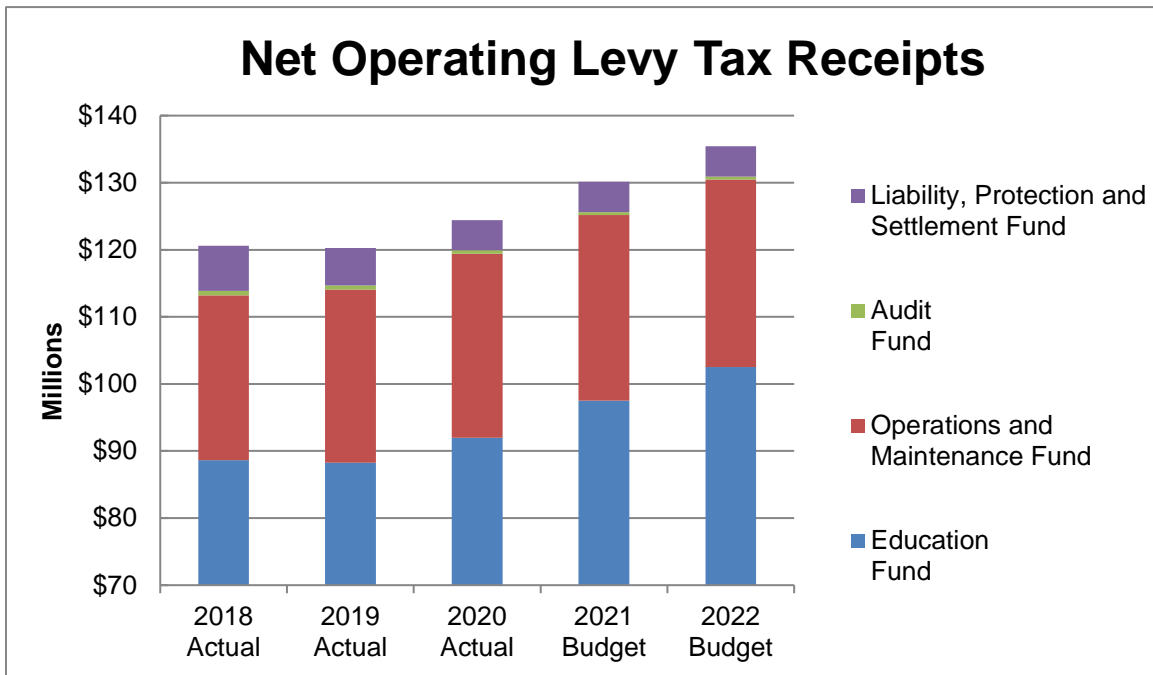


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Property Taxes: Property taxes are levied each calendar year on all taxable real property located in the City of Chicago and a small section of DuPage County. Property taxes currently provide 44.1% of unrestricted operating funds for City Colleges. The maximum tax levy allowable for the Education Fund is \$0.175 per \$100 of equalized assessed value (EAV); for the Audit Fund, \$0.005; and for the Operation and Maintenance Fund, \$0.05. The property tax rate for the Liability, Protection and Settlement Fund is not limited by statute, but is subject to the overall PTELL tax cap.

The Property Tax Extension Limitation Law (PTELL) imposed by Illinois Public Act 89-1 limits the annual growth in total property tax extensions to 5% or the percentage increase in the Consumer Price Index (CPI), whichever is less. The property tax cap restricts the annual growth in property tax revenues.



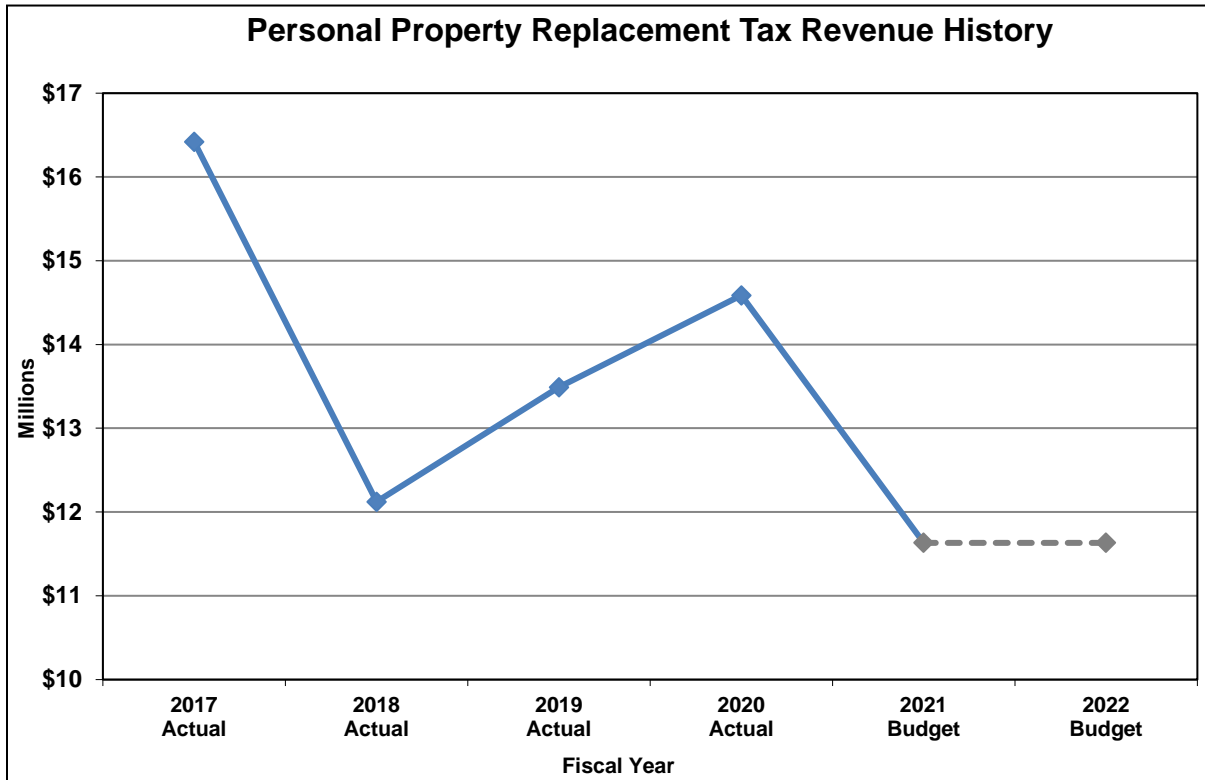
Property tax revenues included in the FY2022 budget are equal to half each of the 2020 and 2021 levies (collected in calendar years 2021 and 2022, respectively), and are net of loss and cost of collection and refunds of back taxes. Tentative FY2022 property tax revenue allocations are:

| Fund | Tentative Allocation |
|---------------------------------------------|------------------------|
| Education Fund: | \$95.4 million |
| Operations and Maintenance Fund: | 27.9 million |
| Liability, Protection, and Settlement Fund: | 4.5 million |
| Audit Fund: | 0.4 million |
| Total | \$128.3 million |

The gross property tax levy for calendar 2020 is \$135.1 million and the proposed 2021 levy is \$137.0 million. The gross revenue is reduced by 5.7% to allow for loss and cost of collections and back tax refunds, yielding net property tax revenue of \$135.4 million, which includes an annual estimated \$7.1 million TIF surplus. The annual changes to the local tax levy are from the addition of new taxable property to City Colleges' tax roll and CPI increasing 1.4%.

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Personal Property Replacement Taxes: The Personal Property Replacement Tax (PPRT) is a state income tax on corporations and partnerships and a tax on utilities' invested capital. PPRT replaces revenues lost by local taxing authorities when their capacity to levy corporate personal property taxes was abolished by the new Illinois Constitution. The State administers PPRT collections on behalf of local governments.

The State collects and distributes the revenue to local taxing districts. Taxing districts in Cook County receive 51.7% of collections, which is divided among the County's taxing bodies based on each entity's share of personal property tax collections in 1976. City Colleges receives 1.95% of the total Cook County share, which is equivalent to 1.01% of the statewide total collection.

City College's estimated FY2022 PPRT revenue of \$11.6 million is allocated in full to the Bond and Interest Fund based on its pledge of this revenue source for debt service payments in future fiscal years. In its financial forecast, City Colleges conservatively anticipates a decline in PPRT revenues, which can be volatile due to economic factors.

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Tuition: Student tuition makes up approximately 24.3% of total budgeted FY2022 Unrestricted Fund revenues. These charges may be paid by the student, a relative, an employer, financial aid, a grant, or some other source. A student who drops a course before the end of the refund period may be entitled to a refund of the tuition.

| Tuition Schedule | | | | |
|-------------------------|---------------------------------------------|--------------------------------|-----------------------------|------------------------|
| Fiscal Year | In District Tuition per Semester Hr. | Out of District Charges | Out of State Charges | Tuition Revenue |
| 2015 | \$89.00 | \$173.56 | \$230.35 | \$99,573,913 |
| 2016 | \$1,069 PT / \$1,753 FT* | \$3,159 PT/ \$4,603 FT | \$4,149 PT / \$5,953 FT | \$105,004,181 |
| 2017 | \$1,069 PT / \$1,753 FT* | \$3,159 PT/ \$4,603 FT | \$4,149 PT / \$5,953 FT | \$99,657,550 |
| 2018 | \$1,069 PT / \$1,753 FT* | \$3,159 PT/ \$4,603 FT | \$4,149 PT / \$5,953 FT | \$94,674,700 |
| 2019 | \$146.00 | \$384.00 | \$481.00 | \$92,474,466 |
| 2020 | \$146.00 | \$384.00 | \$481.00 | \$85,769,183 |
| 2021** | \$146.00 | \$384.00 | \$481.00 | \$79,000,000 |
| 2022** | \$146.00 | \$384.00 | \$481.00 | \$77,616,420 |

*Under the flat-rate structure, students paid one price for part-time and one price for full-time.

