



FOR YOUTH DEVELOPMENT  
FOR HEALTHY LIVING  
FOR SOCIAL RESPONSIBILITY

**DULUTH AREA FAMILY YMCA  
and Duluth ISD 709  
Service Agreement 2021-2022**

This agreement between the Duluth Area Family YMCA (YMCA) and Duluth ISD 709, effective December 1, 2021, is intended to provide services to AEO/ALC students. Under this agreement, the YMCA agrees to provide:

- Memberships for all currently enrolled AEO/ALC students for the school year, beginning September 7<sup>th</sup>, 2021 and ending June 10<sup>th</sup>, 2022.
- Designated space for a physical education course up to two times per week through the end of the school year.
- Exclusive use of additional gym space can be discussed through school year at cost of \$30.00 per hour per ½ gym space
- Additional exclusive rental space can be provided throughout the school year at 50% off listed rental rates.
- Invitation for AEO/ALC families and staff to come for free to the Y, the 1<sup>st</sup> Saturday of each month, during the school year.
- All members are eligible for an orientation in the Wellness Center and one free personal training session.
- Instruction for PE students on Wellness Center equipment/activities can be provided at a reduced rate of \$40.00 per hour with a certified personal trainer (If the Y has a Health and Wellness intern this service may be provided free of charge, if scheduling allows).

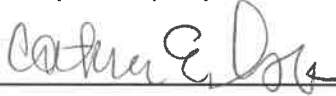
For these services, ISD 709 agrees to pay \$600.00 per month, beginning January 1<sup>st</sup>, 2022, and ending June 10<sup>th</sup>, 2022. The option to begin in December 2021 is open, at the same rate.

The Y welcomes the opportunity to provide additional resources for ISD 709. Should additional programming be required, staffing fees will be at a rate of \$20.00 to \$40.00 per hour depending on the services provided. Any changes or additions to the current agreement will be revisited by both parties involved prior to setting a formal arrangement.

This agreement is subject to review and may be terminated by either party with a 90-day written notice.

\_\_\_\_\_  
Signature Duluth YMCA Representative

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature ISD 709 Representative

12/11/21  
\_\_\_\_\_  
Date

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# MINNESOTA STATE

## LEASE AGREEMENT- MINNESOTA STATE AS LANDLORD

TOTAL AMOUNT: \$4,125.00.

THIS LEASE AGREEMENT is made by and between State of Minnesota, by and through the Board of Trustees of Minnesota State Colleges and Universities on behalf of **Lake Superior College**, located at 2101 Trinity Road, Duluth Minnesota 55811, hereafter referred to as (“**MINNESOTA STATE**” or “**LANDLORD**”, and **Independent School District No. 709**, an independent school district created and existing under laws of the State of Minnesota, located 215 N. 1<sup>st</sup> Ave E, Duluth, Minnesota, 55802, hereafter referred to as “**TENANT**”.

WHEREAS, the Board of Trustees of Minnesota State Colleges and Universities is empowered by Minn. Stat. §136F.06, to govern Board-related property, and

WHEREAS, MINNESOTA STATE has under its control the main Lake Superior College campus building located at 2101 Trinity Road, Duluth Minnesota 55811 (“**Building**”), and has space in its building, and

WHEREAS, TENANT intends to use the space for an office for staff in the Duluth Public Schools Area Learning Center and Academic Excellence Online, and

NOW THEREFORE, MINNESOTA STATE and TENANT, in consideration of the rents, covenants, and considerations hereinafter specified, do hereby agree each with the other as follows.

### 1. LEASED PREMISES.

MINNESOTA STATE grants and TENANT accepts the lease of the following described space (“**Leased Premises**”) located in the City of Duluth, County of St. Louis, Minnesota: more particularly described as:

Approximately 150 square feet in room C227 located at 2101 Trinity Road, Duluth Minnesota 55811, as depicted on the floor plant attached here to as **Exhibit A:**

<u>Location:</u>	<u>Size:</u>	<u>Use:</u>
C227	150 sq ft	Office

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1.1 Unless otherwise provided in this Lease Agreement, the TENANT is taking the Leased Premises in its “as is” condition, and MINNESOTA STATE is under no obligation to make any alterations or modifications to accommodate TENANT’s use. TENANT’s taking possession of the Leased Premises is evidence that the Leased Premises was in tenantable condition as of the day of occupancy.

1.2 MINNESOTA STATE reserves the right in its sole discretion to maintain and repair the structural elements and utilities that serve the Leased Premises, including, but not limited to the walls, roof, conduits, heating and cooling and other structural elements. MINNESOTA STATE may at any time construct, modify, add on or demolish elements of the Building of which the Leased Premises is a part, provided MINNESOTA STATE makes reasonable efforts to minimize the impact of such work on TENANT and its use of the Leased Premises.

1.3 Parking. MINNESOTA STATE shall allow TENANT, its staff, visitors, guests and invitees the use of any parking space marked for clinics, visitors, or any unmarked space during the term of this Lease. MINNESOTA STATE reserves the right to change, modify or otherwise redirect the location of the parking at its sole and absolute discretion. TENANT agrees to comply with MINNESOTA STATE’s parking program.

## 2. TERM.

The term of this Lease Agreement shall commence on January 1, 2022 (“**Commencement Date**”), and end on June 30, 2024, unless otherwise sooner terminated as provided in this Lease. MINNESOTA STATE grants and TENANT accepts a right to enter the Leased Premises up to fifteen (15) days prior to the Commencement Date at no charge to set-up the office.

## 3. PAYMENT OF RENT.

3.1 As rent for the Leased Premises and in consideration for all covenants, representations and conditions of this Lease Agreement, TENANT shall pay to MINNESOTA STATE the sum of Four Thousand and One Hundred and Twenty-Five and 00/100 Dollars (\$4,125.00) for the term of the Lease Agreement.

Lease Period	Monthly Payment	Total due over Term
January 1, 2022 – June 30, 2024	\$137.50	
Total		\$4,125.00

3.2 Bond Financed Property. If MINNESOTA STATE used General Obligation bonds (including Higher Education Asset Preservation and Repair “HEAPR”) to purchase, construct or improve the Leased Premises, TENANT agrees to comply with all requirements imposed by the Commissioner of the Department of Management and Budget, his or her successor and assigns, up to and including furnishing any documents as the Commissioner determines to be necessary to ensure that interest paid on the General Obligation Bonds, if any, used to purchase, construct or improve the property of which the Leased Premises is a part, is exempt from federal taxation.

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#### 4. USE.

TENANT shall use and occupy the Leased Premises only for office space for staff of the Duluth Public Schools Area Learning Center and Academic Excellence Online, and for no other purposes without MINNESOTA STATE's prior written consent for each instance.

#### 5. TERMINATION.

5.1 This Lease may be terminated by MINNESOTA STATE with or without cause at any time upon giving thirty (30) days prior written notice of such termination to TENANT.

5.2 Surrender of Leased Premises TENANT hereby agrees that at the expiration or earlier termination of this Lease or extension thereof:

- a. TENANT shall remove its personal property and vacate and surrender possession of the Leased Premises to MINNESOTA STATE by the end of the day the Lease terminates in as good condition as when TENANT took possession, ordinary wear and tear and damage by the elements excepted.
- b. All personal property not so removed will conclusively be deemed to have been abandoned by TENANT and may be sold, stored, destroyed or otherwise disposed of by MINNESOTA STATE without notice to TENANT or to any other person and without obligation to account for them. TENANT will pay MINNESOTA STATE all expenses incurred in connection with MINNESOTA STATE'S disposition of such personal property, including without limitation the cost of repairing any damage to the building or premises caused by removal of such property. TENANT'S obligation to pay all of MINNESOTA STATE'S expenses incurred in connection with removal and disposal of TENANT'S personal property shall survive the termination of this Lease.

#### 6. DUTIES OF LANDLORD.

MINNESOTA STATE shall provide light and heat to the Leased Premises, common areas and public access areas, including stairways, elevators, lobbies, and hallways. MINNESOTA STATE shall furnish and provide, at its expense, the following utilities and services:

6.1 Utilities: Minnesota State will bear the cost of all utilities for the space.

6.2. Janitorial and Trash Removal Service: MINNESOTA STATE will provide janitorial services and supplies to the Leased Premises according to **Exhibit B**.

6.3 Hazardous Waste Removal and Disposal: MINNESOTA STATE shall provide hazardous waste removal and disposal to the Leased Premises.

6.4 Maintenance: MINNESOTA STATE shall maintain in working condition all appurtenances within the scope of this Lease Agreement, including the maintenance of proper plumbing, wiring, heating (and, where applicable, cooling) devices and ductwork.

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MINNESOTA STATE shall also maintain the foundation, roof and exterior walls of the building.

6.5 Repairs: MINNESOTA STATE shall make such necessary repairs so as to continue to provide all such service appurtenances as are required by this Lease Agreement, provided, however, that MINNESOTA STATE shall not be responsible for repairs upon implements or articles which are the personal property of TENANT, nor shall MINNESOTA STATE bear the expense of repairs to the Leased Premises necessitated by damage caused by TENANT beyond normal wear and tear.

6.7 Delivery of Leased Premises: MINNESOTA STATE covenants that it will deliver the Leased Premises to TENANT in good condition with all services and appurtenances included within the scope of this Lease Agreement in effect and in good running order.

6.8 Quiet Enjoyment: TENANT shall have the quiet enjoyment of the Leased Premises during the full term of the Lease Agreement and any extension or renewal thereof.

6.9 Energy Conservation: MINNESOTA STATE shall operate within MINNESOTA STATE energy guidelines and may enact energy initiatives to reduce energy consumption. MINNESOTA STATE participates in energy conservation measures enacted by State or Federal authority as may be specifically required by such governmental orders or regulations.

6.10 Accessibility: MINNESOTA STATE agrees to provide and maintain the building of which the Leased Premises are a part in compliance with accessibility and facilities meeting code requirements for handicapped persons, pursuant to all applicable laws, rules, ordinances and regulations as issued by any federal, state or local political subdivisions having jurisdiction and authority in connection with said property.

6.11 Shutdowns: MINNESOTA STATE reserves the right to shut down electricity, heat, or water when necessitated by safety, repairs, alterations or upgrades. MINNESOTA STATE will give TENANT at least one (1) day notice of such shutdown, except in case of emergency, which shall require no advance notification. MINNESOTA STATE will use reasonable efforts to not shut down TENANT's utilities during business hours. MINNESOTA STATE will have no liability to TENANT for any loss, damage or expense that TENANT may sustain due to such shut down.

## 7. DUTIES OF TENANT.

7.1 Telephone and Telecommunications. Internet service is available at the Leased Premises through the LSC guest wireless network.

7.2 Identification signs. Tenant shall only install signage with MINNESOTA STATE'S prior written approval, see also Paragraph 8, Alterations.

7.3 Furniture, Fixtures, and Equipment. LANDLORD shall supply a desk and filing cabinet.

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- 7.4 Condition of Premises. TENANT agrees to maintain the Leased Premises in a reasonably clean and sanitary condition.
- 7.5 Energy Conservation. TENANT agrees to observe reasonable precautions to prevent waste of heat, electricity, water, air conditioning and other utility or service, whether such is furnished by MINNESOTA STATE or obtained and paid for by TENANT.
- 7.6 Compliance with Laws. TENANT shall comply with all applicable municipal, county and state laws, ordinances and regulations, and shall obtain and pay for all licenses and permits (and special use permits, if applicable) as may be required by its use of the Leased Premises.
- 7.8 Tax or Impositions. In the event that a state or local tax is imposed upon MINNESOTA STATE due to TENANT'S occupancy, use, possession or leasehold interest in the Leased Premises, the obligation for the payment of the tax will be wholly that of TENANT.
- 7.9 Human Rights: When applicable, TENANT certifies that it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minnesota Statutes, Section 363A.36, or that it has not had more than 40 full-time employees at any time during the previous 12 months and claims exemption from Minnesota Statutes, Section 363A.36.
- 7.10 Repairs. TENANT shall, except as otherwise specified herein, maintain in good repair and condition the Leased Premises including the building and any and all equipment, fixtures or appurtenances furnished by MINNESOTA STATE under this Lease. TENANT shall bear the expense of repairs to the Leased Premises necessitated by damage caused by TENANT beyond normal wear and tear.
- 7.11 Nuisance. TENANT agrees not to use the Leased Premises in any way which, in the judgment of MINNESOTA STATE, poses a hazard to building occupants, the Leased Premises or the building, in part or whole, nor shall TENANT use the Leased Premises so as to cause damage, annoyance, nuisance or inconvenience to building occupants or others.
- 7.12 No Smoking. TENANT shall comply with the campus policy on tobacco use on campus grounds.

## 8. ALTERATION OF LEASED PREMISES.

***TENANT shall make no alterations, additions, or changes in the Leased Premises without the advance written consent of MINNESOTA STATE.*** All alterations, additions, improvements and fixtures (including floor coverings), which may be made or installed by MINNESOTA STATE upon the Leased Premises and which in any manner are attached to the floors, walls or ceilings, at the termination of this lease shall remain the property of MINNESOTA STATE, and shall remain upon and be surrendered with the Leased Premises as a part thereof, without damage or injury beyond normal wear and tear.

