

**MEETING OF THE BUSINESS AFFAIRS COMMITTEE
OF THE BOARD OF TRUSTEES
Community College of Philadelphia
Wednesday, May 20, 2015 – 9:00 A.M.**

Present: Mr. Jeremiah White, presiding; Ms. Suzanne Biemiller, Stella Tsai, Esq. (*via* teleconference), Dr. Donald Generals, Mr. Jacob Eapen, Mr. Gregory Murphy, Mr. Todd Murphy and Mr. James P. Spiewak

AGENDA – PUBLIC SESSION

(1) 2015-16 Operating and Capital College Budget (Action Item):

Discussion: Staff provided an overview of the proposed 2015-16 budget. The expenditure plan totals \$147,691,243. The recommended educational and general budget operating expense (including student activities and auxiliaries) is \$135,053,983, and the capital budget expense is \$12,637,261. Mr. Eapen noted that the proposed budget is consistent with prior information shared with the Committee at the previous month's meeting. The 2015-16 budget is balanced and contains no tuition or fee increases. The budget will accommodate the priority initiatives desired by the Board and the President.

Action: Ms. Tsai moved and Ms. Biemiller seconded the motion that the Committee recommend to the full Board that the proposed 2015-16 College Budget be approved. The motion passed unanimously.

(2) HVAC Enhancements – Rooms BG-25 and BG-28 (Action Item):

Discussion: Staff reviewed the HVAC enhancements required for Rooms BG-25 and BG-28. Rooms BG-25 and BG-28 are rooms now dedicated to registration and student workshops, being used during both normal business hours and on weekends, when plant operations are not in service. These rooms, during design and construction, did not include adequate cooling capacity for the 37 computers in each room and off-hours operations. The remedy is to add the proposed supplemental cooling system which is operable during off hours, and can supplement the normal operations as needed.

Specifications were written and bids were requested to install systems sized appropriately to address the above issues. Eight contractors participated in attending the pre-bid meeting and bid responses were received from two mechanical contractors. The lowest responsive bid was from GEM Mechanical Services for \$99,188. The second bid, from Kaser Mechanical, LLC, was \$102,000. In response to questions from Mr. White, it was confirmed that GEM Mechanical Services is a woman-owned business and that the College had been using a temporary cooling solution for more than a year.

Action: Ms. Biemiller moved and Ms. Tsai seconded the motion that the Committee recommend to the full Board the awarding of the contract for RFP #9878 HVAC - Mechanical BG-25 & BG-28 to GEM Mechanical Services for the amount \$99,188.00. The motion passed unanimously.

(3) Architectural and Engineering Services Proposal for Vertical Transportation in West Building (Action Item):

Discussion: Staff reported that VTX transportation consultants were retained to conduct a survey of the West Building escalators and develop a report to address vertical transportation needs within the building. As a result of that survey and report to the Board, staff received authorization to proceed with the development of plans and specifications for the replacement of the West Building escalators with fixed stairs. Because of the desired aggressive schedule for replacement, the College solicited a direct proposal from Gannett Fleming, Inc. who completed the work on the initial survey as it related to the fixed stairs option.

Action: Ms. Biemiller moved and Ms. Tsai seconded the motion that the Committee recommend to the full Board the awarding of the proposal for professional architectural and engineering services for \$105,550 to Gannett Fleming, Inc. The motion passed unanimously.

(4) 17th Street Landscaping Contracts (Action Item):

Discussion: Staff explained that the completion of the Pavilion Building and the Bonnell front entrance included extensive landscape features, outdoor recreation and study areas. These efforts were postponed due to funding and architectural issues which resulted in a significantly reduced scope “field modification” at the time the buildings were opened. The College revisited the landscape goals and redefined the vision for the area of the campus divided by 17th Street. Working in collaboration with the Streets Department, Philadelphia Water Department, CCP staff, faculty and students, a new vision was submitted and approved by all parties.

The College posted and requested bid responses through the Pennsylvania Electronic Document & Bid Management Program (PennBid) identified as CCP RFP#9877. There are two significant efforts involved and bids were received by two contractors for both efforts – General Trades / Construction and Electrical. Staff mentioned that the College’s Equal Opportunity Plan (EOP) was incorporated into the bid specifications. Accordingly, minority participation efforts by the two contractors will be reported back to the Committee at the next meeting.