**2022 amounts are budgeted and 2021 amounts are forecasted estimates based on current actuals.

Other Revenues: Investment income, fundraising and other revenues for FY2022 are budgeted at \$6.3 million in the operating funds. The net \$0.5 million decrease from FY2021 results from lowering \$0.8 million of projected investment income and increasing \$0.3 million of facilities rental revenue resulting from planned facility openings.

State Revenues – Unrestricted Grants: City Colleges receives unrestricted state grants (base operating grant, equalization replacement grant, etc.) from the ICCB. FY2022 ICCB unrestricted grants to City Colleges are budgeted at \$46.5 million. ICCB provided \$3.1 million in FY2021 State Emergency GEER Grant supplemental funding budgeted in unrestricted (\$3.9 million total), which is anticipated to be funded at \$4.3 million in FY2022.

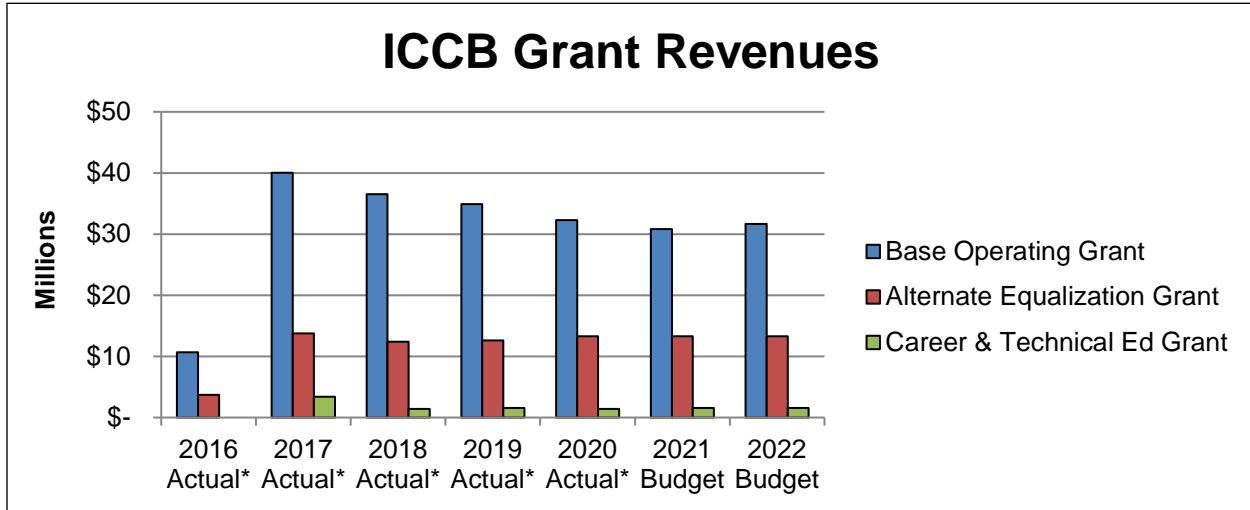
| | 2017 Actual* | 2018 Actual* | 2019 Actual* | 2020 Actual* | 2021 Budget** | 2022 Budget |
|------------------------------|-------------------------|-------------------------|-------------------------|-------------------------|--------------------------|------------------------|
| Base Operating Grant | 40,023,397 | 36,504,440 | 34,932,194 | 32,272,709 | 30,813,040 | 31,672,822 |
| Alternate Equalization Grant | 13,762,200 | 12,386,000 | 12,633,696 | 13,265,400 | 13,265,400 | 13,265,400 |
| Career & Technical Ed Grant | 3,390,127 | 1,398,642 | 1,552,000 | 1,408,120 | 1,543,400 | 1,543,400 |
| Total | 57,175,724 | 50,289,082 | 49,117,890 | 46,946,229 | 45,621,840 | 46,481,622 |

* per iccb.org

** Final State base allocation in FY2021 was \$32,686,997

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Base Operating Grant: The ICCB computes and awards this grant based on eligible credit hours produced two years prior to the funded year.

Alternative Equalization Grant: This grant was intended to promote fairness in the distribution of State appropriations by recognizing differences in the assessed value of taxable property across community college districts. By FY2004, tax caps were preventing City Colleges from taxing up to the full property value within its district boundaries. The equalization formula is based upon property values (ignoring tax caps), leading City Colleges equalization grant to drop from more than \$16 million in FY2002 to \$50,000 in FY2005 and \$0 thereafter.

| | FY2003 - 2004 | FY2005 - 2012 | FY2013 - 2017 | FY2018 - 2019 | FY2020- 2021 |
|----------------------------------|----------------|----------------|----------------|----------------|----------------|
| Equalization Fund: | | | | | |
| City Colleges (average amount) | \$5.7 million | \$0 | \$0 | \$0 | \$0 |
| Total Equalization Appropriation | \$76.6 million | \$76.9 million | \$75.3 million | \$66.5 million | \$71.2 million |
| City Colleges as a % of total | 7.40% | 0% | 0% | 0% | 0% |

Recognizing that the equalization formula no longer functioned as intended and that it was having a disproportionately negative effect on City Colleges, the ICCB convened a statewide taskforce to review the formula and develop recommendations for revising it. After two years of deliberations, the task force published its recommendations in 2005. In lieu of revising the grant formula at that time, the state included \$15 million in ICCB’s FY2005 budget specifically to replace the \$16 million in equalization funding that City Colleges’ lost after FY2002. Each year between FY2006 and FY2012, the State renewed the grant for \$15.0 million. Since then, the alternate equalization grant has been reduced proportionately along with other reductions in funding from the Illinois Community College Board. In FY2022, City Colleges is anticipating an alternate equalization grant of \$13.3 million.

Career and Technical Education Grant: Recognizes that keeping career and technical programs current and reflective of the highest quality practices in the workplace is necessary to prepare students to be successful in their chosen careers and to provide employers with the well-trained workforce they require. The grant funds are dedicated to enhancing instruction and academic support activities to

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strengthen and improve career and technical programs and services. The grant is based on CTE credit hours taught in a previous year.

Adult Education: Adult education expenses that ultimately will be charged to restricted grants are included with the unrestricted operating funds to ensure that 100% of the cost of instructional programming is considered when evaluating City Colleges’ annual operating budget.

HIGHER EDUCATION EMERGENCY RELIEF FUNDS

City Colleges received federal stimulus funds which have helped provide direct support to students and stabilize the organization through the challenging financial environment resulting from the COVID-19 pandemic. The Higher Education Emergency Relief Funds (HEERF) were received from the following federal legislation; Coronavirus Aid, Relief, and Economic Security Act (CARES Act – “HEERF I”), Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA – “HEERF II”), and American Rescue Plan (ARP – “HEERF III”).

The HEERF funds are issued as direct aid to students and to support institutions of higher education to ensure learning continues during the COVID-19 pandemic. The Institutional funds were appropriated for costs of disruption due to the pandemic, to setup the infrastructure to transition to remote learning, and to cover for lost revenue.

HEERF allows institutions to cover for lost revenue, technology costs to transition to remote learning, purchase of personal protective equipment (PPE) and cleaning supplies costs needed to persist through the pandemic and to protect the safety of the CCC community. Additionally, City Colleges will focus on strategic investments in order to support college strategic plans for the continued health of the organization. Below is a summary of CCC’s HEERF allocations.

Higher Education Emergency Relief Funding or "HEERF"

| Bill | Date signed & status | Provides | Student grants | Institutional funds | Total allocation |
|----------------------------------|-------------------------------------------|-----------------------------------------------------------------------------------|----------------|---------------------|------------------|
| HEERF I – CARES Act | March 27, 2020 Funds received and used | Support costs of remote learning and student grants for housing, food, technology | \$12.7M | \$12.7M | \$25.452M |
| HEERF II – CRRSAA | December 27, 2020 Funds awarded | Support for learning continuity | \$12.7M | \$40.5M | \$53.2M |
| HEERF III – American Rescue Plan | March 11, 2021 Funds awarded | Additional COVID relief | \$46.9M | \$46.3M | \$93.2M |

- HEERF I funds were disbursed and expended between FY2020 and FY2021.
- HEERF II funds are being used between FY2021 and FY2022, with a \$16M operating impact in FY2021 and a \$24.5M operating impact in the FY2022 Budget.
- HEERF III funds will be used between FY2022 and FY2023. There is no operating impact of HEERF III on the FY2022 Budget.

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RESTRICTED PURPOSE REVENUE - GRANTS

City Colleges receives restricted operating grants for specified purposes from federal, state, local, and private agencies. These grants are accounted for in the Restricted Purposes Fund. The ICCB distributes many of these grants. Additionally, City Colleges serves as a pass-through agent for federal student aid. Each restricted grant must be accounted for separately, and care must be taken to establish each group of self-balancing accounts so that the accounting and reporting requirements for the grants are met.