- 8.1 Alterations, additions or changes shall comply with all applicable codes and MINNESOTA STATE Design and Construction Standards. TENANT shall at all times observe all fire and building codes relating to its operation and use of the Leased Premises. TENANT shall comply with all applicable laws and requirements including, but not limited to the City, County, and

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State of Minnesota as to sanitary, health and safety conditions and as to the use of the Leased Premises by TENANT.

- 8.2 Alterations, additions or changes shall be at TENANT's sole cost and expense to furnish all labor and materials to make all alterations and structural changes necessary for use of the building as permitted by this Lease.
- 8.3 TENANT shall be responsible for ensuring that building contractors employed by TENANT shall provide and maintain a performance bond and construction insurance as established by Minnesota State Colleges and Universities. TENANT shall provide copies of said performance bond and construction insurance to MINNESOTA STATE prior to any work performed by any contractors on behalf of TENANT.
- 8.4 Tenant may, at its own expense, remodel, redecorate, make alterations, additions and changes in and to the interior of the premises (except those of a structural nature); provided, however, that no alterations, additions or changes may be made without first procuring the approval in writing of MINNESOTA STATE. All alterations, additions or changes to be made to the Leased Premises which require the approval of MINNESOTA STATE shall be made under the supervision of a competent architect or competent licensed structural engineer and made in accordance with plans and specifications approved in writing by MINNESOTA STATE before commencement of work. All work related to any alterations, additions or changes shall be done in a good and workmanlike manner and diligently completed so that the premises shall be a complete unit at all times except during the period of construction. TENANT will not make or allow to be made any structural changes or additions to the building or the premises, or make or allow to be made any changes, additions or hook ups to any utility services, including electrical, plumbing, heating, HVAC, or any transformers, lines, wires, or equipment associated with same, without the prior written approval of MINNESOTA STATE. TENANT shall be responsible for the cost of any build out of the Leased Premises in preparation for occupancy. TENANT and MINNESOTA STATE shall develop plans and specifications for building out the TENANT space.
- 8.5 TENANT shall have no right to encumber or subject the interest of MINNESOTA STATE in the Leased Premises to any mechanic's liens, material liens or other liens of any nature whatsoever, and TENANT shall have any such lien discharged within 10 days after the date of recording of the lien. TENANT shall be liable to MINNESOTA STATE for any MINNESOTA STATE's costs and attorney fees incurred in regard to this section.
- 8.6 Leased Premises Condition at Termination. TENANT shall vacate the Leased Premises in good order and in the same repair as which the Leased Premises existed at the commencement of this Lease Agreement, ordinary wear and tear excepted, and, shall remove all its property and fixtures there from so MINNESOTA STATE can repossess the Leased Premises not later than the day after the expiration of this Lease Agreement or any renewal thereof, whether upon notice or by holdover or otherwise. TENANT may at any time prior to or upon the termination of this Lease Agreement or any renewal or extension thereof, remove from the Leased Premises all materials, equipment and property of every other sort or nature installed by TENANT thereon, provided that such property is removed without substantial injury to the Leased Premises. No injury or damage shall be considered substantial if it is promptly corrected by restoration to the condition prior to the installation of such property or equipment.

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MINNESOTA STATE may require TENANT to remove same from the Leased Premises, at MINNESOTA STATE's sole discretion, if MINNESOTA STATE provides TENANT with written notice at least 15 days prior to termination of the lease. TENANT shall leave all furniture provided to it by MINNESOTA STATE at the Leased Premises upon termination of the lease.

**9. ASSIGNMENT AND SUBLETTING.**

TENANT shall not assign nor in any manner transfer this Lease or any interest therein, nor sublet said Leased Premises or any parts thereof.

**10. MINNESOTA STATE'S ACCESS.**

MINNESOTA STATE, acting through its designated agent, employees or officials shall have the right, upon prior notification to TENANT (or without such notice in case of an emergency), to enter the Leased Premises at all reasonable times.

**11. INSURANCE. [INTENTIONALLY OMITTED]**

**12. LIABILITY.**

MINNESOTA STATE and TENANT agree that each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. MINNESOTA STATE'S liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, Section 3.736, and other applicable law. TENANT's liability shall be governed by the Municipal Tort Claims Act, Minnesota Statutes Chapter 466.

**13. MINNESOTA STATE TO BE INDEMNIFIED AND HELD HARMLESS.**

MINNESOTA STATE shall not be liable for any suits, actions or claims of any character for injury, death or property damage made by or on behalf of any person or persons, firm or corporation arising out of the conduct, management or use of the Leased Premises by TENANT or arising out of any work or thing whatsoever done in or about the premises or structures or equipment therein when such has been authorized by TENANT, except as such injury, death or property damage is attributable to MINNESOTA STATE'S negligence as determined by a court of law. TENANT shall indemnify MINNESOTA STATE and hold it harmless from any and all such suits, actions or claims. This provision shall survive the termination of this Lease.

**14. PERSONAL PROPERTY RISK.**

All personal property in or about the Leased Premises belonging to or placed therein by TENANT or its occupants or visitors shall be there at the sole risk of TENANT or such other person only, and MINNESOTA STATE shall not be liable for theft or misappropriation thereof, nor for any loss or damage due to the building or any part of the appurtenance thereof becoming out of repair, or arising from the bursting or leaking of water, gas, sewer or steam pipes, or due to the happening of any accident in or about the Leased Premises including destruction by fire.



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**15. DAMAGE BY FIRE OR OTHER CASUALTY.**

If all or a substantial part of the Leased Premises is rendered untenable or inaccessible by damage to all or any part of the building from fire, the elements, accident, or other casualty (a "Casualty"), MINNESOTA STATE shall have the option, at its sole and absolute discretion, to either:

- a. Use reasonable efforts to restore the Leased Premises to substantially its former condition to the extent permitted by applicable law; provided, however, that in no event shall MINNESOTA STATE have any obligation: 1) to make repairs or restoration beyond the extent of insurance proceeds received by MINNESOTA STATE for such repairs or restoration or 2) repair or restore any of TENANT's personal property, trade fixtures or alterations. If MINNESOTA STATE elects to repair damage to the Leased Premises, then

- 1) This Lease Agreement shall remain in full force and effect but Rent from the date of the Casualty though the date of substantial completion of the repair shall be abated with regard to any portion of the Leased Premises that TENANT is prevented from using by reason of such damage or its repair; and

- 2) In no event shall MINNESOTA STATE be liable to TENANT by reason of any injury to or interference with TENANT's business or property arising from a Casualty or by reason of any repairs to any part of the building necessitated by the Casualty.

OR

- b. Terminate this Lease and end the term hereof, in which case the rent shall be paid to the date of such fire or other casualty, and all further obligations on the part of either party shall cease. If MINNESOTA STATE elects to terminate the Lease Agreement, MINNESOTA STATE shall notify TENANT in writing within 180 days of the date of the Casualty.

**16. HOLDING OVER.**

In the event TENANT remains in possession of the Leased Premises herein leased after the expiration of this Lease and without the execution of a new lease, it shall be deemed occupying said Leased Premises as a tenant, subject to all the conditions, provisions and obligations of this Lease insofar as the same can be applicable to a month-to-month tenancy, except that if TENANT holds over for more than five days, the amount of Rent due each month will be doubled. The increased Rent payment will be due each month, including the first month Tenant holds over, until TENANT vacates the Leased Premises. TENANT will also be liable to MINNESOTA STATE for all costs, losses, claims or liabilities that MINNESOTA STATE may incur as a result of TENANT's failure to surrender possession of the Leased Premises to MINNESOTA STATE upon the expiration or earlier termination of the Lease.

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**17. DEFAULT BY TENANT.**

If TENANT defaults in any of its promises or covenants under the Lease and fails to cure the same within thirty (30) days after receipt of written notice of default from MINNESOTA STATE, MINNESOTA STATE may exercise one or more of the following remedies, or any other remedy available at law or in equity:

- a. terminate the Lease and recover from TENANT all damages it has incurred by reason of such breach;
- b. re-enter the Leased Premises and remove all persons and property from the Leased Premises, without terminating the Lease or releasing TENANT from its obligations under the Lease;
- c. re-let the Leased Premises without terminating the Lease. All amounts received from such re-letting shall be applied: first, to the payment of any costs of re-letting, and second, to the payment of Rent due and owing under this Lease Agreement. If the amount received from re-letting in any month is less than the amount of Rent to be paid by TENANT, TENANT will pay any such deficiency to MINNESOTA STATE upon demand.

**18. SELF-HELP RIGHT.**

If TENANT defaults in the performance of any term of this Lease Agreement, MINNESOTA STATE, in addition to any other rights and remedies it has under this Lease and without waiving such default, may perform the same for the account of and at the expense of TENANT (but shall not be obligated to do so), without notice in a case of emergency and in any other case if such default continues after five (5) days from the date that MINNESOTA STATE gives written notice to TENANT of its intention to do so. TENANT must pay upon demand bills for all amounts paid by MINNESOTA STATE and all losses, costs and expenses incurred by MINNESOTA STATE, in connection with any such performance by MINNESOTA STATE pursuant to this section, including, without limitation, all amounts paid and costs and expenses incurred by MINNESOTA STATE for any property, material, labor or services provided by MINNESOTA STATE to TENANT.

**19. WAIVER OF COVENANTS.**

The failure of MINNESOTA STATE to insist in any one or more instances upon performance of any of the terms, covenants or conditions of this Lease shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition, but TENANT'S obligation with respect to such future performance shall continue in full force and effect.

**20. BUILDING AND LEASED PREMISES ACCESS AND HOURS.**

MINNESOTA STATE shall provide access to the Leased Premises for authorized employees, visitors, invitees and guests of TENANT during regular college business hours.

**21. NOTICES.**

All notices, requests, and other communications between MINNESOTA STATE and TENANT that are required or that MINNESOTA STATE or TENANT elect to deliver shall be deemed

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sufficiently given or rendered if in writing and delivered to either party personally, by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, (return receipt required) addressed as follows:

TENANT: Independent School District No. 709  
CFO/Executive Director of Business Services  
215 N. 1st Avenue East  
Duluth, MN 55802

MINNESOTA STATE: Lake Superior College  
Vice President of Administration  
2101 Trinity Road  
Duluth, Minnesota 55811

With a copy to: Minnesota State Colleges and Universities  
30 E. 7th Street, Suite 350  
St. Paul, MN 55101  
ATTN: Real Estate Services

**22. NEW LANDLORD.**

In the event the Leased Premised or the building of which the same is a part shall be sold, conveyed, transferred, assigned, leased or sublet, or if MINNESOTA STATE shall sell, convey, transfer, or assign this Lease Agreement or rents due under this Lease Agreement, or if for any reason there shall be a change in the manner in which the rental reserved hereunder shall be paid to MINNESOTA STATE, proper written notice of such change must be delivered to TENANT as promptly as possible.

**23. AUDIT.**

MINNESOTA STATE is a State of Minnesota entity. The books, records, documents and accounting procedures and practices of the TENANT (whether in hard copy or electronic format) regarding this Lease Agreement shall be subject to reasonable examination by the State, MINNESOTA STATE, MINNESOTA STATE's Internal Auditor or Independent Auditor and/or the Legislative Auditor during the term of the Lease and for a minimum of six (6) years after the Lease's expiration or termination.

**24. ENVIRONMENTAL.**

TENANT shall not use in any way, or permit or suffer the use of the Leased Premises or any part thereof, to either directly or indirectly prepare, produce, generate, manufacture, refine, treat, transport, store, maintain, handle, dispose of, transfer, or process any Hazardous Substance as defined below, unless it has received the prior written consent of MINNESOTA STATE, which may be unreasonably withheld. "Hazardous Substance" means any pollutant, contaminant, toxic or hazardous waste, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive or radioactive material, urea formaldehyde foam insulation, asbestos, PCBs, or any other substance the removal of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling, or ownership of

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which is restricted, prohibited, regulated, or penalized by any and all federal, state, county, or municipal statutes or laws now or at any time hereafter in effect, including but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 5101 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.) as these laws have been amended or supplemented. TENANT agrees to hold harmless and indemnify MINNESOTA STATE from any and all damages, costs, fines and expenses, including all attorney's fees incurred by MINNESOTA STATE that might arise as a result of TENANT's violation of this provision. This provision shall survive the termination of this Lease.

## 25. ENTIRE AGREEMENT.

The Lease Agreement documents, which constitute the entire Lease Agreement between the parties except for agreed upon written amendments issued after execution of this Lease Agreement, are enumerated as follows:

- Lease Agreement
- **EXHIBIT A**, Leased Premises
- **EXHIBIT B**, Janitorial and Trash Removal Service Plan

*Signature Block is on Next Page*

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IN WITNESS WHEREOF, the parties have set their hands on the date(s) indicated below intending to be bound thereby.

**TENANT: Independent School District No. 709**

TENANT certifies that the appropriate person(s) have executed the contract on behalf of TENANT as required by applicable articles, by-laws, resolutions, or ordinances.

By: <sup>DocuSigned by:</sup> Catherine A. Erickson  
3539DB8A52D84F1  
Cathy Erickson

01-E-005-211-000-370-201

Its: CFO/Executive Director of Business Services

Date: 12/29/2021 | 3:29:11 PM CST

**MINNESOTA STATE: STATE OF MINNESOTA, BY AND THROUGH THE BOARD OF TRUSTEES OF MINNESOTA STATE COLLEGES AND UNIVERSITIES, ON BEHALF OF LAKE SUPERIOR COLLEGE**

By: <sup>DocuSigned by:</sup> Alan Finlayson  
CABEA485D3C74E5...  
Alan Finlayson

Its: Vice President of Administration

Date: 12/29/2021 | 3:29:11 PM CST

**VERIFIED AS TO ENCUMBRANCE: (if applicable)**

Employee certifies that funds have been encumbered as required by Minnesota Statute §16A.15.