Bid Respondent	Trade	Amount
Anthony Biddle Contractors, Inc.	General Construction	\$1,077,000.00
A.P. Construction, Inc.	General Construction	\$1,162,200.00
Carr & Duff Inc.	Electrical Construction	\$209,450.00
E.J. Electric	Electrical Construction	\$249,500.00

Staff noted that the work will begin as soon as possible after the Board approves the contracts on June 4, 2015 with an expected completion date prior to the end of August, 2015.

Action: Ms. Biemiller moved and Ms. Tsai seconded the motion that the Committee recommend to the full Board the awarding of the following contracts: Anthony Biddle

Contractors, Inc. at \$1,077,000.00 for General Construction and Carr & Duff Inc. at \$209,450.00 for Electrical Construction. The motion passed unanimously.

(5) Renovations to Rooms M2-35 and M2-36 (Action Item):

Discussion: The Academic Affairs Division requested the development of plans and specifications for interior architectural changes to the Institutional Research offices to accommodate increased staffing levels and functionality that is more efficient. The office suites that the department occupies are being combined. A pre-bid meeting was held on April 24, 2015 and four firms attended. Bids were received and opened on May 11, 2015. Of the four firms invited, two submitted responses to RFP #9884. TE Construction Services submitted the lowest qualified bid for the work at \$59,800.00.

Torrado Construction	\$73,899.00
TE Construction Services	\$59,800.00

Action: Ms. Tsai moved and Ms. Biemiller seconded the motion that the Committee recommend to the full Board the awarding of the contract to TE Construction Services for \$59,800.00. The motion passed unanimously.

(6) 2014-15 Budget Update (Information Item):

Staff provided an overview of the College's budget status for fiscal year 2014-15. The implications of key factors currently impacting on the budget were discussed. The originally projected use of carry-over funds for the 2014-15 year was \$1,075,299. The shortfall has been eliminated as a result of much lower-than-budgeted costs associated with the College's self-insured medical program, higher-than-budgeted lapsed salaries and other continued successful cost containment efforts. Mr. Eapen noted that the College will take advantage of these factors to pay off the remaining seven years of the Johnson Controls' guaranteed performance lease contract and some other technology leases. He indicated that approximately \$600,000 of reserves may be required to fully liquidate the guaranteed performance contract lease. Committee members noted that this small use of reserves is within the amount initially budgeted and approved by the Board. A small operating budget surplus is projected.

(7) Memorandum of Understanding between the College and the College Foundation (Information Item):

Staff reviewed the Memorandum of Understanding (MOU) between the College and the College Foundation which represents the collaborative relationship between the two entities. Attachment A is a draft MOU between the College and the College Foundation. Staff of both the College and Foundation developed this draft as a work in progress. Mr. Gregory Murphy provided Committee members with the history of the Foundation and its relationship to the College. He noted that this type of MOU is typical of Foundations with less than \$50 million in reserves. Mr. Eapen stated that the document is currently under review by the College's legal counsel, particularly as it pertains to indemnification and liability clauses.

Mr. White discussed various aspects of the agreement including the roles and responsibilities of both parties as it pertains to donor protection policies, use of College name

and logo, investments, marketing, real estate transaction and intellectual property and licenses. Committee members also discussed MOU termination language and the intermediate steps that should be in place prior to a possible dissolution of the Foundation.

Mr. Eapen noted that the staff will incorporate Committee members' suggestions and those of the attorney and bring the document back for approval.

(8) Additional Informational Items

Mr. White asked staff about its capital projects plan. Mr. Eapen responded that staff are working on prioritizing projects and will present a two-year preliminary plan at the next Committee meeting.

Mr. White inquired about the status of the bond refinancing efforts. Mr. Eapen noted that the bond market has been challenging lately, but both the College's financial advisor and underwriter expect some improvement in the bond market in June. College staff still hope to receive \$2.7 million in savings from the refinancing that will occur in conjunction with the new borrowing for the Biology Lab and West Building escalator replacement projects. Mr. White stated that he needs to be informed on the savings prior to the execution of the deal. Mr. Eapen responded that he will seek Mr. White's and the President's approval.

Committee members discussed potential partnership strategies with Comcast Corporation specifically in light of their new hiring plans and lease negotiations with the City. Dr. Generals stated that he is developing a Comcast strategy.

(9) Executive Session

Discussion was centered on real estate issues.