In FY2022, City Colleges anticipates receiving a total of \$148.3 million of restricted grants in addition to \$8.4 million of Adult Education grants reported as part of the \$300.2 million of Unrestricted operating fund in the “FY2022 All Funds by Fund Type Resources Available” table on page 5. This amount is broken down as follows: \$45.4 million in Federal HEERF Funding (\$25.2MM in Student Aid funding and \$20.2 million in Institutional funding) (See detailed HEERF summary on previous page), \$73.2 million for student financial aid and \$33.4 million in funded grants, including \$14.5 million in federal grants (\$3.3 million Adult Education), \$7.0 million in state grants (\$5.1 million Adult Education), and \$6.8 million in local and non-governmental sources. In addition, City Colleges has included \$4.7 million in grant proposals which have been submitted for FY2022 with results still pending.

The federal government awards student financial aid primarily through the following grants: Pell, Supplemental Educational Opportunity Grant (SEOG), and Work Study. City Colleges expects to process a total of \$64.5 million of federal aid awards in FY2022; \$55.3 million from Pell grants, \$1.8 million from SEOG, and \$1.7 million from Work Study grants. City Colleges is projected to disburse \$5.8 million in subsidized and unsubsidized title IV federal student loans.

The State government awards City Colleges \$8.5 million in financial aid through the MAP. This funding is awarded to eligible students to help cover tuition and fees.

The following is a brief description of major restricted grants from state and federal agencies.

Adult Education – Bridge Program: This grant provides ongoing, high quality professional development for Bridge Students. These sessions include sharing out best practices in recruitment strategies; coaching students and academic advising; and synthesizing data and accessing student records to track and better understand our students’ needs. The Bridge grant also supports Chicago’s economy, developing neighborhoods, and transitioning students from adult education into college credit classes and career pathways. Reading, writing and math lessons are contextualized to the participant’s chosen career sector. City Colleges is budgeted to receive \$347,079 in FY2022.

Adult Education – State Basic: This grant from the state helps establish special classes for the instruction of persons age 21 and over or persons under the age of 21 and not otherwise in attendance in a public school. The instruction is necessary to increase qualifications for employment or other means of self-support and to meet the responsibilities of citizenship. Included in this grant are funds for support services, such as student transportation and child care. City Colleges expects to receive \$2.1 million in FY2022.

Adult Education – State Performance: This grant is awarded based on performance outcomes using three factors: (1) secondary completions–high school and GED completions, (2) level gains–test level gains, as well as citizenship and vocational gains, and (3) test point gains–from the TABE, CELSA, BEST, and BEST+ tests. Previous to the changes recommended by the Adult Education Funding Study Task Force, public aid reductions and persistence (which is related to attendance) were also included. Only the performance outcomes of students who are supported with grant funds are used in

Richard J. Daley | Harold Washington | Kennedy-King | Malcolm X | Olive-Harvey | Harry S Truman | Wilbur Wright

CITY COLLEGES OF CHICAGO

Community College District No. 508

the calculation: performance outcomes of students who are supported with State credit hour reimbursements (included in the ICCB unrestricted base operating grant) are not. City Colleges expects funding of \$1.2 million for FY2022.

Adult Education – Federal Basic: This grant provides funds for Adult Education and Family Literacy providers to assist adults in becoming literate and obtaining the knowledge and skills necessary for employment and self-sufficiency; to assist adults who are parents in obtaining the educational skills necessary to become full partners in the educational development of their children; and to assist adults in completing a secondary school education. City Colleges expects to receive funding of \$1.5 million in FY2022.

Government Emergency Education Relief (GEER): Recognizing the financial and direct student service impact resulting from the COVID 19 pandemic, the State of Illinois, through ICCB, provided \$3.9 million in FY2021 funding for direct Student-Focused Institutional Support for “Student Services that promote a student’s emotional and physical well-being outside the context of the formal instructional program”. Funded activities related to personnel, payroll, security, environmental health & safety, and administrative offices support to these student activities. This grant is expected to be renewed for an additional \$4.3 million in FY2022 (as referenced in the “State Revenues – Unrestricted Grants” section above).

Perkins Post-Secondary – Federal: Signed into law on October 31, 1998, the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III) sets out a new vision of vocational and technical education for the 21st century. The primary goals of this vision are improving student achievement and preparing students for postsecondary education, further learning, and careers. City Colleges is anticipating an award of \$1.2 million from the Perkins Act in FY2022.

Predominantly Black Institutions (PBI) Pipeline to Careers in Healthcare – Federal: Malcolm X College receives funding from DOE to increase the number of African-American males enrolled in and successfully graduating from a health science program. The program is also designed to improve teacher effectiveness in math and science courses at the secondary, high school, and college levels. Finally, the program will implement a six –week summer healthcare education program to help African-American high school students gain an understanding and admission to healthcare programs such as nursing, surgical technology, and EMT. The Pipeline to Careers in Healthcare Grant is a six-year project that began October 1, 2015 and runs through September 30, 2021. City Colleges is budgeted to receive \$1.1 million in FY2022.

Student Support Services (TRIO) – Federal: Harold Washington, Malcolm X and Truman College receive funding from the DOE which provides opportunities for academic development, assists students with basic college requirements, and serves to motivate students toward the successful completion of their postsecondary education. The Student Support Services grant is a five-year project that began September 1, 2020 and runs through August 31, 2025. City Colleges is budgeted to receive \$1.3 million in FY2022.

Talent Search Project (TRIO) – Federal: Kennedy-King College receives funding from the DOE to provide academic, career, and financial counseling to students as well as encourage them to graduate from high school and continue on to and complete their postsecondary education. The Talent Search Program is a five-year project that renewed September 1, 2016 and runs through August 31, 2021. City Colleges is budgeted to receive \$650,868 in FY2022.

CITY COLLEGES OF CHICAGO

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Youth Connection Charter School – Local: The Youth Connection Charter Schools purpose it to provide world-class education to at-risk students and high school dropouts at the Truman and Olive-Harvey Middle Schools. The programs are committed to academic excellence, student development, cultural enrichment, and social equity. The programs prepare students for quality life experiences, technological literacy, graduation, vocational and postsecondary education and competitive employment. City Colleges is budgeted to receive \$2.4 million in FY2022.

CITY COLLEGES OF CHICAGO

Community College District No. 508

appropriations or expenses.

RESTRICTED PURPOSES FUND (Restricted Fund): Used for the purpose of accounting for monies that have restrictions regarding their use. Each specific project should be accounted for separately using a complete group of self-balancing accounts within the fund.

REVENUES: Additions to assets which do not increase any liability, do not represent the recovery of expenditure, or do not represent the cancellation of certain liabilities without a corresponding increase in other liabilities or a decrease in assets.

SALARIES: Salaries are monies paid to employees of the Colleges for personal services rendered to City Colleges. Full-time, Part-time, and temporary employees, whether administrators, faculty, or staff are paid wages or salaries.

SALES AND SERVICE FEES: Includes all fees and charges for auxiliary enterprise sales; admissions charges; all sales and service charges; contract payment revenues for materials or services from private persons, firms or other nongovernmental entities; and revenue received for providing customized training courses or workshops.

STATE REVENUES: Include all revenues received from all state governmental agencies.

STUDENT CHARGEBACK: A student of a given community college district attending a community college other than one in his home district to pursue a curriculum not offered in the college of his home district and for which the given home community college district pays the college which the student is attending a chargeback. Also included are students whose residence is within a territory not served by a community college. The home community college pays the college which the student attends a chargeback at the rate established in the chargeback calculations for each college.

STUDENT, FULL-TIME EQUIVALENT: The statistical student unit calculated by dividing all credit hours (both certificate and degree) generated at the college by 15 credit hours for any term. To determine the annual FTE student, divide all credit hours for that year by 30 semester hours for colleges on the semester system.

STUDENT SERVICES: Include those activities which provide assistance to students in the areas of financial aid, admissions and records, health, placement testing, counseling and student activities.

STUDENT TUITION CHARGE: The amount of money charged to students for instructional services; tuition may be charged on a per term, per course, or per credit basis.

STUDENT TUITION AND FEES: Includes all student tuition and student fees assessed against students for educational and general purposes. Tuition is the amount per credit hour times the number of credit hours charged a student for taking a course at the colleges. Fees include laboratory fees, activity fees, registration fees, and similar charges not covered by tuition.

SUBOBJECT: A level or reporting more detailed than object level reporting.

SUBPROGRAM: A stratum of the program classification structure hierarchy. A subprogram is an aggregation level that structures program categories into subsets of the major missions of the institution.

SURPLUS: An excess of revenues over expenses.

Exhibit 2

Estimated Cost of Attending City Colleges Academic Years 2020-2021



**Estimated Cost of
Attending Academic Years
2020-2021**

Dependent Students

Estimated Annual Costs*

| Cost Category | Total |
|----------------------|------------------------|
| In district Tuition | \$3,504 |
| Books & Supplies | \$1,536 |
| Room & Board | \$3,520 |
| Transportation | \$1,504 |
| | <u>\$10,064</u> |

Independent Students

Estimated Annual Costs*

| Cost Category | Total |
|----------------------|------------------------|
| In district Tuition | \$3,504 |
| Books & Supplies | \$1,536 |
| Room & Board | \$8,128 |
| Transportation | \$1,504 |
| | <u>\$14,672</u> |

*These figures are based on in-district enrollment of 12 credit hours per term (Fall and Spring) for a student who is not in a signature program. Please visit your Financial Aid Office for details on the cost of your college's signature programs.