Expenditure Authorization Entered

By: N/A

Title: N/A

Date: N/A

**AS TO FORM AND EXECUTION:**

By: <sup>DocuSigned by:</sup> Nickoel Anderson  
7579A626C85D4E7...  
Nickoel Anderson

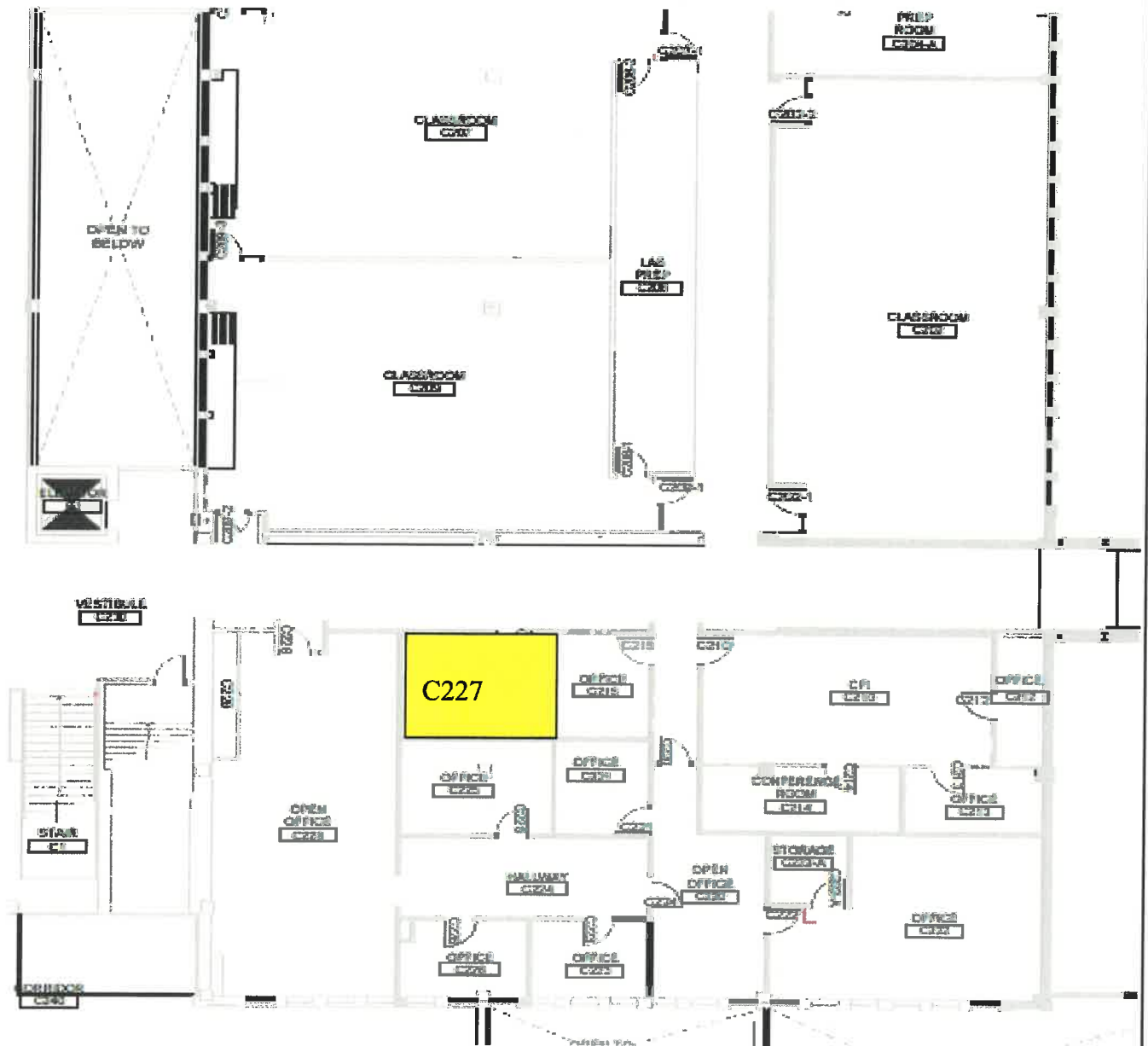
Title: Director of Business Services

Date: 12/29/2021 | 3:29:11 PM CST

LEASE NO: L-[campus ID number-last two digits of fiscal year-sequential number]

### EXHIBIT A – LEASED PREMISES

Leased Premises are marked in yellow below on Building floor plan.



LEASE NO: L-[campus ID number-last two digits of fiscal year-sequential number]

## EXHIBIT B

Revised July 14, 2018

### JANITORIAL AND TRASH REMOVAL SERVICE PLAN Main Campus, ERTC and Aviation Center

#### JANITORIAL SERVICE

Maintenance will provide janitorial services according to the following schedule:

##### DAILY

- Empty wastebaskets. Replace liners if needed (torn, food or liquid spills)
- Sweep and mop hard surfaced floors – at a minimum floors are to be dry mopped but may require wet mopping (All Hallways and Common Areas)
- Clean bathrooms
  - wash and sterilize washbowls, toilet seats, toilet bowls and urinals
  - restock toilet tissue, towel dispensers and soap dispensers
  - clean mirrors
  - wet mop and disinfect floors
- Clean and disinfect water fountains
- Clean glass on entrance doors
- Daytime bathroom checks

##### WEEKLY

- Empty recycling containers
- Vacuum all carpeted areas
- Clean classroom and conference room tables

##### ANNUAL OR BI-ANNUAL

- Wash interior/exterior windows
- Clean carpet
- Strip and reseal floors

##### BI-WEEKLY

- Dust all furniture, ledges, molding and exposed surfaces (desks and credenzas will not be dusted if not cleared off)
- Dust window blinds

##### AS NEEDED

- Spot clean the carpets and floors
- Replace light bulbs
- Clean desktops as requested

#### TRASH AND RECYCLING

Maintenance will provide trash and recycling service for the offices and classrooms. The Program will be responsible for the recycling of all scrap material used in the shops (Art, Auto Body, Auto Service, Aviation, Aviation Mechanics, Carpentry, Commercial & Residential, Fire Tech and Truck Driving).

Alterations to the outline may be needed due to unforeseen circumstances (weather, employee absences, etc.)

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 1st day of December 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and Michael Charette, an independent contractor, hereinafter called Contractor:

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:**

1. **Dates of Service.** This Agreement shall be deemed to be effective as of December 21, 2021 and shall remain in effect until June 30th, 2022 unless terminated earlier as provided for herein; or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled; whichever occurs first.

2. **Performance.** The Contractor will be on contract with DPS American Indian Education Department to share his storytelling and musical talents as an Ojibwe performer. The contract will be up to 3 sessions at \$400.00 (four hundred dollars) per session.

3. **Background Check.** N/A

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of the contract until the results of the criminal background check(s) are on file.

If Contractor has already completed background checks for their business needs, Contractor stipulates that the background checks are completed, on file, and will be made available for review if the District should request.

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$1500 (fifteen hundred dollars). at the rate of \$400.00 (four hundred dollars) a session. Mileage will also be paid at the Federal rate of \$0.56/per mile (fifty-six cents).

Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN



will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

**5. Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

**6. Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

**7. Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

**8. Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

**9. Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

**10. Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: American Indian Education Office 4316 Rice Lake Rd. Suite 108 Duluth, MN 55811

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to: **Michael Charette;**

37455 Water Tower Rd Apt # 902 RCHA Box 957 Gayfield WI 54814  
(mailing address)

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.


**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from

operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

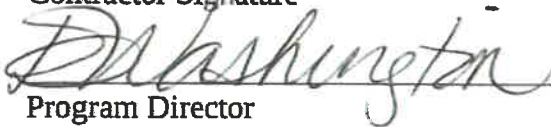
**18. Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK**

**AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT**, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

  
 Contractor Signature

  
 SSN/Tax ID Number

  
 Program Director

Date 12-5-21

Date 12/7/2021

**Please note:** All signatures *must* be obtained AND the following *must* be completed by the Program Director before submission to the CFO for review and approval.

**This contract is funded by either:**

1. The following budget (include full 18 digit code); or
2. will be paid using Student Activity Funds; or
3. is no cost contract (e.g. Memorandum of Understanding).

**Please check the appropriate line below:**

Check if the contract will be paid using District funds and enter the budget code in the top line below (enter in blank spots following the example).

01	E	005	605	320	305	340
XX	X	XXX	XXX	XXX	XXX	XXX

Check if the contract will be paid using Student Activity Funds

Check if the contract is a no-cost contract such as a Memorandum of Understanding

  
 CFO / Superintendent of Schools / Board Chair

Date 12/10/21

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 23rd day of September, 2021 , by and between Independent School District #709, a public corporation, hereinafter called District, and Misty Nordin, an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:**

1. **Dates of Service.** This Agreement shall be deemed to be effective as of September 23<sup>rd</sup>, 2021 and shall remain in effect until June 30<sup>th</sup>, 2022 , unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** Contractor will utilize their unique knowledge and perspective as an Ojibwe expert. The Contractor will provide workshops on Begesiwin (dish game) for our American Indian students/families in the District during our family engagement nights.

3. **Background Check.** *(applies to contractors working independent with students)*

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

If Contractor has already completed background checks for their business needs, Contractor stipulates that the background checks are completed, on file, and will be made available for review if the District should request.

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse

Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$75.00 hourly and \$5,250.00 in total. Mileage will be reimbursed at the standard IRS rate applicable for the year in which the expense was incurred (2021 is \$.56/mile, 2022 rate has not been published).

Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

**5. Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

**6. Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

**7. Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

**8. Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

**9. Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

**10. Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: ISD 709, Duluth Public Schools, Attn: American Indian Education Office, 4316 Rice Lake Rd, Suite 108, Duluth, MN 55811.

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to (mailing address with zip) 92060 Frobay Road, Bayfield, WI 54814.

**11. Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

**12. Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

**13. Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

**14. Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to “data on individuals”; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers’ Compensation Insurance:** Contractor must provide Workers’ Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers’ Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer’s Liability.

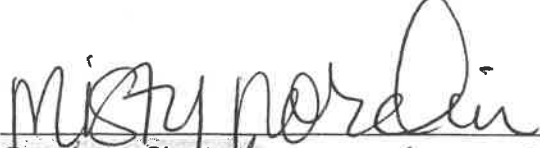
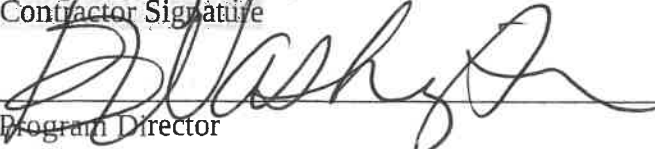
**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

18. **Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District’s website.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK**



AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

  
 Contractor Signature \_\_\_\_\_ SSN/Tax ID Number \_\_\_\_\_ Date 10-19-21  
  
 Program Director \_\_\_\_\_ Date 10/19/21

**Please note:** All signatures *must* be obtained AND the following *must* be completed by the Program Director before submission to the CFO for review and approval.

**This contract is funded by either:**

1. The following budget (include full 18 digit code); or
2. will be paid using Student Activity Funds; or
3. is no cost contract (e.g. Memorandum of Understanding).

**Please check the appropriate line below:**

Check if the contract will be paid using District funds and enter the budget code in \_\_\_\_\_ the top line below (enter in blank spots following the example).

01	E	005	605	320	305	340
XX	X	XXX	XXX	XXX	XXX	XXX

\_\_\_\_\_ Check if the contract will be paid using Student Activity Funds

\_\_\_\_\_ Check if the contract is a no-cost contract such as a Memorandum of Understanding

  
 CFO / Superintendent of Schools / Board Chair \_\_\_\_\_ Date 12/10/21

## CONSULTANT AGREEMENT

THIS AGREEMENT, by and between COSTIN GROUP MINNESOTA, INC. hereinafter referred to as "Consultant," and the Duluth Public Schools, a political subdivision of the State of Minnesota, hereinafter referred to as "DPS."

### RECITALS

WHEREAS, Consultant will provide government relations, public relations, and other related services assistance to the DPS; and

WHEREAS, DPS has asked for advice from the Consultant;

NOW, THEREFORE, DPS and Consultant, for good and valuable mutual consideration and with the intent of being legally bound, agree as follows:

1. **Scope of Services:** Consultant shall perform government relations, public relations, and related services directed and approved by the DPS Superintendent.

2. **Compensation to Consultant:** In consideration of the services to be performed by Consultant pursuant to this Agreement, DPS agrees to make payment to Consultant at the rate of \$ 3,000 per month retainer, no expenses. Consultant shall bill DPS not less frequently than quarterly for retainer incurred pursuant to this Agreement. Payment shall be made upon approval of DPS at its next regular monthly meeting following receipt of Consultant's billing.

3. **Conditions of Payment:** All services provided by Consultant pursuant to this Agreement shall be performed by Jeff Anderson or Gary Cerkvenik personally, unless DPS has given advance approval for services to be performed by another representative of Consultant. All services provided shall be performed to the satisfaction of DPS, and in accordance with all applicable federal, state and local laws, ordinances, rules and regulations.