(10) Proposed 2015-16 Business Affairs Committee Meeting Dates (Information Item):

In order to facilitate Board calendar planning, Committees are asked to establish a meeting calendar for the year. Proposed meeting dates for 2015-16 are as follows:

Wednesday, September 23, 2015 – 9:00 A.M.
Wednesday, October 21, 2015 – 9:00 A.M.
Wednesday, November 18, 2015 – 9:00 A.M
No Meeting in December, 2015
Wednesday, January 20, 2016 – 9:00 A.M.
No Meeting in February, 2016
Wednesday, March 23, 2016 – 9:00 A.M
Wednesday, April 20, 2016 – 9:00 A.M.
Wednesday, May 18, 2016 – 9:00 A.M.
Wednesday, June 22, 2016 – 9:00 A.M.

(11) Next Meeting Date:

The next regularly scheduled meeting of the Committee will occur on Wednesday, June 17, 2015 at 9:00 A.M. in the Isadore A. Shrager Boardroom, M2-1.

JE/lm

Attachments

BAC\MAY 20, 2015 BAC DRAFT MINUTES

ATTACHMENT A

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
COMMUNITY COLLEGE OF PHILADELPHIA FOUNDATION
AND THE COLLEGE**

**Memorandum of Understanding
Between the Community College of Philadelphia Foundation
and the Community College of Philadelphia**

THIS AGREEMENT, entered into as of this ____ day of _____, 2015, by and between Community College of Philadelphia (the College) and the Community College of Philadelphia Foundation (the Foundation).

The Foundation was organized and incorporated in 1985 to act for the benefit of Community College of Philadelphia. The Foundation solely exists to raise and manage private resources supporting the mission and priorities of Community College of Philadelphia, and provide opportunities for students and a margin of institutional excellence that would be unavailable without additional financial support.

As stated in its articles of incorporation, the Foundation is a separately incorporated 501(c)(3) organization and is responsible for identifying and cultivating relationships with potential donors and other friends of Community College of Philadelphia; soliciting cash, securities, real and intellectual property, and other private resources for the support of Community College of Philadelphia; and acknowledging and stewarding such gifts in accordance with donor intent and its fiduciary responsibilities.

As its mission states, the Community College of Philadelphia Foundation enhances and enriches the educational experiences of Community College of Philadelphia students by providing external resources to support the College's mission. As the private funding development arm of the College, the Foundation seeks to support the College's mission by bringing together community leaders who will serve as ambassadors of the College to broaden the College's image within the community. The Foundation serves the College by creating partnerships with individuals, businesses, organizations, and foundations to raise private gifts for scholarships, instructional equipment, professional development, and the capital needs of the College.

The Foundation is dedicated to assisting the College in the building of the endowment and in addressing, through financial support, the long-term academic, strategic, and other priorities of the College.

In connection with its asset-management activities, the Foundation retains an outsourced chief investment officer experienced in planning for and managing endowment and works with the Foundation to assist and advise in the handling of private donations and related activities.

In consideration of the mutual commitments herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

Name and Logotype

Consistent with its mission to help to advance the plans and objectives of the College, the Foundation is granted the use of the name, Community College of Philadelphia; however, the Foundation will operate under its own logotype based on the College's brand. The Foundation has the approval of the College to use the College name/logo or other identifying marks in the promotion of its business and activities.

Institution Governance (reviewing Board of Trustees By-Laws)

- The Board of Trustees of Community College of Philadelphia is responsible for overseeing the mission and leadership of the College.
- The Board of Trustees is responsible for setting priorities and long-term plans for Community College of Philadelphia.
- The Board of Trustees is legally responsible for the performance and oversight of all aspects of Community College of Philadelphia operations.
- The Board of Trustees is responsible for the employment, compensation, and evaluation of all Community College of Philadelphia employees, including the President.

Foundation Governance

- Per its approved Roles and Responsibilities of Foundation Directors, and in accordance with 15 Pa. C.S.A. § 5712 - Standard of care and justifiable reliance, a director of a nonprofit corporation shall stand in a fiduciary relation to the corporation and shall perform his duties as a director, including his duties as a member of any committee of the board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances.
- All Foundation Directors are fiduciaries of the College Foundation, and should govern with responsibility for the public trust, the future of the Foundation, and the benefit of current and future students of Community College of Philadelphia.
- The business and affairs of the Foundation shall be managed by its Board of Directors, which shall be composed of no less than seven (7) and no more than thirty (30) members, who shall be natural persons of full age and who are residents of the United States of America.
- The Foundation's Executive Committee shall handle all matters related to governance.
- Directors are expected to fulfill their responsibilities and conduct their activities on behalf of the Foundation within the letter, spirit, and intent of applicable laws and regulations.
- Foundation Directors adhere to an established conflict of interest policy and statement of fiduciary responsibility.