**These items are not charged by the college. Rather, they are an estimate of what it costs to live in the City of Chicago and to attend school full-time.

Exhibit I

CCC's Certification of Completeness of User Charge Data Furnished to the District

BOARD OF COMMISSIONERS

- Kari K. Steele
President
- Barbara J. McGowan
Vice President
- Marcelino Garcia
Chairman of Finance
- Cameron Davis
- Kimberly Du Buclet
- Josina Morita
- Chakena D. Perry
- Eira L. Corral Sepúlveda
- Mariyana T. Spyropoulos

Metropolitan Water Reclamation District of Greater Chicago

INDUSTRIAL WASTE DIVISION 111 EAST ERIE STREET CHICAGO, IL 60611-2893
p: 312.751.3044 p: 312.751.3000 mwr-d-ucts@mwr-d.org

Edward W. Podczerwinski, P.E.
Director of Monitoring and Research

CERTIFICATION OF COMPLETENESS OF USER CHARGE DATA FURNISHED TO THE

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

I certify that all relevant User-established technical data and/or laboratory analytical data (biochemical oxygen demand and suspended solids) for the year(s) _____ have been submitted to the District.

I understand that subsequent to _____ District laboratory analytical data (biochemical oxygen demand and suspended solids) to the User for _____ no additional _____ technical data or laboratory analytical data (biochemical oxygen demand and suspended solids) will be accepted by the District for these years.

For the reasons set forth by the City Colleges of Chicago in its letter to the District dated April 13, 2022, the types of data described have not been submitted to the District.

Date: April 26, 2022

Signature: *Karla Mitchell Gowen*
(Company Officer or Owner)

Name (Print): Karla Mitchell Gowen
(Company Officer or Owner)

Title: General Counsel

Company: City Colleges of Chicago Community College District #508

Address: 180 N Wabash Avenue, Suite 200, Chicago, IL 60601

State of Illinois, County of Cook

This instrument was acknowledge before me on April 26, 2022 by _____

Karla Mitchell Gowen (name of person) as General Counsel (title)
of City Colleges of Chicago (name of party on behalf of whom instrument was executed)



Maria D. Salinas
(Signature of Notary Public)

- Personally Known
- Produced Identification

(Identification Produced)

Exhibit J

April 27, 2022 Email Communications between CCC and the District
Regarding Abeyance of Cease and Desist Administrative Charge

From: Saindon, Pamela <SaindonP@mwrld.org>
Sent: Wednesday, April 27, 2022 3:32 PM
To: Ruth Krugly <RKrugly@rshc-law.com>
Subject: RE: [EXTERNAL EMAIL] FW: Cease & Desist Administrative Charge Abeyance

Hi Ruth, it was nice meeting you too. The charge is currently being held in abeyance per the discussion with M&R staff this morning.

Pam

From: Ruth Krugly <RKrugly@rshc-law.com>
Sent: Wednesday, April 27, 2022 3:09 PM
To: Saindon, Pamela <SaindonP@mwrld.org>
Subject: FW: [EXTERNAL EMAIL] FW: Cease & Desist Administrative Charge Abeyance

Hi Pamela,

It was good talking with and meeting you in person this morning. Thank you again for taking the time to do so.

David Anthony received the email below from Mathew Degutes confirming that no additional charges will be incurred from the Cease & Desist administrative charge during the appeal process. Can you clarify the status of the current \$843 NCE charge that has been assessed against City Colleges of Chicago? Specifically, will MWRD agree to waive or suspend the charge, pending the final outcome of the appeal?

Thank you very much, Pamela.
Ruth

Ruth E. Krugly
Riley Safer Holmes & Cancila LLP
70 W. Madison Street, Suite 2900
Chicago, Illinois 60602
(312) 471-8729
rkrugly@rshc-law.com
www.rshc-law.com



From: Degutes, Mathew <DeGutesM@mwrld.org>
Sent: Wednesday, April 27, 2022 1:42 PM
To: David Anthony <danthony17@ccc.edu>
Cc: Yarnik, Gregory <YarnikG@mwrld.org>
Subject: Cease & Desist Administrative Charge Abeyance

*****This message is from an external sender. Please do not open unexpected links or attachments.*****

Hello Mr. Anthony,

I spoke with Finance after our meeting and have made sure that no additional charges will be incurred from the Cease & Desist administrative charge that was discussed in our meeting today during the appeal process. If you have any questions or concerns regarding this matter please respond with them.

Mathew DeGutes

Environmental Specialist

MWRDGC | Industrial Waste Division

111 E. Erie St., 7th Floor

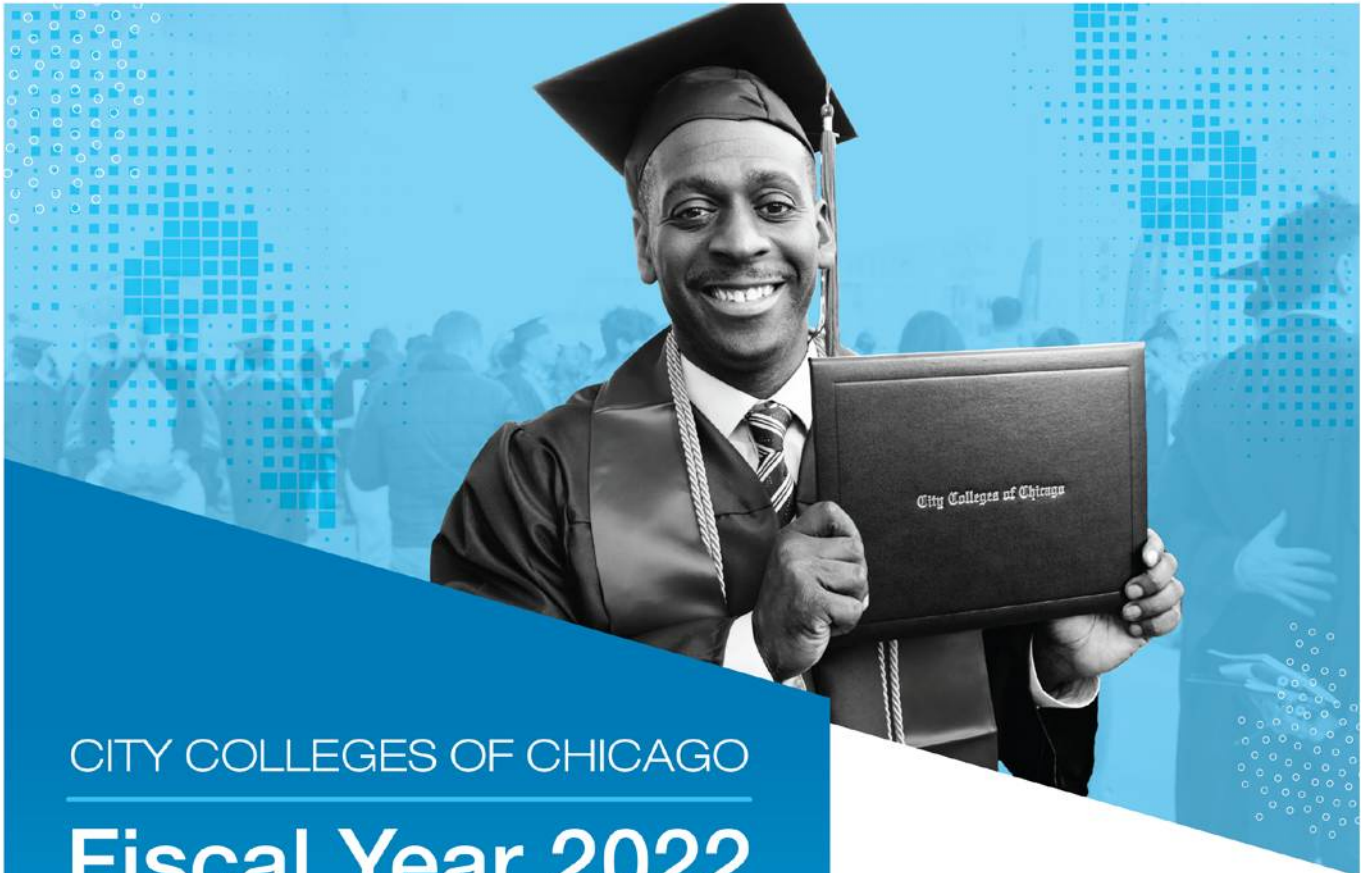
Chicago, IL 60611

312.751.3005

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Exhibit K

Excerpts from CCC's FY 2022 Final Annual Operating Budget Book



CITY COLLEGES OF CHICAGO

Fiscal Year 2022

Annual Operating Budget

Lori E. Lightfoot
Mayor, City of Chicago

Juan Salgado
Chancellor

Walter E. Massey, Ph.D.
Chair, Board of Trustees of Community
College District No. 508

Richard J. Daley

Harold Washington

Kennedy-King

Malcolm X

Olive-Harvey

Harry S Truman

Wilbur Wright



CITY COLLEGES®
of CHICAGO

CITY COLLEGES OF CHICAGO

Community College District No. 508

REVENUES

City Colleges has a diversified funding base consisting of local property taxes, tuition and fees, state apportionment, state and federal student financial aid, and other institutionally generated revenues. The FY2022 estimated amount of resources to be appropriated for all City Colleges funds is \$468.3 million, an increase of \$56.2 million from the FY2021 budget of \$412.0 million.

The table below shows the major revenue sources of City Colleges.