All items of work to be performed by the Consultant shall be done in accordance with the requirements and recommendations of, and subject to the approval of, DPS. Consultant shall be responsible for the professional quality, technical accuracy and the coordination of all services furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or revise any errors or deficiencies in Consultant's final work product or services.

DPS shall not be obligated to pay for, nor shall consultant claim for, any services not specifically authorized pursuant to the terms of this Agreement, except upon advance written approval of DPS. Such approval shall be considered to be a modification of this Agreement. Consultant shall notify DPS in writing before it begins any work which will

be the basis for a claim for extra compensation. If such notification is not given or is not approved by DPS in writing before Consultant commences the work, then Consultant hereby waives and releases forever any claim or costs for such extra compensation. However, such notice shall not in any way be construed as proving the validity of any claim by Consultant except where approved in advance by DPS.

4. **Ownership of Work Product:** All data gathered, prepared or recorded by Consultant pursuant to the terms of this Agreement shall be the property of DPS. Upon request of any duly authorized agent of DPS, Consultant shall make every reasonable effort to explain or clarify the meaning of the data contained in the materials delivered to DPS.

5. **Term:** The term of this Agreement shall be from January 1, 2022, through January 1, 2023, unless earlier terminated in accordance with the provisions of this Agreement.

6. **Cancellation of Agreement:** Either party may cancel this Agreement at any time by giving written notice to the other party at least 3 months prior to the effective date of the termination. Consultant shall receive just and equitable compensation for all work satisfactorily performed pursuant to this Agreement. Notice to DPS shall be mailed or delivered to 4316 Rice Lake Rd, Suite 108, Duluth, MN 55811. Notice to Consultant shall be mailed or delivered to Jeff Anderson, Costin Group Minnesota, Inc., P.O. Box 385, Duluth, MN 55801.

7. **Independent Contractor:** It is agreed that nothing contained in this Agreement is intended or should be construed as creating the relationship of co-partner, joint venturer or an association with the Consultant and DPS. Consultant is an independent contractor and neither it, its employees, agents, subcontractors or representatives shall be considered employees, agents or representatives of DPS. Except as otherwise provided herein, Consultant shall maintain, in all respects, its present control over the means and personnel by which this Agreement is performed. From any amounts due consultant, there shall be no deductions for federal income tax or FICA payments nor for any state income tax, nor for any other purposes which are associated with an employer/employee relationship unless otherwise required by law. Payment of federal income tax, FICA payments, state income tax, unemployment compensation taxes, and other payroll deductions and taxes are the sole responsibility of Consultant.

8. **Assignment or Transfer:** No portion of the work or services required under this Agreement shall be transferred, assigned, or otherwise disposed of except with the prior written consent of DPS.

9. **Indemnity:** Consultant agrees, to the fullest extent permitted by law, to indemnify and hold DPS harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by or arising from any professional errors and omissions and/or negligent acts and omissions of Consultant in performance of this Agreement and those of Consultant's sub-consultants or anyone for whom Consultant is legally liable. Consultant's indemnification obligation includes, but is not limited to, infringement of patent or copyright laws.

10. **Non-Discrimination:** Consultant shall not discriminate against employees or applicants for employment or in the rendering of work or services under this Agreement on the basis of race, creed, color, national origin, religion, sex, marital status, disability, sexual orientation, or status with respect to public assistance.

11. **Data Practices Act Compliance:** Consultant agrees to comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by DPS in accordance with this Agreement, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by Consultant in accordance with this Agreement. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to herein by either Consultant or DPS. In the event that Consultant receives a request to release the data referred to above, Consultant shall immediately notify DPS. DPS will provide instructions to Consultant concerning the release of the data to the requesting party before the data is released.

12. **Access to Records/Audit:** DPS, its authorized representative(s), or the State Auditor shall have full access to all records relating to the performance of this Agreement. Consultant agrees to maintain records relating to all services provided by it

under the terms of this Agreement and shall retain all such records for one (1) year following the termination of this Agreement. Such records shall be made available for audit or inspection upon request of DPS or its authorized representative.

13. **Separability:** In the event any provision of this Agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties unless such invalidity or non-enforceability would cause the Agreement to fail of its purpose. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the Agreement.

14. **Entire Agreement:** It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous contracts presently in effect between DPS and Consultant relating to the subject matter hereof.

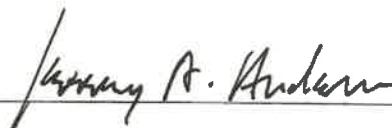
15. **Modification of Agreement:** Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, signed by authorized representatives of DPS and Consultant, and attached to the original of this Agreement.

IN WITNESS WHEREOF, DPS and Consultant have executed this Agreement as of this 9th day of December, 2021.

DULUTH PUBLIC SCHOOLS  
4316 RICE LAKE RD, SUITE 108  
DULUTH, MN 55801

COSTIN GROUP MINNESOTA, INC.  
P.O. BOX 385  
DULUTH, MN 55801

By: 

By: 

ITS: CFO

ITS: President

## **AGREEMENT**

**THIS AGREEMENT**, made and entered into this 30th day of December, 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and Jacqueline Dolentz, an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:**

1. **Dates of Service.** This Agreement shall be deemed to be effective as of January 14, 2022 and shall remain in effect until December 31, 2022, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** Assist in the transition of the new Business Services Coordinator.

3. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$45.00 hourly and \$20,000.00 in total.

Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

4. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

5. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

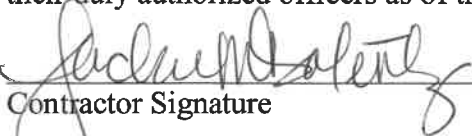
6. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

7. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

8. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to “data on individuals”; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

9. **Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District’s website.

**AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT,** set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

 \_\_\_\_\_ [Redacted] 12/29/21  
Contractor Signature SSN/Tax ID Number Date

**Please note:** All signatures *must* be obtained AND the following *must* be completed by the Program Director before submission to the CFO for review and approval.

**This contract is funded by either:**

- 1. The following budget (include full 18-digit code); or
- 2. will be paid using Student Activity Funds; or
- 3. is no cost contract (e.g. Memorandum of Understanding).

**Please check the appropriate line below:**

XXX Check if the contract will be paid using District funds and enter the budget code in the top line below (enter in blank spots following the example).

01	E	012	110	000	305	000
XX	X	XXX	XXX	XXX	XXX	XXX

\_\_\_\_\_ Check if the contract will be paid using Student Activity Funds

\_\_\_\_\_ Check if the contract is a no-cost contract such as a Memorandum of Understanding

 \_\_\_\_\_ 12/30/21  
CFO / Superintendent of Schools / Board Chair Date

# Working Agreement

This agreement is made as of Dec 29, 2021 between

Angie Frank  
Duluth Adult Education  
(hereinafter "Client")

and

Hannah Hoaglund  
Hoaglund Designs LLC  
PO Box 2371  
Tofte MN 55615  
(hereinafter "Designer")

## Pricing

\$750 total

Includes square window cling design, up to two rounds of revisions, final design pdf and preparing the files for print as needed.

Two-sided postcard design with 4 variations of the front design. Includes initial for each, final pdf files, any printing preparation needed.

Note: Does not include printing costs.

## Payment Schedule

The client will make a 50 percent down payment prior to work commencing. The down payment is non-refundable. The remaining 50 percent is payable to the designer upon completion of the project and before artwork is supplied to the client.

## Agreement Expiration

The terms of this Agreement expires 10 days after being submitted to Client. If this Agreement expires, Designer may modify the Agreement and resubmit it to Client. Pricing is subject to change after contract has expired.

## Revisions

Up to two rounds of revisions are included in the quoted price. Additional revisions will be billed at a rate of \$85/hour.



## Rights and Ownership

**Rights:** Final design shall be for the exclusive use of the client other than for the designer's promotional use. Upon payment of all fees and expenses, the following reproduction rights for all approved final designs created by the designer for this project shall be granted:

- Client to gain full license to reproduce work through commercial printers.

**Ownership:** The client shall be entitled to full ownership of final artwork, in its original format only, created during the project upon full payment of the agreed fee. Client may not modify the Final Design. Designer retains all rights to all Preliminary Designs. They may not be duplicated, altered or sold in any way.

**Reservation of Rights:** All rights not expressly granted above are retained by the Designer.

**Permissions and Releases:** The Client agrees to indemnify and hold the Designer harmless against any and all claims, costs, and expenses, including attorney's fees, due to materials included in the Design at the request of the Client for which no copyright permission or privacy release was requested, or for which uses exceed the uses allowed pursuant to a permission or release.

**Third party contracts:** The designer may contract with other creative professionals to provide services such as web development, photography, and illustration. Any third-party terms and conditions will include full reproduction rights for the client. Where such contracting adds to the project cost, the client will first be asked for permission to proceed. No project will commence on the assumption that third parties might be required for project completion. Such details will be finalized prior to project commencement, unless requested by the client at a later date.

## Delayed Payment

If the invoice is more than 14 days overdue, a 10 percent "delayed payment" fee will be charged. This 10 percent figure will be added upon each recurring 30-day period until the full amount has been received by the designer.

## Cancellation

If, after project commencement, client communication (face-to-face, telephone, or email) stops for a period of 90 days, the project can be cancelled, in writing by the designer, and ownership of all copyrights shall be retained by the designer. A cancellation fee for work completed shall be paid by the client, with the fee based on the stage of project completion. The fee will not exceed 100 percent of the total project cost.

## Miscellaneous

**Samples:** The client shall provide the designer with samples of print design that result from the project deliverables. Such samples shall be representative of the highest quality of work produced. The designer may use such copies and samples for publication, exhibition, or other promotional purposes.

**Confidentiality:** The client shall inform the designer in writing before the project commences if any portion of any material or information provided by the client or if any portion of the project is confidential. All material from the Designer should be considered and designated as confidential. The information should be used only as needed to perform this Agreement.

Confidential Information shall not include any information that is already known by the recipient, becomes publicly known through no fault of the recipient, or is received from a third party without a restriction on disclosure. All training materials and information provided by Designer will remain confidential and shall not be copied or duplicated.

**Indemnity:** The client agrees to indemnify and hold harmless the designer from all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, but only to the extent caused by, arising out of, the work supplied by the designer.

## Deliverable Acceptance

Within five business days after delivery of the Deliverable to Client, Client must notify Designer in writing of any failure of such Deliverable to comply with specifications, or of any other objections, corrections, or revisions Client wishes to be made with such Deliverable. In the absence of such notice from Client, the Deliverable shall be deemed accepted and approved by Client five business days after delivery of the Deliverable to Client.

### Timeline

Changes to approved designs during the production phase (prepress or programming) of the project may require an extension of the timeline and an increase in the budget.

### Delays

Client shall use all reasonable efforts to provide needed information, materials and approvals. Any delay by Client will result in a day-for-day extension of the due date for all Deliverables. Any delay caused by conditions beyond the reasonable control of the parties shall not be considered a breach and will result in a day-for-day extension any performance due. Each party shall use reasonable efforts to notify the other party, in writing, of a delay. Conditions beyond the reasonable control of the parties include, but are not limited to, natural disasters, acts of government after the date of agreement, power failure, fire, flood, labor disputes, riots, acts of war, terrorism and epidemics. If client fails to respond to Designer request(s) within ten business days, Designer reserves the right to discontinue services, withhold delivery of the deliverables, and any transfer of ownership of current work. If Designer resumes performance of Services at his/her discretion, the Delivery Schedule and Designer Fees may be modified.

Client:

I agree to the terms and conditions of this contract.

First Name

Last Name

Select Date

*Signature* Catherine Erickson

12/30/21

Catherine Erickson, CFO

Business Owner:

I agree to the terms and conditions of this contract.

First Name

Last Name

*Signature*

04-E-005-520-164-303-000

# **DECC**

## **DULUTH ENTERTAINMENT CONVENTION CENTER RENTAL AGREEMENT**

*THE ENTIRE DECC COMPLEX IS A NON-SMOKING FACILITY*

In consideration of the fees and covenants herein expressed by the DULUTH ENTERTAINMENT CONVENTION CENTER AUTHORITY, an Authority created by charter by the State of Minnesota, herein referred to as the "DECC" does hereby give permission to the following:

Organization/Company Name: **East High School**  
(hereinafter referred to as the "Permittee")

Address: **Duluth East High School, 301 North 40th Avenue East, , Duluth, MN, 55804**

Telephone: **218-336-8845**

Contact Name: **Jerry Upton**

For the Sole Purpose of: **East High School Holiday Concert 2021**

To use the following specified facilities of the Duluth Entertainment Convention Center on the following day(s):

**December 17-18, 2021** (Friday-Saturday)

**Symphony Hall**

1. The rent to be paid by the Permittee is in the amount and on the basis and terms as follows:

**\$2,795.00 (Two Thousand Seven Hundred Ninety Five and no cents)**

**Plus the following:**

**Equipment List and Audio-Visual - (Effective 1/2021) or current rates  
Catering and/or Exhibit Arrangements by Separate Agreement**

2. ~~A \$1,000.00 non-refundable deposit is required thirty (30) business days after receiving this contract.~~ Remaining balance will be billed and due upon receipt.
3. All food and beverage must be purchased through the Duluth Entertainment Convention Center or DECC approved catering vendor. A pre-determined menu is required for all meal functions. The DECC requires that menu selections be made at least four (4) weeks prior to the event.
4. Because the DECC prepares for the number of meals guaranteed, a guaranteed number of meals is required 5 business days in advance. This number is not subject to reduction within this 5 business day period. Permittee will be charged for the number guaranteed, unless additional meals are served. If no guarantee is received, Permittee will be charged for the number on the catering confirmation.
5. Permittee agrees not to use any decorative materials prohibited by city ordinance including, but not limited to, crepe paper (flameproof or not), cellophane (shredded or not), confetti, cornstalks, and helium balloons. Display items may not be affixed to any wall, floor or ceiling with nails, staples, tape or any other substance.
6. Permittee agrees not to stage any act or performance in which fire or flame is involved without first seeking written permission from the DECC and Fire Prevention Bureau of the City of Duluth.