Foundation's Relationship to the Institution

- The Community College of Philadelphia Foundation is a separately incorporated 501(c)(3) nonprofit organization created to raise, manage, distribute, and steward private resources to support the mission and strategic priorities of the College, on the main campus and at the regional centers.
- The Community College of Philadelphia Foundation Board of Directors is responsible for the control and management of all assets of the Foundation, including the prudent management of all gifts consistent with donor intent.
- The Community College of Philadelphia Foundation is responsible for the performance and oversight of all aspects of its operations based on a comprehensive set of bylaws that clearly address the board's fiduciary responsibilities, including expectations of individual board members based upon ethical guidelines and policies.
- The Community College of Philadelphia Foundation relies on College employees to fulfill its responsibilities. As stated in its Bylaws, the College's Vice President for Institutional Advancement shall serve as the Executive Director of the Foundation.
- At the request of the College, The Community College of Philadelphia Foundation will transfer a percentage of unrestricted funds annually to the institution with approval of the Foundation Board of Directors.

Institution's Relationship to the Foundation

- The College's President is responsible for communicating Community College of Philadelphia priorities and long-term plans, as approved by the Trustees, to the Foundation.
- The Community College of Philadelphia recognizes that the Foundation is a private corporation with the authority to keep all records and data confidential consistent within the law.
- The Vice President of Institutional Advancement/Executive Director of the Foundation, who performs a dual role, shall be included as a member of the College President's Cabinet and senior administrative team, and shall have regular access to this group.
- The Community College of Philadelphia shall include the Foundation as a participant in the strategic planning process for the College. The President of the College shall serve as an ex-officio member of the Foundation Board, without voting authority, and shall assume a prominent role in fundraising activities.
- In consideration of Foundation services, Community College of Philadelphia will provide staff, office space, computer and telephone systems, utilities, adequate personnel, office supplies, and other such services that may be necessary or required to assist the Foundation to fulfill its responsibilities and obligations.
- Community College of Philadelphia shall establish and enforce policies that support the Community College of Philadelphia Foundation's ability to respect the privacy and confidentiality of donor records.

Foundation Responsibilities

1. Fundraising

- The Community College of Philadelphia Foundation shall create an environment conducive to increasing levels of private support for the mission and priorities of Community College of Philadelphia.
- The Community College of Philadelphia Foundation, in consultation with the College leadership, is responsible for planning and executing comprehensive fundraising and donor-acquisition programs in support of the institution's mission. These programs include Corporate and Foundation gifts, Alumni, annual giving, major gifts, planned gifts, special projects, and campaigns as appropriate.
- The Community College of Philadelphia Foundation will align its gift acceptance policy with the College. In addition, the Foundation will establish, adhere to, and periodically assess its gift-management and acceptance policies. It will promptly acknowledge and issue receipts for all gifts on behalf of the Foundation and the college and provide appropriate recognition and stewardship of such gifts.
- Community College of Philadelphia recognizes that the Foundation bears major responsibility for fundraising. The Foundation Board of Directors shall direct the Executive Director of the Foundation to coordinate fundraising initiatives, including major gifts solicitations with the Foundation.
- The College President will work in conjunction with the leadership of the Foundation Board and the Foundation Executive Director to identify, cultivate, and solicit prospects for private gifts.
- The Community College of Philadelphia Foundation shall not accept grants from state or federal agencies, except in special circumstances that are approved by the Foundation Board of Directors and the governmental agency.
- The Community College of Philadelphia Foundation shall establish and enforce policies to protect donor confidentiality and rights.
- The Community College of Philadelphia Foundation will not fundraise on behalf or in support of any organization other than Community College of Philadelphia.
- In addition to following its own protocol in accepting any gift to or for the benefit of the College, the Foundation shall obtain prior approval, which such approval shall not be unreasonably withheld, from the College before accepting any gift for the benefit of the College that obligates College assets or involves real estate. The Foundation will advise prospective donors that any such gifts are subject to the approval of both the Foundation and the College under this agreement.
- The Foundation will mutually agree on performance benchmarks related to its functions.