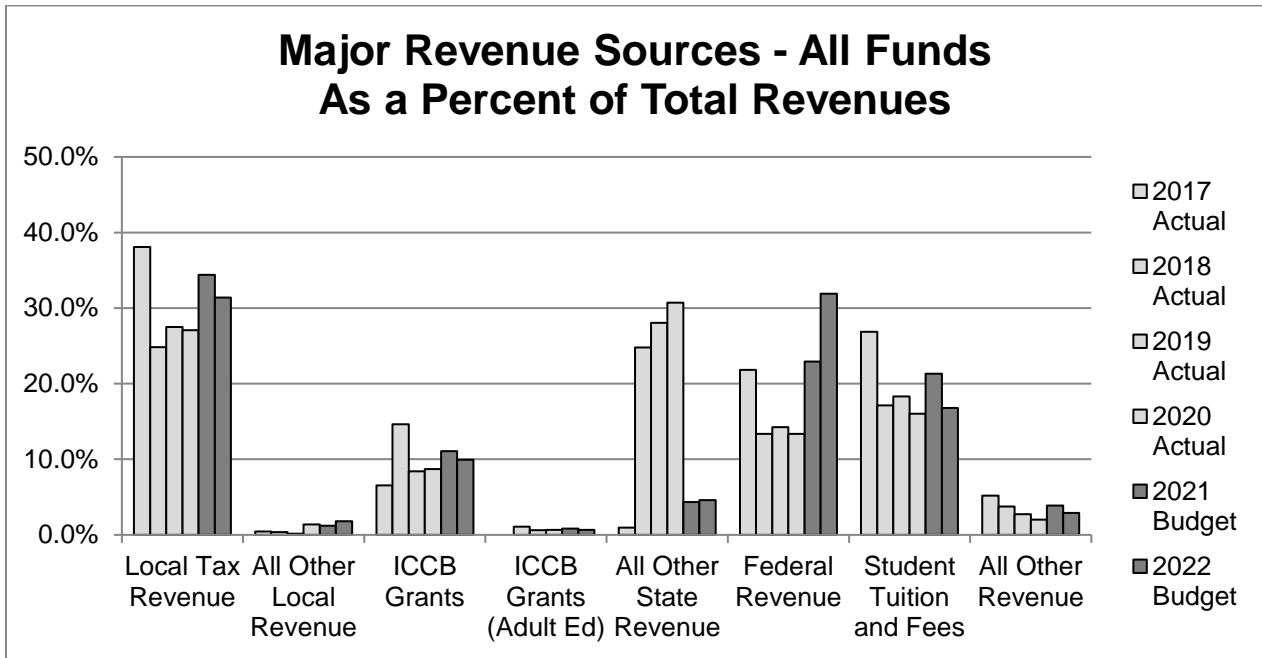
Major Revenue Sources - All Funds

| | 2017 Actual* | 2018 Actual* | 2019 Actual* | 2020 Actual* | 2021 Budget** | 2022 Budget** |
|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Local Tax Revenue | 139,686,214 | 137,489,303 | 139,038,056 | 144,946,511 | 141,747,962 | 147,054,768 |
| All Other Local Revenue | 1,653,297 | 2,057,620 | 684,934 | 7,378,002 | 5,062,068 | 8,401,439 |
| ICCB Grants | 24,017,401 | 80,891,857 | 42,470,101 | 46,646,229 | 45,621,840 | 46,481,622 |
| ICCB Grants (Adult Ed) | - | 6,069,991 | 3,164,060 | 3,648,360 | 3,464,060 | 3,164,060 |
| All Other State Revenue | 3,579,215 | 137,282,364 | 141,796,759 | 164,426,580 | 17,872,572 | 21,550,449 |
| Federal Revenue | 80,082,539 | 74,028,271 | 72,002,237 | 71,494,722 | 94,449,364 | 149,427,266 |
| Student Tuition and Fees | 98,522,610 | 94,772,150 | 92,474,467 | 85,769,183 | 87,800,000 | 78,619,750 |
| All Other Revenue | 19,060,853 | 20,735,790 | 13,785,377 | 10,806,141 | 16,023,830 | 13,562,452 |
| Total | 366,602,129 | 553,327,346 | 505,415,991 | 535,115,728 | 412,041,696 | 468,261,806 |

*Data Source: prior years CAFRs All Funds Summary, Uniform Financial Statement #1

**Budget includes Emergency GEER Grants in All Other State Revenue, FY2021 = \$3,100,000 and FY2022 = \$4,314,218

**Budget includes Emergency HEERF Grants in Federal Revenue, FY2021 = \$6,700,000 and FY2022 = \$24,532,995



CITY COLLEGES OF CHICAGO

Community College District No. 508

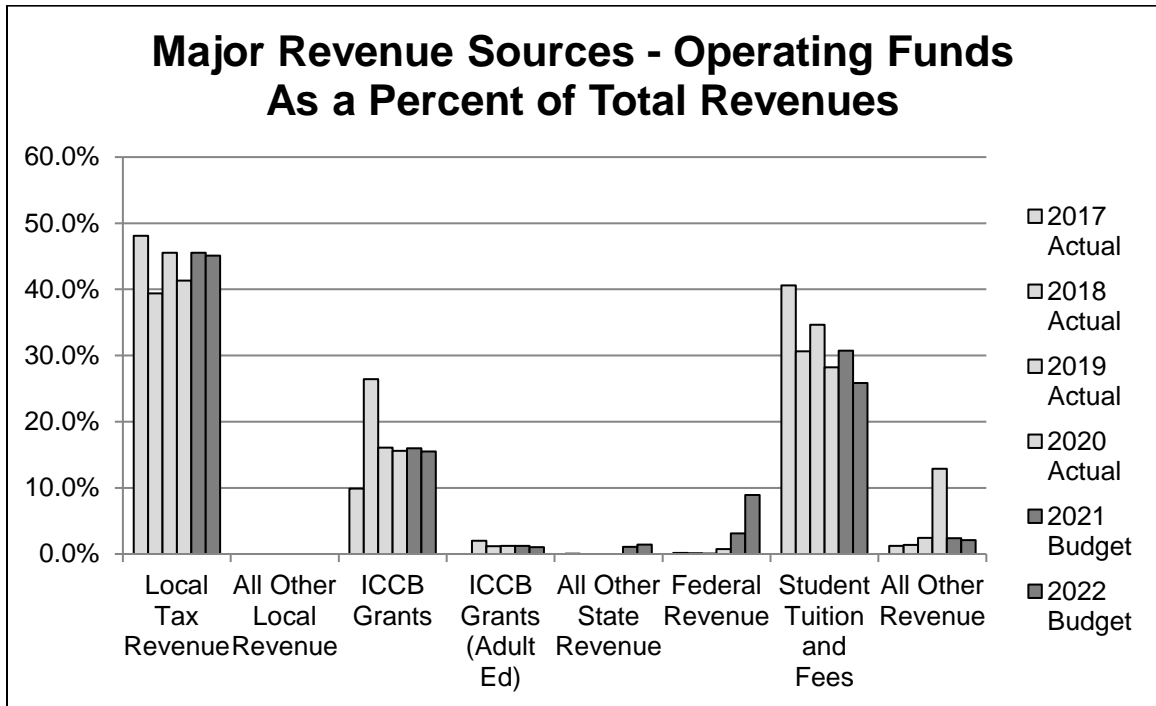
Operating Funds include the Education Fund, Operations and Maintenance Fund, Audit Fund, and Liability, Protection & Settlement Fund. The FY2022 Operating Funds revenue budget is \$300.2 million, an increase of \$14.3 million or 5.0% from the \$285.8 million budgeted in FY2021.

Major Revenue Sources - Operating Funds Includes Education, O&M, Liability, and Audit Funds

| | 2017 Actual* | 2018 Actual* | 2019 Actual* | 2020 Actual* | 2021 Budget** | 2022 Budget** |
|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Local Tax Revenue | 116,637,156 | 120,600,971 | 120,486,350 | 124,433,705 | 130,115,994 | 135,422,800 |
| All Other Local Revenue | - | - | - | - | - | - |
| ICCB Grants | 24,017,401 | 80,891,857 | 42,470,101 | 46,990,199 | 45,621,840 | 46,481,622 |
| ICCB Grants (Adult Ed) | - | 6,069,991 | 3,164,060 | 3,648,360 | 3,464,060 | 3,164,060 |
| All Other State Revenue | 2,314 | - | - | - | 3,100,000 | 4,314,218 |
| Federal Revenue | 402,859 | 343,034 | 226,647 | 2,257,185 | 8,900,000 | 26,776,995 |
| Student Tuition and Fees | 98,522,610 | 93,788,219 | 91,725,295 | 85,051,433 | 87,800,000 | 77,616,420 |
| All Other Revenue | 2,962,259 | 4,265,258 | 6,441,233 | 38,835,968 | 6,800,000 | 6,350,000 |
| Total | 242,544,599 | 305,959,330 | 264,513,686 | 301,216,850 | 285,801,894 | 300,126,115 |

*Data Source: prior years CAFRs All Funds Summary, Uniform Financial Statement #1