7. The DECC will use its best efforts to accommodate the Permittee with specified rooms, however, should the circumstances warrant, the DECC reserves the right to move the event from one room to another. Advance notification will be made should this situation arise.
8. The DECC is a **smoke free building**. We request that only *designated* outside areas be used.
9. Permittee shall indemnify and hold the DECC harmless of and free from any and all loss, damage, or injury to any person or persons, whomsoever, or property arising from the use of described facilities.
10. Insurance is required for any group over 500 people or when the event is open to the public. Permittee agrees to obtain, at its own cost and expense, public liability insurance in the sum of not less than \$500,000.00 for each person injured or killed, and not less than \$1,000,000.00 for the injury or death of two or more persons in any one occurrence, and property damage in the sum of not less than \$100,000.00 for each occurrence. All policies of insurance **shall name the City of Duluth and The Duluth Entertainment Convention Center Authority as additional insured** and shall contain a provision that such policy shall not be canceled without thirty (30) days written notice to the Duluth Entertainment Convention Center Authority. Permittee shall, at the time of the execution of this agreement, furnish the DECC with a copy of said policy or policies, or a certificate or certificates that such insurance has been issued.
11. This contract shall be binding by the DECC and the Permittee, its successors or assignees. The Permittee and the DECC agree that the DECC will not be liable for non-performance of this contract when non-performance is attributable to events beyond reasonable control of the DECC such as acts of God, national emergencies, governmental restrictions, and inoperable building conditions.
12. Permittee shall not assign or transfer this agreement, or sublet any portion thereof, without the written consent of the DECC. The Permittee herein is an independent contractor and not the agent or employee of the DECC.
13. The DECC reserves the right to refuse the sale or distribution of any or all novelty items or merchandise which the DECC deems offensive or objectionable.
14. The DECC will provide standard room-set per room used, public address system, heat, light, ventilation, air conditioning, building maintenance, janitorial services and building attendant.
15. The City represents, to the best of its knowledge, that the Duluth Entertainment Convention Center meets applicable requirements of the Americans with Disabilities Act (ADA) of 1990 and will hold harmless the Permittee from any claims of violations or non-compliance with the ADA that are beyond the control of the Permittee.
16. The DECC is the official decorator for the installation of exhibit booths, decorations, etc. The DECC and Permittee shall enter separate contract for decorator and convention services. You are welcome to bring in free of charge, any custom booths and custom items from your decorator. However, if they are standard items that we could supply Permittee agrees to pay 50% upcharge on services of any outside decorating firm on what our current year prices would have been. Permittee shall be responsible to Executive Director for any damage to building through erection of such booths or decorations. The DECC agrees to receive display material and equipment one week prior to the opening of any show, however, the Permittee shall hold full responsibility for such material while in storage. The DECC, its employees, or its assigns shall install all electrical outlets and cables to the booth area at the specified rates as established in Electrical Order Form. Permittee agrees to compensate the DECC for any loss of equipment or damage to any wiring, from any cause, to furnish the Permittee the use of the facilities herein described. Permittee further agrees to reimburse the DECC for any loss of equipment or damage to any wiring, from any cause, during the running of the show excepting that of natural wear of the electrical equipment. The DECC shall furnish the Permittee an inventory of such equipment at time of installation.
17. Permittee shall be subject to and follow all local, state and national orders that potentially restrict the number of attendees or mandate health protocols (such as masking, temperature checks, and physical distancing). Permittee agrees to assume responsibility, and provide adequate staffing, to enforce health protocols and attendance restrictions.

IN WITNESS WHEREOF, the DECC has caused these presents to be signed by its Executive Director or Authorized Representative, and the Permittee has executed the same the day and date first written.

**Dated this 21<sup>st</sup> day of October, 2021**

DULUTH ENTERTAINMENT CONVENTION CENTER

By: DFH  
Executive Director  
Duluth Entertainment Convention Center  
(DECC)

Cathie & Co  
Permittee Signature

CEO  
Permittee Title

12/10/21  
Date



**Braun Intertec Corporation**  
4511 West First Street, Suite 4  
Duluth, MN 55807

Phone: 218.624.4967  
Fax: 218.624.0196  
Web: braunintertec.com

October 13, 2021

Proposal QTB145588

Independent School District #709  
c/o Mr. Nathan Norton  
ICS Builds  
1331 Tyler Street NE Suite 101  
Minneapolis, MN 55413

Re: Proposal for Special Inspection and Testing Services  
ISD 709 Transportation Building  
730 East Central Entrance  
Duluth, Minnesota

Dear Mr. Norton:

Braun Intertec Corporation is pleased to submit this proposal to provide special inspections and testing services for the Transportation Building at the existing vacant Central high School Site in Duluth, Minnesota.

We have completed the geotechnical evaluation and environmental, so we have a unique understanding of the site and construction challenges. We can aid the construction team by applying this experience and transferring our knowledge developed during the design phase which will provide professional continuity to the construction. Our work on the project to date gives us familiarity with the project team and design development which allows us to understand some of the considerations used when developing the projects design.

Since our inception in 1957, we have grown into one of the largest employee owned engineering firms in the nation. With around 1,000 employee owners, retaining our firm gives you access to a diverse range of services and professionals you can consult with if the unforeseen occurs. The size of our company also allows us to respond quickly when schedule constraints occur.

Our office is located within 6 miles of the site, minimizing travel times and trip expenses. This proximity also provides the opportunity to quickly mobilize to the site when unforeseen needs arise.

AA/EOE

## **Our Understanding of Project**

We understand this project will include the construction of a new Transportation Building to house offices, training and storage areas and 20,000 square foot garage space.

We understand the buildings will be steel framed with precast walls, supported on cast in place concrete foundations. Slabs will be grade supported. Associated bituminous pavements and utilities are include in proposal QTB144980, District Service Center and Public Roadways.

## **Available Information**

This proposal was prepared using the following documents and information.

- Building project plans and specifications prepared by DSGW Architects, dated August 11, 2021.
- A geotechnical report B2009444.00 prepared by Braun Intertec, dated May 7, 2021.

## **Project Approach and Staff Qualifications**

### **Special Inspections**

Braun Intertec has adopted the International Code Council (ICC) Model Program for Special Inspection to develop the guiding principles for our special inspection program. This model was selected because it was designed by the ICC to assist owners, contractors and building officials in the understanding, administration and enforcement of the special inspection requirements of the International Building Code (IBC). Currently, there are ICC certifications for soils, reinforced concrete, structural masonry, pre-tension/post-tension (pre-stressed) concrete, spray-applied fireproofing, structural steel and bolting, and structural welding.

### **Qualifications and Experience**

An ICC certified special inspector is one who has successfully demonstrated their ability to understand the IBC, construction practices and how to read and understand construction documents. Through experience and examination, our ICC certified special inspectors have demonstrated their ability to provide special inspection services.

### **Inspections and Reporting**

Our special inspectors summarize the nature, extent and results of special inspection activities at the time they are performed on Special Inspection Daily Report forms submitted electronically to the general contractor's on-site personnel for review and records. These records can also be transmitted electronically to others who may want to review these documents on an agreed upon schedule. When unresolved discrepancies are noted, we will document the issues and work with the design and construction team to bring them to resolution. Special inspection final reports will be prepared and submitted upon completion as required by the requirements of the IBC.

### **Communications**

Braun Intertec special inspectors will communicate the results of their inspections to the contractor and our supervising engineer each day special inspections are performed. We strive to have our special inspectors develop a working relationship with the project's structural engineer-of-record. We may attempt contact with the structural engineering consultant periodically to review the work being performed and to request clarifications and direction on any item that may require it.

### **Construction Materials Testing**

Qualified technicians working under the direction of a professional engineer will provide the services. Experience and certification information is available upon request once we are provided with schedule information. Concrete technicians assigned to the project are ACI Concrete Field Testing Technician – Grade I certified to conduct the required concrete testing. Soil technicians are certified to use a nuclear gauge for soil density testing, so test results can be determined on site and evaluated once the required laboratory testing is completed. Field test results will be verbally reported daily to the general contractor on site, with written field and laboratory reports distributed shortly after.

### **Scope of Services**

Services are performed under the direction of a licensed professional engineer, on a periodic basis, depending on the construction schedule and when they are requested by the general contractor. After reviewing available information, we understand our scope of services for the project will be limited to the tasks defined below.

#### **Soil Related Services**

- Observe and evaluate the soils exposed in excavations to determine if the soils are similar to those encountered with the geotechnical evaluation and suitable for support of fill,



foundations or pavements. Our engineer can provide consultation for conditions that appear to differ from the geotechnical evaluation.

- Perform laboratory mechanical analyses (gradations) of prospective fill materials.
- Perform laboratory Proctor tests to determine the maximum Proctor dry densities and optimum moisture contents of prospective fill materials.
- Test compacted fill placed below building footprints and oversizing areas, below slabs and pavements, adjacent to walls, and in utility trenches, to determine if the relative compaction was achieved.
- Engineering oversight and review of the services provided.

#### **Concrete Related Services**

- Observe concrete reinforcement placement.
- Observe the general placement of bolts and other embeds in the plastic concrete.
- Sample and test the plastic concrete for slump, air content, temperature and prepare test cylinders for laboratory compressive strength testing with ACI level 1 field technicians. We will perform concrete testing on structural items as required by the IBC. Though not required by the IBC we have included testing for the interior slab on grade, exterior sidewalks, curb and gutter, and pavement, as requested.
- Perform laboratory compressive strength testing of the concrete samples.

#### **Structural Steel and Precast Concrete Welding Related Services**

- Observe and test the structural steel welded and bolted connections in the field.
- Observe and test the metal decking connections for orientation, sidelap fasteners, the hold down connections and the placement of shear studs.
- Observe and test the precast concrete welded or bolted connections.
- Observe and document the installation of the base plate anchor bolts.

- Observe the installation of post-installed anchors.

### **Engineering Consulting and Project Communication and Reporting Services**

- Provide engineering consulting services, review test results and observations reports, and prepare required final reports.
- Management, including scheduling of our field personnel and communication with the contractor, owner, building official, and design team.
- Transmit results to the project team on weekly basis to the contractor, owner, building official, fabricators and design team.

### **Cost**

We will furnish the services described in this proposal for an estimated fee of **\$19,990**. A tabulation showing hourly and unit rates associated with our proposed scope of services is attached. To the extent possible, units and hours were reviewed with representatives of the contractor to determine if time frames are consistent with their expectations for completing the various activities. The actual cost of our services will be based on the actual units or hours expended to meet the requirements of the project documents.

This cost estimate was developed with the understanding that the scope of services defined herein will be required and requested during our normal work hours of 6:00 a.m. to 4:00 p.m., Monday through Friday. Services that we are asked to provide to meet the project requirements or the contractor's construction schedule **outside** our normal business hours will be invoiced using an overtime rate factor. The factor for services provided outside our normal work hours or on Saturday will be 1.25 times the listed hourly rate for the service provided. The factor for services provided on Sunday or legal holidays will be 1.5 times the listed hourly rate for the service provided. We have not included premiums for overtime in our cost estimate; however, we recommend that allowances and contingencies be made for overtime charges based on conversations with the contractor. You will be billed only for services provided on a time and materials basis.

Because our services are directly controlled by the schedule and performance of others, the actual cost may vary from our estimate. It is difficult to project all of the services and the quantity of services that may be required for any project. If services are required that are not discussed above, we will provide

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Proposal QTB145588  
October 13, 2021  
Page 6

them at the rates shown in the attached table or, if not shown, at our current Schedule of Charges. We will invoice you on a monthly basis.

## General Remarks

We will be happy to meet with you to discuss our proposed scope of services further and clarify the various scope components.

We appreciate the opportunity to present this proposal to you. After reviewing this proposal, **please sign and return one copy to our office as notification of acceptance and authorization to proceed.** If anything in this proposal is not consistent with your requirements, please let us know immediately. Braun Intertec will not release any written reports until we have received a signed agreement. Also, ordering services from Braun Intertec constitutes acceptance of the terms of this proposal (including the attached General Conditions).

The proposed fee is based on the scope of services described and the assumption that our services will be authorized within 30 days and that others will not delay us beyond our proposed schedule.

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We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement.

To have questions answered or schedule a time to meet and discuss our approach to this project further, please contact David Morrison at 218.624.4967 or [dmorrison@braunintertec.com](mailto:dmorrison@braunintertec.com).