2. Asset Management

- The Community College of Philadelphia Foundation will establish asset-allocation, disbursement, and spending policies that adhere to applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Management of Institutional Funds Act (UMIFA).
- The Community College of Philadelphia Foundation will receive, hold, manage, invest, and disperse contributions of cash, securities, patents, copyrights, intellectual property, and other forms of property, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred-gift instruments.
- The Community College of Philadelphia Foundation, as a component unit of the College, will engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records and will provide Community College of Philadelphia with a copy of the annual audited financial statements, including management letters.

3. Institutional Flexibility

- The Community College of Philadelphia Foundation will explore current opportunities, including acquisition and management of real estate on behalf of Community College of Philadelphia for future allocation, transfer, or use by the College.
- The Community College of Philadelphia Foundation may serve as an instrument for entrepreneurial activities for the College and engage in such activities as purchasing, developing, or managing real estate for College expansion, student housing, or retirement communities. It also may hold licensing agreements and other forms of intellectual property, borrow or guarantee debt issued by their parties, or engage in other activities to increase Foundation revenue.

- When distributing gift funds to the College, the Community College of Philadelphia Foundation will disclose any terms, conditions, or limitations imposed by donor or legal determination on the gift. Community College of Philadelphia will abide by such restrictions and provide appropriate documentation.

4. Transfer of Funds

- The Community College of Philadelphia Foundation is the primary depository of private gifts and will transfer funds, when appropriate, to the designated entity within the institution in compliance with applicable laws, college policies, and gift agreements.
- The Community College of Philadelphia Foundation's disbursements on behalf of the College must be reasonable business expenses that support the institution, are consistent with donor intent, and do not conflict with the law.

Foundation Funding and Administration

- It is a goal of the Community College of Philadelphia Foundation to establish a financial plan to become self-supporting and allow it to underwrite the cost of Foundation programs, operations, and services.
- The Community College of Philadelphia Foundation has the right to use a reasonable percentage of the annual unrestricted funds, assess fees for services, or impose gift taxes, to support its operations. The use of fees and taxes should be disclosed to donors and institution staff.
- The Community College of Philadelphia Foundation shall maintain, at its own expense, copies of the plans, budgets, and donor and alumni records developed in connection with the performance of its obligations.
- The Community College of Philadelphia Foundation will provide access to data and records to the College as requested in accordance with applicable laws, Foundation policies, and guidelines.
- The Foundation will provide its annual report, and other information that may be publicly released.

Liability Section

(need legal opinion)

Terms of the Memorandum of Understanding(MOU)

This Memorandum of Understanding, made this ____ [day] of _____ [month], 20__ [year], by and between Community College of Philadelphia and the Community College of Philadelphia Foundation (an Internal Revenue Code §501(c)(3) nonprofit corporation), is intended to set forth policies and procedures that will contribute to the coordination of their mutual activities.

To ensure effective achievement of the items of the agreement, the College and Foundation officers and board representatives shall hold periodic meetings to foster and maintain productive relationships and to ensure open and continuing communications and alignment of priorities.

Either party may, upon 90 days prior written notice to the other, terminate this agreement. Notwithstanding the forgoing, either party may terminate this MOU in the event the other party defaults in the performance of its obligations and fails to cure the default within a reasonable time after receiving written show-cause notice.

Should the College choose to terminate this agreement, the Foundation may require the College to pay, within 180 days of written notice, all debt incurred by the Foundation on the College's behalf including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives. Should the Foundation choose to terminate this agreement, the College may require the Foundation to pay debt it holds on behalf of the Foundation in like manner.

Consistent with provisions appearing in the Foundation's bylaws and its articles of incorporation, should the Foundation cease to exist or cease to be an Internal Revenue Code §501(c)(3) organization, the Foundation will transfer its assets and property to the institution, to the College, to a reincorporated successor Foundation, or to the state or federal government for public purposes, in accordance with the law and donor intent.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed by their duly authorized officers as of the day and date first above written.

Chair
Board of Trustees
Community College of Philadelphia

President
Board of Directors
Community College of Philadelphia Foundation

Date: _____

Date: _____

President
Community College of Philadelphia

Executive Director
Community College of Philadelphia Foundation

Date: _____

Date: _____