**Budget includes Emergency HEERF Grants in Federal Revenue, FY2021 = \$6,700,000 and FY2022 = \$24,532,995

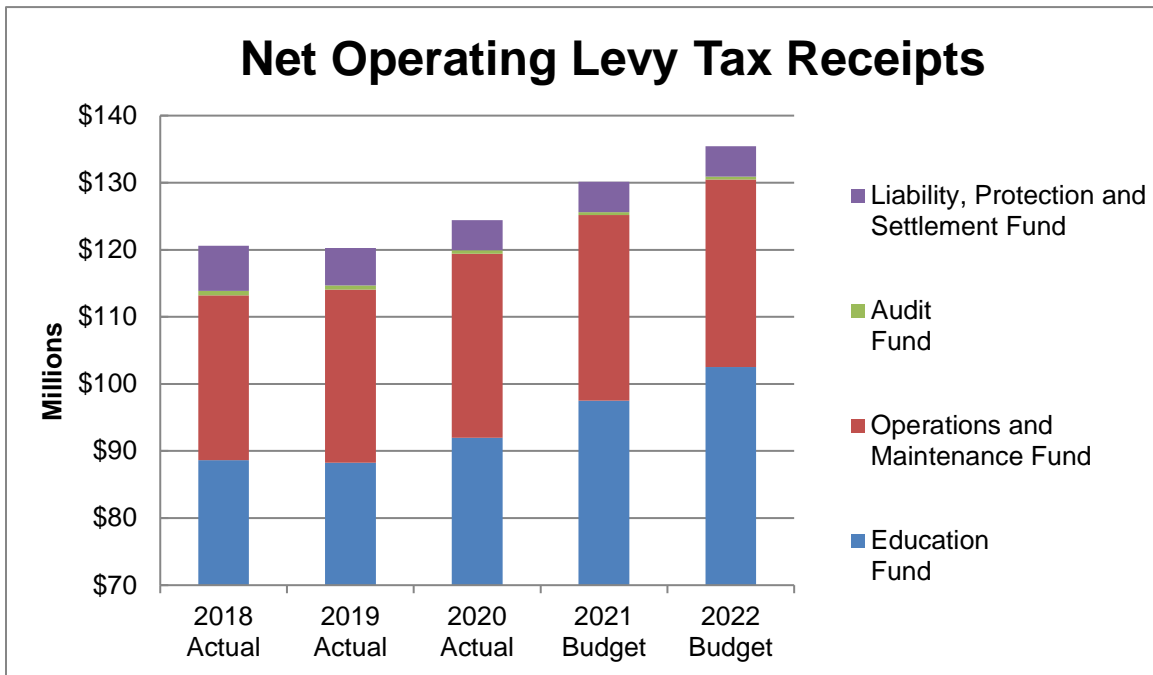


CITY COLLEGES OF CHICAGO

Community College District No. 508

Property Taxes: Property taxes are levied each calendar year on all taxable real property located in the City of Chicago and a small section of DuPage County. Property taxes currently provide 44.1% of unrestricted operating funds for City Colleges. The maximum tax levy allowable for the Education Fund is \$0.175 per \$100 of equalized assessed value (EAV); for the Audit Fund, \$0.005; and for the Operation and Maintenance Fund, \$0.05. The property tax rate for the Liability, Protection and Settlement Fund is not limited by statute, but is subject to the overall PTELL tax cap.

The Property Tax Extension Limitation Law (PTELL) imposed by Illinois Public Act 89-1 limits the annual growth in total property tax extensions to 5% or the percentage increase in the Consumer Price Index (CPI), whichever is less. The property tax cap restricts the annual growth in property tax revenues.



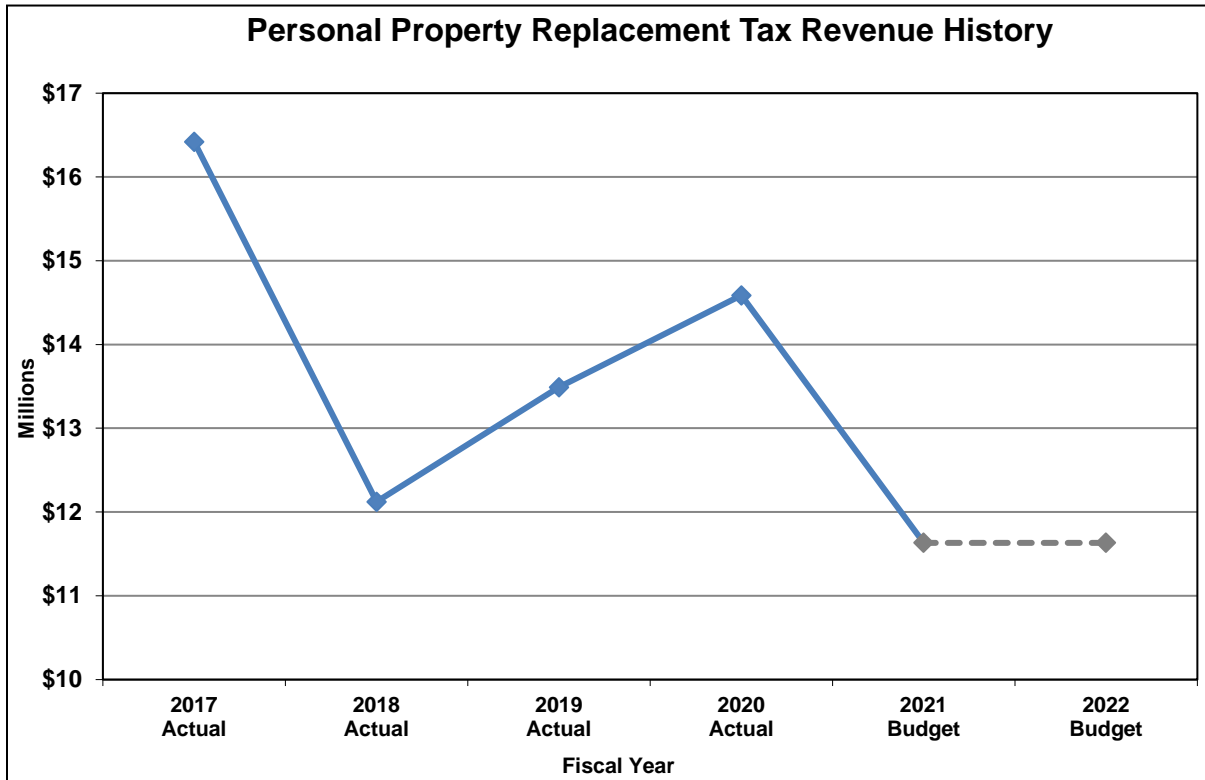
Property tax revenues included in the FY2022 budget are equal to half each of the 2020 and 2021 levies (collected in calendar years 2021 and 2022, respectively), and are net of loss and cost of collection and refunds of back taxes. Tentative FY2022 property tax revenue allocations are:

| Fund | Tentative Allocation |
|---------------------------------------------|------------------------|
| Education Fund: | \$95.4 million |
| Operations and Maintenance Fund: | 27.9 million |
| Liability, Protection, and Settlement Fund: | 4.5 million |
| Audit Fund: | 0.4 million |
| Total | \$128.3 million |

The gross property tax levy for calendar 2020 is \$135.1 million and the proposed 2021 levy is \$137.0 million. The gross revenue is reduced by 5.7% to allow for loss and cost of collections and back tax refunds, yielding net property tax revenue of \$135.4 million, which includes an annual estimated \$7.1 million TIF surplus. The annual changes to the local tax levy are from the addition of new taxable property to City Colleges' tax roll and CPI increasing 1.4%.

CITY COLLEGES OF CHICAGO

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Personal Property Replacement Taxes: The Personal Property Replacement Tax (PPRT) is a state income tax on corporations and partnerships and a tax on utilities' invested capital. PPRT replaces revenues lost by local taxing authorities when their capacity to levy corporate personal property taxes was abolished by the new Illinois Constitution. The State administers PPRT collections on behalf of local governments.

The State collects and distributes the revenue to local taxing districts. Taxing districts in Cook County receive 51.7% of collections, which is divided among the County's taxing bodies based on each entity's share of personal property tax collections in 1976. City Colleges receives 1.95% of the total Cook County share, which is equivalent to 1.01% of the statewide total collection.

City College's estimated FY2022 PPRT revenue of \$11.6 million is allocated in full to the Bond and Interest Fund based on its pledge of this revenue source for debt service payments in future fiscal years. In its financial forecast, City Colleges conservatively anticipates a decline in PPRT revenues, which can be volatile due to economic factors.

CITY COLLEGES OF CHICAGO

Community College District No. 508

Tuition: Student tuition makes up approximately 24.3% of total budgeted FY2022 Unrestricted Fund revenues. These charges may be paid by the student, a relative, an employer, financial aid, a grant, or some other source. A student who drops a course before the end of the refund period may be entitled to a refund of the tuition.

| Tuition Schedule | | | | |
|-------------------------|---------------------------------------------|--------------------------------|-----------------------------|------------------------|
| Fiscal Year | In District Tuition per Semester Hr. | Out of District Charges | Out of State Charges | Tuition Revenue |
| 2015 | \$89.00 | \$173.56 | \$230.35 | \$99,573,913 |
| 2016 | \$1,069 PT / \$1,753 FT* | \$3,159 PT/ \$4,603 FT | \$4,149 PT / \$5,953 FT | \$105,004,181 |
| 2017 | \$1,069 PT / \$1,753 FT* | \$3,159 PT/ \$4,603 FT | \$4,149 PT / \$5,953 FT | \$99,657,550 |
| 2018 | \$1,069 PT / \$1,753 FT* | \$3,159 PT/ \$4,603 FT | \$4,149 PT / \$5,953 FT | \$94,674,700 |
| 2019 | \$146.00 | \$384.00 | \$481.00 | \$92,474,466 |
| 2020 | \$146.00 | \$384.00 | \$481.00 | \$85,769,183 |
| 2021** | \$146.00 | \$384.00 | \$481.00 | \$79,000,000 |
| 2022** | \$146.00 | \$384.00 | \$481.00 | \$77,616,420 |

*Under the flat-rate structure, students paid one price for part-time and one price for full-time.