Sincerely,

BRAUN INTERTEC CORPORATION



David E. Morrison, PE  
Project Engineer



Joseph C. Butler, PE  
Business Unit Manager – Senior Engineer

Attachments:  
Cost Estimate Table  
General Conditions – CMT (1/1/18)

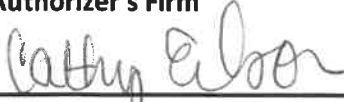
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The proposal is accepted. We will reimburse you in accordance with this agreement, and you are authorized to proceed:

ISD 709 Duluth Public Schools

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**Authorizer's Firm**



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**Authorizer's Signature**

Cathy Erickson

---

**Authorizer's Name (please print or type)**

CFO

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**Authorizer's Title**

12/10/21

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**Date**



The Science You Build On.

# Project Proposal

## QTB145588

### ISD 709 Transportation Building

**Client:**

Independent School District #709  
215 North First Avenue East  
Duluth, MN 55802  
(218) 723-4139

**Work Site Address:**

730 East Central Entrance  
Duluth, MN

**Service Description:**

Special Inspections and Construction  
Materials Testing

	Description	Quantity	Units	Unit Price	Extension
<b>Phase 1</b>	<b>Transportation Building</b>				
<b>Activity 1.1</b>	<b>Soil Observations and Testing</b>				<b>\$4,040.00</b>
206	Excavation Observations	16.00	Hour	80.00	\$1,280.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Foundation Excavations	8.00	Trips	2.00	16.00
207	Compaction Testing - Nuclear	24.00	Hour	70.00	\$1,680.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Foundation Backfill	16.00	Trips	1.50	24.00
1308	Nuclear moisture-density meter charge, per hour	24.00	Each	15.00	\$360.00
1861	CMT Trip Charge	24.00	Each	15.00	\$360.00
1318	Moisture Density Relationship (Standard), per sample	1.00	Each	165.00	\$165.00
1162	Sieve Analysis with 200 wash, per sample	1.00	Each	125.00	\$125.00
209	Sample pick-up	1.00	Hour	70.00	\$70.00
<b>Activity 1.2</b>	<b>Concrete Observations and Testing</b>				<b>\$9,980.00</b>
260	Concrete Observations	12.00	Hour	80.00	\$960.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Footings	8.00	Trips	0.50	4.00
	Foundation Walls	16.00	Trips	0.50	8.00
261	Concrete Testing	45.00	Hour	70.00	\$3,150.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Footings	8.00	Trips	1.50	12.00
	Foundation Walls	16.00	Trips	1.50	24.00
	Slab On Grade	6.00	Trips	1.50	9.00
278	Concrete Cylinder Pick up	20.00	Hour	70.00	\$1,400.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Cylinder Pickup	20.00	Trips	1.00	20.00
1861	CMT Trip Charge	48.00	Each	15.00	\$720.00
1364	Compressive strength of concrete cylinders (ASTM C 39),per specimen	150.00	Each	25.00	\$3,750.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Footings	8.00	Set	5.00	40.00
	Foundation Walls	16.00	Set	5.00	80.00
	Slab On Grade	6.00	Set	5.00	30.00
<b>Activity 1.3</b>	<b>Structural Steel Observations</b>				<b>\$2,280.00</b>
605	ICC Structural Steel Technician	18.00	Hour	95.00	\$1,710.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Welding, Framing, Bolting	3.00	Trips	3.00	9.00
	Precast Concrete Connections	3.00	Trips	3.00	9.00
1664	NDE Trip charge	6.00	Each	95.00	\$570.00
<b>Activity 1.4</b>	<b>Project Management</b>				<b>\$3,690.00</b>
238	Project Assistant	12.00	Hour	70.00	\$840.00



# Project Proposal

QTB145588

ISD 709 Transporation Building

226	Project Manager	12.00 Hour	145.00	\$1,740.00
125	Project Control Specialist	3.00 Hour	120.00	\$360.00
5514	Final Special Inspection Report	1.00 Each	750.00	\$750.00
			<b>Phase 1 Total:</b>	<b>\$19,990.00</b>

<b>Proposal Total:</b>	<b>\$19,990.00</b>
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## General Conditions

### Construction Material Testing and Special Inspections

#### Section 1: Agreement

**1.1** Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization ("Agreement"). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

**1.2** The words "you," "we," "us," and "our" include officers, employees, and subcontractors.

**1.3** In the event you use a purchase order or other documentation to authorize our scope of work ("Services"), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

#### Section 2: Our Responsibilities

**2.1** We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

**2.2** In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

**2.3** We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and

further that site conditions may vary over distance or change over time.

**2.4** Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

**2.5** We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

**2.6** You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

**2.7** Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

#### Section 3: Your Responsibilities

**3.1** You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

**3.2** You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

**3.3** If we notify you that radiographic or gamma ray equipment or other nuclear testing or measuring device will be used, you will be responsible for the cooperation of your employees and your contractors in observing all radiation safety standards.

**3.4** You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

**3.5** The time our field personnel spend on the job site depends upon the scheduling of the work we are observing or testing. You agree that any changes in scheduling may result in additional

costs and agree to pay for those services at the rates listed in our cost estimate.

**3.6** You agree to include us as an indemnified party in your contracts, if any, for work by others on the project, protecting us to the same degree as you are protected. You agree to list us as an Additional Insured under your liability insurance policies and to require subrogation be waived against us and that we will be added as an Additional Insured on all policies of insurance, including any policies required of your contractors or subcontractors, covering any construction or development activities to be performed on the project site.

#### Section 4: Reports and Records

**4.1** Unless you request otherwise, we will provide our report(s) in an electronic format.

**4.2** Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

**4.3** If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

**4.4** Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

#### Section 5: Compensation

**5.1** You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

**5.2** You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

**5.3** If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is

creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

**5.4** Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

**5.5** If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

**5.6** You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

**5.7** If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

**5.8** If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

**5.9** In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

#### **Section 6: Disputes, Damage, and Risk Allocation**

**6.1** Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s) attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

**6.2** *Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of*

*business opportunity, loss of profit or revenue, loss of product or output, or business interruption.*

**6.3** You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

**6.4** *For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken. This increased fee is not the purchase of insurance.*

**6.5** *You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.*

**6.6** This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of laws rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

**6.7** No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

#### **Section 7: General Indemnification**

**7.1** *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.*

**7.2** To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

#### **Section 8: Miscellaneous Provisions**

**8.1** We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

**8.2** You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

**8.3** Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

**8.4** This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

**8.5** If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

**8.6** No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.





**Braun Intertec Corporation**  
4511 West First Street, Suite 4  
Duluth, MN 55807

Phone: 218.624.4967  
Fax: 218.624.0196  
Web: braunintertec.com

October 13, 2021

Proposal QTB144980

Independent School District #709  
c/o Mr. Nathan Norton  
ICS Builds  
1331 Tyler Street NE Suite 101  
Minneapolis, MN 55413

Re: Proposal for Special Inspection and Testing Services  
ISD 709 DSC and Public Roadways  
730 East Central Entrance  
Duluth, Minnesota

Dear Mr. Norton:

Braun Intertec Corporation is pleased to submit this proposal to provide special inspections and testing services for the District Service Center and Public Roadways at the existing vacant Central high School Site in Duluth, Minnesota.

We have completed the geotechnical evaluation and environmental, so we have a unique understanding of the site and construction challenges. We can aid the construction team by applying this experience and transferring our knowledge developed during the design phase which will provide professional continuity to the construction. Our work on the project to date gives us familiarity with the project team and design development which allows us to understand some of the considerations used when developing the projects design.

Since our inception in 1957, we have grown into one of the largest employee owned engineering firms in the nation. With around 1,000 employee owners, retaining our firm gives you access to a diverse range of services and professionals you can consult with if the unforeseen occurs. The size of our company also allows us to respond quickly when schedule constraints occur.

Our office is located within 6 miles of the site, minimizing travel times and trip expenses. This proximity also provides the opportunity to quickly mobilize to the site when unforeseen needs arise.

AA/EOE

## **Our Understanding of Project**

We understand this project will include the construction of a new office/administration building, as well as improvements to the existing H Courtney Drive and construction of Portia Johnson Drive. The adjacent new Transportation Building is not included in this scope of work and was provided as proposal QTB145588.

We understand the buildings will be steel framed with precast walls, supported on cast in place concrete foundations. Slabs will be grade supported. To access the new building, the existing H Courtney Drive will be reconstructed, and Portia Johnson Drive will be constructed. Both roadways will be constructed to City of Duluth specifications and will be bituminous paved with concrete curb and gutter and sidewalks. Associated utility are included in the projects.

## **Available Information**

This proposal was prepared using the following documents and information.

- DSC Building project plans and specifications prepared by DSGW Architects, dated August 11, 2021.
- City of Duluth roadway project plans and specifications prepared by Northland Consulting Engineers, dated May 5, 2021.
- A geotechnical report B2009444.00 prepared by Braun Intertec, dated May 7, 2021.

## **Project Approach and Staff Qualifications**

### **Special Inspections**

Braun Intertec has adopted the International Code Council (ICC) Model Program for Special Inspection to develop the guiding principles for our special inspection program. This model was selected because it was designed by the ICC to assist owners, contractors and building officials in the understanding, administration and enforcement of the special inspection requirements of the International Building Code (IBC). Currently, there are ICC certifications for soils, reinforced concrete, structural masonry, pre-tension/post-tension (pre-stressed) concrete, spray-applied fireproofing, structural steel and bolting, and structural welding.

### **Qualifications and Experience**

An ICC certified special inspector is one who has successfully demonstrated their ability to understand the IBC, construction practices and how to read and understand construction documents. Through experience and examination, our ICC certified special inspectors have demonstrated their ability to provide special inspection services.

### **Inspections and Reporting**

Our special inspectors summarize the nature, extent and results of special inspection activities at the time they are performed on Special Inspection Daily Report forms submitted electronically to the general contractor's on-site personnel for review and records. These records can also be transmitted electronically to others who may want to review these documents on an agreed upon schedule. When unresolved discrepancies are noted, we will document the issues and work with the design and construction team to bring them to resolution. Special inspection final reports will be prepared and submitted upon completion as required by the requirements of the IBC.

### **Communications**

Braun Intertec special inspectors will communicate the results of their inspections to the contractor and our supervising engineer each day special inspections are performed. We strive to have our special inspectors develop a working relationship with the project's structural engineer-of-record. We may attempt contact with the structural engineering consultant periodically to review the work being performed and to request clarifications and direction on any item that may require it.

### **Construction Materials Testing**

Qualified technicians working under the direction of a professional engineer will provide the services. Experience and certification information is available upon request once we are provided with schedule information. Concrete technicians assigned to the project are ACI Concrete Field Testing Technician – Grade I certified to conduct the required concrete testing. Soil technicians are certified to use a nuclear gauge for soil density testing, so test results can be determined on site and evaluated once the required laboratory testing is completed. Field test results will be verbally reported daily to the general contractor on site, with written field and laboratory reports distributed shortly after.

### **Scope of Services**

Services are performed under the direction of a licensed professional engineer, on a periodic basis, depending on the construction schedule and when they are requested by the general contractor. After

reviewing available information, we understand our scope of services for the project will be limited to the tasks defined below.

### **Soil Related Services**

- Observe and evaluate the soils exposed in excavations to determine if the soils are similar to those encountered with the geotechnical evaluation and suitable for support of fill, foundations or pavements. Our engineer can provide consultation for conditions that appear to differ from the geotechnical evaluation.
- Perform laboratory mechanical analyses (gradations) of prospective fill materials.
- Perform laboratory Proctor tests to determine the maximum Proctor dry densities and optimum moisture contents of prospective fill materials.
- Test compacted fill placed below building footprints and oversizing areas, below slabs and pavements, adjacent to walls, and in utility trenches, to determine if the relative compaction was achieved.
- Engineering oversight and review of the services provided.

### **Concrete Related Services**

- Observe concrete reinforcement placement.
- Observe the general placement of bolts and other embeds in the plastic concrete.
- Sample and test the plastic concrete for slump, air content, temperature and prepare test cylinders for laboratory compressive strength testing with ACI level 1 field technicians. We will perform concrete testing on structural items as required by the IBC. Though not required by the IBC we have included testing for the interior slab on grade, exterior sidewalks, curb and gutter, and pavement, as requested.
- Perform laboratory compressive strength testing of the concrete samples.

### **Structural Steel and Precast Concrete Welding Related Services**

- Observe and test the structural steel welded and bolted connections in the field.
- Observe and test the metal decking connections for orientation, sidelap fasteners, the hold down connections and the placement of shear studs.
- Observe and test the precast concrete welded or bolted connections.
- Observe and document the installation of the base plate anchor bolts.
- Observe the installation of post-installed anchors.

### **Paving Related Services**

- Observe test rolls of the pavement subgrade soils and/or aggregate base layer to determine if the materials tested are capable of supporting bituminous or concrete pavement.
- Obtain cores of the compacted bituminous pavement from the contractor, to obtain samples for thickness and density measurements.

### **Engineering Consulting and Project Communication and Reporting Services**

- Provide engineering consulting services, review test results and observations reports, and prepare required final reports.
- Management, including scheduling of our field personnel and communication with the contractor, owner, building official, and design team.
- Transmit results to the project team on weekly basis to the contractor, owner, building official, fabricators and design team.

### **Cost**

We will furnish the services described in this proposal for an estimated fee of **\$27,510**. A tabulation showing hourly and unit rates associated with our proposed scope of services is attached. To the extent possible, units and hours were reviewed with representatives of the contractor to determine if time frames are consistent with their expectations for completing the various activities. The actual cost of our

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October 13, 2021  
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services will be based on the actual units or hours expended to meet the requirements of the project documents.