**2022 amounts are budgeted and 2021 amounts are forecasted estimates based on current actuals.

Other Revenues: Investment income, fundraising and other revenues for FY2022 are budgeted at \$6.3 million in the operating funds. The net \$0.5 million decrease from FY2021 results from lowering \$0.8 million of projected investment income and increasing \$0.3 million of facilities rental revenue resulting from planned facility openings.

State Revenues – Unrestricted Grants: City Colleges receives unrestricted state grants (base operating grant, equalization replacement grant, etc.) from the ICCB. FY2022 ICCB unrestricted grants to City Colleges are budgeted at \$46.5 million. ICCB provided \$3.1 million in FY2021 State Emergency GEER Grant supplemental funding budgeted in unrestricted (\$3.9 million total), which is anticipated to be funded at \$4.3 million in FY2022.

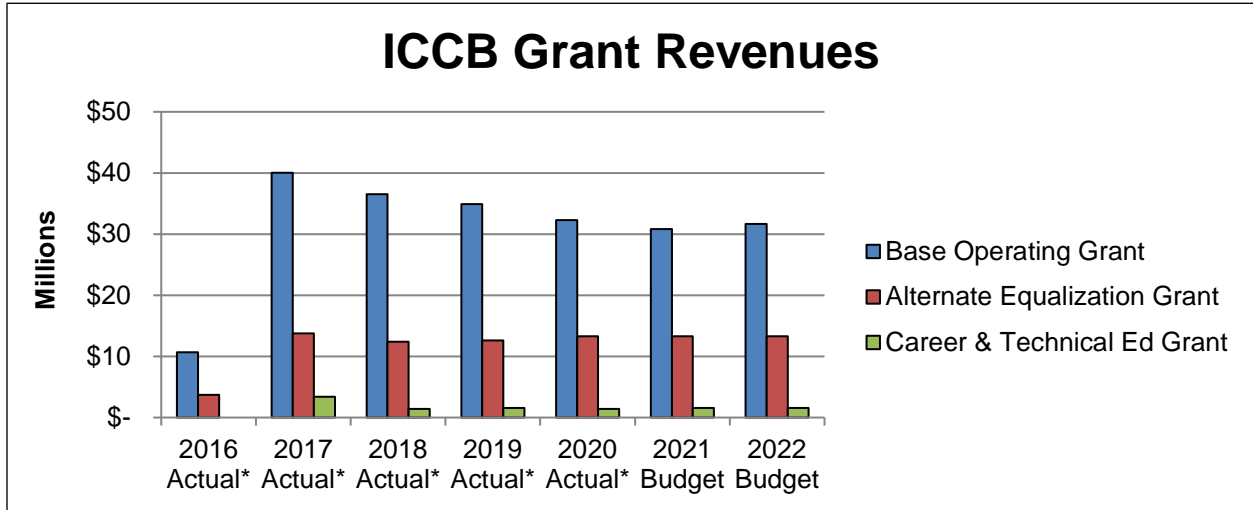
| | 2017 Actual* | 2018 Actual* | 2019 Actual* | 2020 Actual* | 2021 Budget** | 2022 Budget |
|------------------------------|-------------------------|-------------------------|-------------------------|-------------------------|--------------------------|------------------------|
| Base Operating Grant | 40,023,397 | 36,504,440 | 34,932,194 | 32,272,709 | 30,813,040 | 31,672,822 |
| Alternate Equalization Grant | 13,762,200 | 12,386,000 | 12,633,696 | 13,265,400 | 13,265,400 | 13,265,400 |
| Career & Technical Ed Grant | 3,390,127 | 1,398,642 | 1,552,000 | 1,408,120 | 1,543,400 | 1,543,400 |
| Total | 57,175,724 | 50,289,082 | 49,117,890 | 46,946,229 | 45,621,840 | 46,481,622 |

* per iccb.org

** Final State base allocation in FY2021 was \$32,686,997

CITY COLLEGES OF CHICAGO

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Base Operating Grant: The ICCB computes and awards this grant based on eligible credit hours produced two years prior to the funded year.

Alternative Equalization Grant: This grant was intended to promote fairness in the distribution of State appropriations by recognizing differences in the assessed value of taxable property across community college districts. By FY2004, tax caps were preventing City Colleges from taxing up to the full property value within its district boundaries. The equalization formula is based upon property values (ignoring tax caps), leading City Colleges equalization grant to drop from more than \$16 million in FY2002 to \$50,000 in FY2005 and \$0 thereafter.

| | FY2003 - 2004 | FY2005 - 2012 | FY2013 - 2017 | FY2018 - 2019 | FY2020- 2021 |
|----------------------------------|----------------|----------------|----------------|----------------|----------------|
| Equalization Fund: | | | | | |
| City Colleges (average amount) | \$5.7 million | \$0 | \$0 | \$0 | \$0 |
| Total Equalization Appropriation | \$76.6 million | \$76.9 million | \$75.3 million | \$66.5 million | \$71.2 million |
| City Colleges as a % of total | 7.40% | 0% | 0% | 0% | 0% |

Recognizing that the equalization formula no longer functioned as intended and that it was having a disproportionately negative effect on City Colleges, the ICCB convened a statewide taskforce to review the formula and develop recommendations for revising it. After two years of deliberations, the task force published its recommendations in 2005. In lieu of revising the grant formula at that time, the state included \$15 million in ICCB’s FY2005 budget specifically to replace the \$16 million in equalization funding that City Colleges’ lost after FY2002. Each year between FY2006 and FY2012, the State renewed the grant for \$15.0 million. Since then, the alternate equalization grant has been reduced proportionately along with other reductions in funding from the Illinois Community College Board. In FY2022, City Colleges is anticipating an alternate equalization grant of \$13.3 million.

Career and Technical Education Grant: Recognizes that keeping career and technical programs current and reflective of the highest quality practices in the workplace is necessary to prepare students to be successful in their chosen careers and to provide employers with the well-trained workforce they require. The grant funds are dedicated to enhancing instruction and academic support activities to

CITY COLLEGES OF CHICAGO

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strengthen and improve career and technical programs and services. The grant is based on CTE credit hours taught in a previous year.

Adult Education: Adult education expenses that ultimately will be charged to restricted grants are included with the unrestricted operating funds to ensure that 100% of the cost of instructional programming is considered when evaluating City Colleges’ annual operating budget.

HIGHER EDUCATION EMERGENCY RELIEF FUNDS

City Colleges received federal stimulus funds which have helped provide direct support to students and stabilize the organization through the challenging financial environment resulting from the COVID-19 pandemic. The Higher Education Emergency Relief Funds (HEERF) were received from the following federal legislation; Coronavirus Aid, Relief, and Economic Security Act (CARES Act – “HEERF I”), Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA – “HEERF II”), and American Rescue Plan (ARP – “HEERF III”).

The HEERF funds are issued as direct aid to students and to support institutions of higher education to ensure learning continues during the COVID-19 pandemic. The Institutional funds were appropriated for costs of disruption due to the pandemic, to setup the infrastructure to transition to remote learning, and to cover for lost revenue.

HEERF allows institutions to cover for lost revenue, technology costs to transition to remote learning, purchase of personal protective equipment (PPE) and cleaning supplies costs needed to persist through the pandemic and to protect the safety of the CCC community. Additionally, City Colleges will focus on strategic investments in order to support college strategic plans for the continued health of the organization. Below is a summary of CCC’s HEERF allocations.

Higher Education Emergency Relief Funding or "HEERF"

| Bill | Date signed & status | Provides | Student grants | Institutional funds | Total allocation |
|----------------------------------|-------------------------------------------|-----------------------------------------------------------------------------------|----------------|---------------------|------------------|
| HEERF I – CARES Act | March 27, 2020 Funds received and used | Support costs of remote learning and student grants for housing, food, technology | \$12.7M | \$12.7M | \$25.452M |
| HEERF II – CRRSAA | December 27, 2020 Funds awarded | Support for learning continuity | \$12.7M | \$40.5M | \$53.2M |
| HEERF III – American Rescue Plan | March 11, 2021 Funds awarded | Additional COVID relief | \$46.9M | \$46.3M | \$93.2M |

- HEERF I funds were disbursed and expended between FY2020 and FY2021.
- HEERF II funds are being used between FY2021 and FY2022, with a \$16M operating impact in FY2021 and a \$24.5M operating impact in the FY2022 Budget.
- HEERF III funds will be used between FY2022 and FY2023. There is no operating impact of HEERF III on the FY2022 Budget.

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RESTRICTED PURPOSE REVENUE - GRANTS

City Colleges receives restricted operating grants for specified purposes from federal, state, local, and private agencies. These grants are accounted for in the Restricted Purposes Fund. The ICCB distributes many of these grants. Additionally, City Colleges serves as a pass-through agent for federal student aid. Each restricted grant must be accounted for separately, and care must be taken to establish each group of self-balancing accounts so that the accounting and reporting requirements for the grants are met.