This cost estimate was developed with the understanding that the scope of services defined herein will be required and requested during our normal work hours of 6:00 a.m. to 4:00 p.m., Monday through Friday. Services that we are asked to provide to meet the project requirements or the contractor's construction schedule **outside** our normal business hours will be invoiced using an overtime rate factor. The factor for services provided outside our normal work hours or on Saturday will be 1.25 times the listed hourly rate for the service provided. The factor for services provided on Sunday or legal holidays will be 1.5 times the listed hourly rate for the service provided. We have not included premiums for overtime in our cost estimate; however, we recommend that allowances and contingencies be made for overtime charges based on conversations with the contractor. You will be billed only for services provided on a time and materials basis.

Because our services are directly controlled by the schedule and performance of others, the actual cost may vary from our estimate. It is difficult to project all of the services and the quantity of services that may be required for any project. If services are required that are not discussed above, we will provide them at the rates shown in the attached table or, if not shown, at our current Schedule of Charges. We will invoice you on a monthly basis.

## General Remarks

We will be happy to meet with you to discuss our proposed scope of services further and clarify the various scope components.

We appreciate the opportunity to present this proposal to you. After reviewing this proposal, **please sign and return one copy to our office as notification of acceptance and authorization to proceed.** If anything in this proposal is not consistent with your requirements, please let us know immediately. Braun Intertec will not release any written reports until we have received a signed agreement. Also, ordering services from Braun Intertec constitutes acceptance of the terms of this proposal (including the attached General Conditions).

The proposed fee is based on the scope of services described and the assumption that our services will be authorized within 30 days and that others will not delay us beyond our proposed schedule.

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We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement.

To have questions answered or schedule a time to meet and discuss our approach to this project further, please contact David Morrison at 218.624.4967 or [dmorrison@braunintertec.com](mailto:dmorrison@braunintertec.com).

Sincerely,

BRAUN INTERTEC CORPORATION



David E. Morrison, PE  
Project Engineer



Joseph C. Butler, PE  
Business Unit Manager – Senior Engineer

Attachments:  
Cost Estimate Table  
General Conditions – CMT (1/1/18)

The proposal is accepted. We will reimburse you in accordance with this agreement, and you are authorized to proceed:

ISD 709 Duluth Public Schools

Authorizer's Firm



Authorizer's Signature

Cathy Erickson

Authorizer's Name (please print or type)

CFO

Authorizer's Title

12/10/21

Date



The Science You Build On.

# Project Proposal

## QTB144980

### ISD 709 District Service Center and Public Roadways

**Client:**

ICS  
Nathan Norton  
1331 Tyler Street NE Suite 101  
Minneapolis, MN 55413  
(763) 354-2670

**Work Site Address:**

730 East Central Entrance  
Duluth, MN

**Service Description:**

Construction Materials Testing and Special Inspections

	Description	Quantity	Units	Unit Price	Extension
<b>Phase 1</b>	<b>District Service Center</b>				
<b>Activity 1.1</b>	<b>Soil Observations and Testing</b>				<b>\$2,500.00</b>
206	Excavation Observations	8.00	Hour	80.00	\$640.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Foundation Excavations	4.00	Trips	2.00	8.00
207	Compaction Testing - Nuclear	15.00	Hour	70.00	\$1,050.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Foundation Backfill	10.00	Trips	1.50	15.00
1308	Nuclear moisture-density meter charge, per hour	15.00	Each	15.00	\$225.00
1861	CMT Trip Charge	15.00	Each	15.00	\$225.00
209	Sample pick-up	1.00	Hour	70.00	\$70.00
1318	Moisture Density Relationship (Standard), per sample	1.00	Each	165.00	\$165.00
1162	Sieve Analysis with 200 wash, per sample	1.00	Each	125.00	\$125.00
<b>Activity 1.2</b>	<b>Concrete Observations and Testing</b>				<b>\$7,355.00</b>
260	Concrete Observations	9.00	Hour	80.00	\$720.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Footings/Column Pads	5.00	Trips	0.50	2.50
	Foundation Walls/Piers	10.00	Trips	0.50	5.00
	Structural Slabs	1.00	Trips	0.50	0.50
	Elevator Shaft	2.00	Trips	0.50	1.00
261	Concrete Testing	33.00	Hour	70.00	\$2,310.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Footings/Column Pads	5.00	Trips	1.50	7.50
	Foundation Walls/Piers	10.00	Trips	1.50	15.00
	Structural Slabs	1.00	Trips	1.50	1.50
	Slab On Grade	2.00	Trips	3.00	6.00
	Elevator Shaft	2.00	Trips	1.50	3.00
278	Concrete Cylinder Pick up	15.00	Hour	70.00	\$1,050.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Cylinder Pickup	15.00	Trips	1.00	15.00
1861	CMT Trip Charge	35.00	Each	15.00	\$525.00
1364	Compressive strength of concrete cylinders (ASTM C 39), per specimen	110.00	Each	25.00	\$2,750.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Footings/Column Pads	5.00	Set	5.00	25.00
	Foundation Walls/Piers	10.00	Set	5.00	50.00
	Structural Slabs	1.00	Set	5.00	5.00
	Slab On Grade	2.00	Set	10.00	20.00
	Elevator Shaft	2.00	Set	5.00	10.00
<b>Activity 1.3</b>	<b>Structural Steel Observations</b>				<b>\$4,180.00</b>





The Science You Build On.

# Project Proposal

## QTB144980

### ISD 709 District Service Center and Public Roadways

605	ICC Structural Steel Technician		33.00 Hour	95.00	\$3,135.00
	<i>Work Activity Detail</i>	<i>Qty Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>	
	Welding, Framing, Bolting	7.00 Trips	3.00	21.00	
	Precast Concrete Connections	4.00 Trips	3.00	12.00	
1664	NDE Trip charge		11.00 Each	95.00	\$1,045.00
<b>Activity 1.4</b>	<b>Project Management</b>				<b>\$3,810.00</b>
238	Project Assistant		12.00 Hour	70.00	\$840.00
226	Project Manager		12.00 Hour	145.00	\$1,740.00
125	Project Control Specialist		4.00 Hour	120.00	\$480.00
5514	Final Special Inspection Report		1.00 Each	750.00	\$750.00
<b>Phase 1 Total:</b>					<b>\$17,845.00</b>
<b>Phase 2</b>	<b>Portia Johnson Drive and H Courtney Drive - City of Duluth Specifications</b>				
<b>Activity 2.1</b>	<b>Soil Observations and Testing</b>				<b>\$3,930.00</b>
207	Compaction Testing - Nuclear		30.00 Hour	70.00	\$2,100.00
	<i>Work Activity Detail</i>	<i>Qty Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>	
	Utilities, Storm, Sanitary, Water Main	8.00 Trips	1.50	12.00	
	Select Granular Borrow	6.00 Trips	1.50	9.00	
	Aggregate Base	6.00 Trips	1.50	9.00	
1308	Nuclear moisture-density meter charge, per hour		30.00 Each	15.00	\$450.00
1861	CMT Trip Charge		22.00 Each	15.00	\$330.00
1318	Moisture Density Relationship (Standard), per sample		4.00 Each	165.00	\$660.00
1162	Sieve Analysis with 200 wash, per sample		2.00 Each	125.00	\$250.00
209	Sample pick-up		2.00 Hour	70.00	\$140.00
<b>Activity 2.2</b>	<b>Concrete Observations and Testing</b>				<b>\$3,495.00</b>
261	Concrete Testing		21.00 Hour	70.00	\$1,470.00
	<i>Work Activity Detail</i>	<i>Qty Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>	
	Sidewalks	6.00 Trips	1.50	9.00	
	Curb & Gutter	8.00 Trips	1.50	12.00	
278	Concrete Cylinder Pick up		9.00 Hour	70.00	\$630.00
	<i>Work Activity Detail</i>	<i>Qty Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>	
	Cylinder Pickup	9.00 Trips	1.00	9.00	
1861	CMT Trip Charge		23.00 Each	15.00	\$345.00
1364	Compressive strength of concrete cylinders (ASTM C 39),per specimen		42.00 Each	25.00	\$1,050.00
	<i>Work Activity Detail</i>	<i>Qty Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>	
	Sidewalks	6.00 Set	3.00	18.00	
	Curb & Gutter	8.00 Set	3.00	24.00	
<b>Activity 2.3</b>	<b>Pavement Observations &amp; Testing</b>				<b>\$1,140.00</b>
209	Sample pick-up		8.00 Hour	80.00	\$640.00
	<i>Work Activity Detail</i>	<i>Qty Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>	
	Core Pickup from Contractor	4.00 Days	2.00	8.00	
1861	CMT Trip Charge		4.00 Each	15.00	\$60.00
1542	Thickness and Density of Bituminous Core		8.00 Each	55.00	\$440.00
<b>Activity 2.4</b>	<b>Project Management</b>				<b>\$1,100.00</b>
238	Project Assistant		4.00 Hour	70.00	\$280.00
226	Project Manager		4.00 Hour	145.00	\$580.00
125	Project Control Specialist		2.00 Hour	120.00	\$240.00
<b>Phase 2 Total:</b>					<b>\$9,665.00</b>



# Project Proposal

QTB144980

ISD 709 District Service Center and Public Roadways

Proposal Total:	\$27,510.00
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## General Conditions

### Construction Material Testing and Special Inspections

#### Section 1: Agreement

**1.1** Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization ("Agreement"). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

**1.2** The words "you," "we," "us," and "our" include officers, employees, and subcontractors.

**1.3** In the event you use a purchase order or other documentation to authorize our scope of work ("Services"), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

#### Section 2: Our Responsibilities

**2.1** We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

**2.2** In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

**2.3** We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and

further that site conditions may vary over distance or change over time.

**2.4** Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

**2.5** We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

**2.6** You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

**2.7** Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

#### Section 3: Your Responsibilities

**3.1** You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

**3.2** You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

**3.3** If we notify you that radiographic or gamma ray equipment or other nuclear testing or measuring device will be used, you will be responsible for the cooperation of your employees and your contractors in observing all radiation safety standards.

**3.4** You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

**3.5** The time our field personnel spend on the job site depends upon the scheduling of the work we are observing or testing. You agree that any changes in scheduling may result in additional

costs and agree to pay for those services at the rates listed in our cost estimate.

**3.6** You agree to include us as an indemnified party in your contracts, if any, for work by others on the project, protecting us to the same degree as you are protected. You agree to list us as an Additional Insured under your liability insurance policies and to require subrogation be waived against us and that we will be added as an Additional Insured on all policies of insurance, including any policies required of your contractors or subcontractors, covering any construction or development activities to be performed on the project site.

#### Section 4: Reports and Records

**4.1** Unless you request otherwise, we will provide our report(s) in an electronic format.

**4.2** Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

**4.3** If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

**4.4** Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

#### Section 5: Compensation

**5.1** You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

**5.2** You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

**5.3** If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is

creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

**5.4** Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

**5.5** If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

**5.6** You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

**5.7** If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

**5.8** If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

**5.9** In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

#### **Section 6: Disputes, Damage, and Risk Allocation**

**6.1** Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s) attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

**6.2** *Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of*

*business opportunity, loss of profit or revenue, loss of product or output, or business interruption.*

**6.3** You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

**6.4** *For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken. This increased fee is not the purchase of insurance.*

**6.5** *You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.*

**6.6** This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of laws rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

**6.7** No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

#### **Section 7: General Indemnification**

**7.1** *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.*

**7.2** To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

#### **Section 8: Miscellaneous Provisions**

**8.1** We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

**8.2** You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

**8.3** Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

**8.4** This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

**8.5** If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

**8.6** No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.

## AGREEMENT

**THIS AGREEMENT**, made and entered into this   26   day of   October  , 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and           Anji Education, Inc          , an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:** *(insert here or attach as appropriate)*

1. **Dates of Service.** This Agreement shall be deemed to be effective as of   10/26/21   and shall remain in effect until   4/30/22  , unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** *(insert or attach a list of programs/services to be performed by contractor)*

3. **Background Check.** *(applies to contractors working independent with students)*

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

If Contractor has already completed background checks for their business needs, Contractor stipulates that the background checks are completed, on file, and will be made available for review if the District should request.

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$95.00 hourly and \$4,600 in total.

Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

7. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

8. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Sherry Williams, 4316 Rice Lake Rd, Suite 108, Duluth, MN 55811.

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to (mailing address with zip) Anji Education, Inc. % Jesse Coffino 527 Santa Fe Avenue, Albany, Ca., 94706.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.


**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

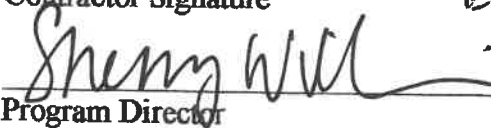
18. **Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK**



**AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT**, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.


 Jesse CORFINO  
 Director, ANDI EDUCATION, INC.  
 Contractor Signature SSN/Tax ID Number 84-1766136 Date Oct. 26, 2021

  
 Program Director Date 11.11.21

**Please note:** All signatures *must* be obtained AND the following *must* be completed by the Program Director before submission to the CFO for review and approval.

**This contract is funded by either:**

1. The following budget (include full 18 digit code); or
2. will be paid using Student Activity Funds; or
3. is no cost contract (e.g. Memorandum of Understanding).