In FY2022, City Colleges anticipates receiving a total of \$148.3 million of restricted grants in addition to \$8.4 million of Adult Education grants reported as part of the \$300.2 million of Unrestricted operating fund in the “FY2022 All Funds by Fund Type Resources Available” table on page 5. This amount is broken down as follows: \$45.4 million in Federal HEERF Funding (\$25.2MM in Student Aid funding and \$20.2 million in Institutional funding) (See detailed HEERF summary on previous page), \$73.2 million for student financial aid and \$33.4 million in funded grants, including \$14.5 million in federal grants (\$3.3 million Adult Education), \$7.0 million in state grants (\$5.1 million Adult Education), and \$6.8 million in local and non-governmental sources. In addition, City Colleges has included \$4.7 million in grant proposals which have been submitted for FY2022 with results still pending.

The federal government awards student financial aid primarily through the following grants: Pell, Supplemental Educational Opportunity Grant (SEOG), and Work Study. City Colleges expects to process a total of \$64.5 million of federal aid awards in FY2022; \$55.3 million from Pell grants, \$1.8 million from SEOG, and \$1.7 million from Work Study grants. City Colleges is projected to disburse \$5.8 million in subsidized and unsubsidized title IV federal student loans.

The State government awards City Colleges \$8.5 million in financial aid through the MAP. This funding is awarded to eligible students to help cover tuition and fees.

The following is a brief description of major restricted grants from state and federal agencies.

Adult Education – Bridge Program: This grant provides ongoing, high quality professional development for Bridge Students. These sessions include sharing out best practices in recruitment strategies; coaching students and academic advising; and synthesizing data and accessing student records to track and better understand our students’ needs. The Bridge grant also supports Chicago’s economy, developing neighborhoods, and transitioning students from adult education into college credit classes and career pathways. Reading, writing and math lessons are contextualized to the participant’s chosen career sector. City Colleges is budgeted to receive \$347,079 in FY2022.

Adult Education – State Basic: This grant from the state helps establish special classes for the instruction of persons age 21 and over or persons under the age of 21 and not otherwise in attendance in a public school. The instruction is necessary to increase qualifications for employment or other means of self-support and to meet the responsibilities of citizenship. Included in this grant are funds for support services, such as student transportation and child care. City Colleges expects to receive \$2.1 million in FY2022.

Adult Education – State Performance: This grant is awarded based on performance outcomes using three factors: (1) secondary completions—high school and GED completions, (2) level gains—test level gains, as well as citizenship and vocational gains, and (3) test point gains—from the TABE, CELSA, BEST, and BEST+ tests. Previous to the changes recommended by the Adult Education Funding Study Task Force, public aid reductions and persistence (which is related to attendance) were also included. Only the performance outcomes of students who are supported with grant funds are used in

Richard J. Daley | Harold Washington | Kennedy-King | Malcolm X | Olive-Harvey | Harry S Truman | Wilbur Wright

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the calculation: performance outcomes of students who are supported with State credit hour reimbursements (included in the ICCB unrestricted base operating grant) are not. City Colleges expects funding of \$1.2 million for FY2022.

Adult Education – Federal Basic: This grant provides funds for Adult Education and Family Literacy providers to assist adults in becoming literate and obtaining the knowledge and skills necessary for employment and self-sufficiency; to assist adults who are parents in obtaining the educational skills necessary to become full partners in the educational development of their children; and to assist adults in completing a secondary school education. City Colleges expects to receive funding of \$1.5 million in FY2022.

Government Emergency Education Relief (GEER): Recognizing the financial and direct student service impact resulting from the COVID 19 pandemic, the State of Illinois, through ICCB, provided \$3.9 million in FY2021 funding for direct Student-Focused Institutional Support for “Student Services that promote a student’s emotional and physical well-being outside the context of the formal instructional program”. Funded activities related to personnel, payroll, security, environmental health & safety, and administrative offices support to these student activities. This grant is expected to be renewed for an additional \$4.3 million in FY2022 (as referenced in the “State Revenues – Unrestricted Grants” section above).

Perkins Post-Secondary – Federal: Signed into law on October 31, 1998, the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III) sets out a new vision of vocational and technical education for the 21st century. The primary goals of this vision are improving student achievement and preparing students for postsecondary education, further learning, and careers. City Colleges is anticipating an award of \$1.2 million from the Perkins Act in FY2022.

Predominantly Black Institutions (PBI) Pipeline to Careers in Healthcare – Federal: Malcolm X College receives funding from DOE to increase the number of African-American males enrolled in and successfully graduating from a health science program. The program is also designed to improve teacher effectiveness in math and science courses at the secondary, high school, and college levels. Finally, the program will implement a six –week summer healthcare education program to help African-American high school students gain an understanding and admission to healthcare programs such as nursing, surgical technology, and EMT. The Pipeline to Careers in Healthcare Grant is a six-year project that began October 1, 2015 and runs through September 30, 2021. City Colleges is budgeted to receive \$1.1 million in FY2022.

Student Support Services (TRIO) – Federal: Harold Washington, Malcolm X and Truman College receive funding from the DOE which provides opportunities for academic development, assists students with basic college requirements, and serves to motivate students toward the successful completion of their postsecondary education. The Student Support Services grant is a five-year project that began September 1, 2020 and runs through August 31, 2025. City Colleges is budgeted to receive \$1.3 million in FY2022.

Talent Search Project (TRIO) – Federal: Kennedy-King College receives funding from the DOE to provide academic, career, and financial counseling to students as well as encourage them to graduate from high school and continue on to and complete their postsecondary education. The Talent Search Program is a five-year project that renewed September 1, 2016 and runs through August 31, 2021. City Colleges is budgeted to receive \$650,868 in FY2022.

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Youth Connection Charter School – Local: The Youth Connection Charter Schools purpose it to provide world-class education to at-risk students and high school dropouts at the Truman and Olive-Harvey Middle Schools. The programs are committed to academic excellence, student development, cultural enrichment, and social equity. The programs prepare students for quality life experiences, technological literacy, graduation, vocational and postsecondary education and competitive employment. City Colleges is budgeted to receive \$2.4 million in FY2022.

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appropriations or expenses.

RESTRICTED PURPOSES FUND (Restricted Fund): Used for the purpose of accounting for monies that have restrictions regarding their use. Each specific project should be accounted for separately using a complete group of self-balancing accounts within the fund.

REVENUES: Additions to assets which do not increase any liability, do not represent the recovery of expenditure, or do not represent the cancellation of certain liabilities without a corresponding increase in other liabilities or a decrease in assets.

SALARIES: Salaries are monies paid to employees of the Colleges for personal services rendered to City Colleges. Full-time, Part-time, and temporary employees, whether administrators, faculty, or staff are paid wages or salaries.

SALES AND SERVICE FEES: Includes all fees and charges for auxiliary enterprise sales; admissions charges; all sales and service charges; contract payment revenues for materials or services from private persons, firms or other nongovernmental entities; and revenue received for providing customized training courses or workshops.

STATE REVENUES: Include all revenues received from all state governmental agencies.

STUDENT CHARGEBACK: A student of a given community college district attending a community college other than one in his home district to pursue a curriculum not offered in the college of his home district and for which the given home community college district pays the college which the student is attending a chargeback. Also included are students whose residence is within a territory not served by a community college. The home community college pays the college which the student attends a chargeback at the rate established in the chargeback calculations for each college.

STUDENT, FULL-TIME EQUIVALENT: The statistical student unit calculated by dividing all credit hours (both certificate and degree) generated at the college by 15 credit hours for any term. To determine the annual FTE student, divide all credit hours for that year by 30 semester hours for colleges on the semester system.

STUDENT SERVICES: Include those activities which provide assistance to students in the areas of financial aid, admissions and records, health, placement testing, counseling and student activities.

STUDENT TUITION CHARGE: The amount of money charged to students for instructional services; tuition may be charged on a per term, per course, or per credit basis.

STUDENT TUITION AND FEES: Includes all student tuition and student fees assessed against students for educational and general purposes. Tuition is the amount per credit hour times the number of credit hours charged a student for taking a course at the colleges. Fees include laboratory fees, activity fees, registration fees, and similar charges not covered by tuition.

SUBOBJECT: A level or reporting more detailed than object level reporting.

SUBPROGRAM: A stratum of the program classification structure hierarchy. A subprogram is an aggregation level that structures program categories into subsets of the major missions of the institution.

SURPLUS: An excess of revenues over expenses.

Exhibit L

Estimated Cost of Attending City Colleges Academic Years 2020-2021



**Estimated Cost of
Attending Academic Years
2020-2021**

Dependent Students

Estimated Annual Costs*

| Cost Category | Total |
|----------------------|------------------------|
| In district Tuition | \$3,504 |
| Books & Supplies | \$1,536 |
| Room & Board | \$3,520 |
| Transportation | \$1,504 |
| | <u>\$10,064</u> |

Independent Students

Estimated Annual Costs*

| Cost Category | Total |
|----------------------|------------------------|
| In district Tuition | \$3,504 |
| Books & Supplies | \$1,536 |
| Room & Board | \$8,128 |
| Transportation | \$1,504 |
| | <u>\$14,672</u> |

*These figures are based on in-district enrollment of 12 credit hours per term (Fall and Spring) for a student who is not in a signature program. Please visit your Financial Aid Office for details on the cost of your college's signature programs.

**These items are not charged by the college. Rather, they are an estimate of what it costs to live in the City of Chicago and to attend school full-time.