**Please check the appropriate line below:**

Check if the contract will be paid using District funds and enter the budget code in the top line below (enter in blank spots following the example).

04	E	005	580	251	305	151
XX	X	XXX	XXX	XXX	XXX	XXX

Check if the contract will be paid using Student Activity Funds

Check if the contract is a no-cost contract such as a Memorandum of Understanding

  
 CFO / Superintendent of Schools / Board Chair Date 12/10/21

**Grant Proposal:**

Our program has made a shift towards more play-based pedagogy and outdoor/nature play opportunities. In a recent survey, teachers indicated they would like to take a deeper dive into observation and reflection of children's play after some preliminary professional development on the topic during the 20-21 school year. To begin with, teachers will be provided with information about the history, philosophy, and practices of the Anji Play approach. Anji Play is the official early learning curriculum for 130 public schools in Anji County, China, serving over 14,000 children ages 3-6. The approach is currently being practiced in every province in China, and is being implemented in Head Start and Early Head Start programs in California, among other international sites. Ms. Cheng Xueqin, founder of the approach, says that "when we step back and observe the intention of the child's play, we discover children at the same time as children discover the world." The fall seminars will focus on Anji Play practices that will be directly applicable to our program's changing pedagogy: fostering safe environments for self-directed play, training teachers to observe and record uninterrupted play, and providing opportunities for teaching teams to reflect together on videos of children's play.

Our consultants will conduct eight, biweekly, 1.5-hour reflection sessions for up to ten Duluth Preschool teachers via Zoom. Jesse Coffino and Krystina Tapia of Anji Education, Inc. will facilitate discussions of videos that our teachers have recorded of their students playing and reflect with teachers on their insights.

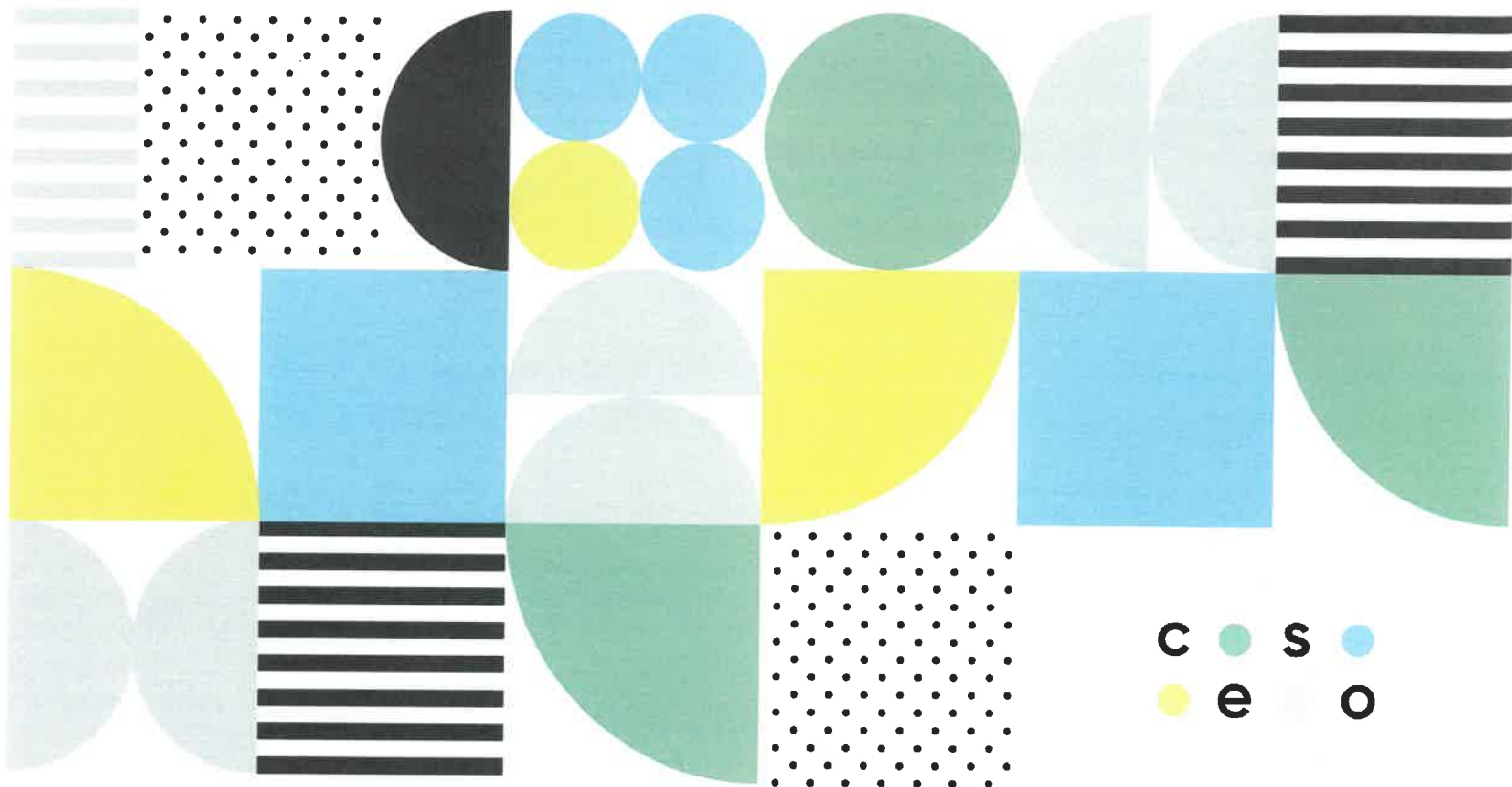
**Duluth Preschool Project Budget**

	<b>Grant</b>	<b>In-Kind</b>
<b>1. Consultants</b> (professional development preparation, implementation, and follow-up activities at discounted cost for first-time projects)	<b>\$4,600</b>	<b>\$2,300*</b>
<b>2. Equipment</b> (video recording devices)	<b>\$2,000</b>	
<b>3. Stipends</b> (for Duluth Preschool teachers participating in the professional development programming)	<b>\$2,000</b>	
<b>4. Program support</b> (local project coordination management and assistance)		<b>\$1,500**</b>
<b>5. Web services</b> (private online cohort for video sharing and reflection)	<b>\$360</b>	
	<b>\$8,960</b>	<b>\$3,800</b>

**Additional funders:**

\*\$2300.00 is a reduction in normal consultation fees from Anji Education, Inc

\*\*\$1500.00 is an in kind donation from Aaron Crowell who will be our local project coordinator due to his background knowledge with AnjiPlay.



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e o

# Staffing Structure & Job Descriptions Proposals

Duluth Public Schools  
11.22.2021



## 01 | The CESO Communications Story •

Our innovative approach to addressing communication and marketing challenges sets us apart. We are naturally curious as part of who we are and what we do. We have a desire to know more and learn about what our clients are experiencing. We have a boundless interest in learning, and go beyond what we know to ponder, “what else can we know.” We remove distractions, solve problems and enhance relationships through strategic communication, marketing and engagement, allowing school leaders to focus on students and their learning.

CESO Communications is committed to “rethinking possible” in all we do. We are grounded as an organization in the belief that the best ideas come from curious minds with unexpected backgrounds. We are firmly committed to promoting diversity, equity and inclusion and to dismantling historically oppressive systems in an effort to improve student outcomes. We understand that our disruptor approach may not be for everyone, but by holding strong to our core values we believe we can help schools make real and impactful change that truly serves the needs of each and every learner.

CESO Communications has school communication professionals from across the country with a combined experience of more than 150 years. We understand the issues faced by schools and districts, and we have experience in solving any issue. We combine our school expertise with a creative team of designers, marketers and strategists who bring agency and consumer experience into the mix to help us address issues facing schools and school districts. And finally, we bring our technology expertise to help our clients probe more deeply and focus their strategies to maximize effectiveness.

## 02 | Scope of Work and Itemization of Costs •

CESO Communications is proposing to partner with Duluth Public Schools (DPS) to review its current staffing structure and job descriptions for its communications department. The goal would be to complete the scope by no later than December 10. Our scope of work will include the following:

- Collect and review current materials related to communications position
- Interview the superintendent and up to three other district leaders
- Create communications department staff structure options
- Create job descriptions for positions included in staff structure options

The details of each scope of work item are included below.



## Review Current Materials

CESO Communications will ask the district to provide the following materials for our team to review:

- Current job description for existing communications position
- External work contracts related to communications
- Communications department current budget (expenditures)
- District salary ranges for similar positions (other director salary ranges)
- Strategic plan or similar document that may outline communications goals
- Any other materials to help describe the district's current communications structure

## Interviews

CESO Communications will interview Superintendent Magas and up to three other district leaders to better understand the district's overall vision for the communications program. These interviews will be conducted by phone or through a Zoom meeting. The information from these interviews will help to align the proposed communications staffing structure with the future goals and initiatives.

## Staffing Structure Options

CESO Communications will create three to five staffing structure options for the district to consider. Along with descriptions of each structure, we will also provide recommended salary ranges for the positions included in each option.

## Job Descriptions

CESO Communications will create a job description for any position or positions recommended in the staffing structure options.

## Project Deliverables

As part of the scope of work outlined above, CESO Communications will provide the following deliverables as part of this project:

- Three to five staffing structure options with salary ranges for recommended positions
- Job descriptions for positions recommended in the staff structure options

**TOTAL - \$3,000**



### 03 | Payment Terms and Timelines •

Payment will be invoiced in two parts:

- 50% invoiced upon signing of the contract
- 50% invoiced on December 15, 2021

### 04 | Authorization to Proceed •

Please sign and return a copy of this contract to CESO Communications as authorization to proceed. Once we receive this signed contract we will return a final contract to you for your records and begin with the implementation stages of this agreement.

*I have carefully reviewed the above contract and authorize CESO Communications to proceed.*

John Magas, Superintendent  
 Duluth Public Schools  
 4316 Rice Lake Road, Suite 108  
 Duluth, MN 55811

Bob Noyed, Vice President  
 CESO Communications  
 615 1st Avenue NE - Suite 115  
 Minneapolis, MN 55413

*John Magas* 12/10/21  
 \_\_\_\_\_  
 Authorized Signature                      Date

*Robert B Noyed* 12-13-21  
 \_\_\_\_\_  
 Authorized Signature                      Date

*John Magas*  
 \_\_\_\_\_  
 Authorized Printed

*Robert Noyed*  
 \_\_\_\_\_  
 Authorized Printed

#### FOR INVOICES

Please include the name, title and email address of the person who should receive invoices for this contract

*Accounts Payable*  
 \_\_\_\_\_  
 Name and title (printed)

*ap.vendor@isd709.org*  
 \_\_\_\_\_  
 Email address

*01-E-005-010-000-305-000*

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 11th day of November, 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and Hope for Kids Childcare Center, an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:**

1. **Dates of Service.** This Agreement shall be deemed to be effective as of November 11, 2021 and shall remain in effect until June 3, 2022, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** WHEREAS, THE SCHOOL DISTRICT has determined that it is necessary to retain the services of a qualified agency to meet needs documented in [REDACTED] Individualized Education Program (IEP).

Whereas the AGENCY is duly qualified to perform these services for an integrated preschool program as determined by the student's IEP team.

NOW THEREFORE, the parties agree as follows:

The AGENCY shall provide the following services: Preschool programming (3 days per week) Monday, Tuesday, Wednesday, or Thursday following the Duluth Schools District calendar.

The AGENCY shall perform these services at: 301 W. St. Marie Street, Duluth, MN 55803.

The approximate date the service will begin is November 11, 2021 and shall not extend beyond June 3, 2022; the contract not to exceed a total of 78 Days (attending 3 days per week. The District will pay 3 days per week @ \$50.00 per day).

The SCHOOL DISTRICT shall monitor the services of the AGENCY provided as follows: Supervision will be provided by the Special Education Director located in the Special Services Department. Student attendance will be provided to the Early Childhood Special Education (ECSE) program at 4316 Rice Lake Rd, Suite 108, Duluth, MN 55811. on the 15th of each month for the preceding month.

3. **Background Check.** *(applies to contractors working independent with students)*

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history

background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

If Contractor has already completed background checks for their business needs, Contractor stipulates that the background checks are completed, on file, and will be made available for review if the District should request.

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

**4. Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$50.00 per day and \$3,900.00 in total.

Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

**5. Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

**6. Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

**7. Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

**8. Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.



Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

**9. Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

**10. Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Jason Crane, 4316 Rice Lake Rd, Suite 108, Duluth, MN 55811. Invoices may be emailed directly to [ap.vendor@isd709.org](mailto:ap.vendor@isd709.org).

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to Hope for Kids Childcare Center, 301 W. St. Marie Street, Duluth, MN 55803

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**11. Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

**12. Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

**13. Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

**14. Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

**15. Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

**16. Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

18. **Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK**

**AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT**, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

Contractor Signature	SSN/Tax ID Number	Date
		11/23/21
Program Director		Date

**Please note:** All signatures *must* be obtained AND the following *must* be completed by the Program Director before submission to the CFO for review and approval.

**This contract is funded by either:**

1. The following budget (include full 18 digit code); or
2. will be paid using Student Activity Funds; or
3. is no cost contract (e.g. Memorandum of Understanding).

**Please check the appropriate line below:**

Check if the contract will be paid using District funds and enter the budget code in the top line below (enter in blank spots following the example).

01	E	005	211	000	393	000
XX	X	XXX	XXX	XXX	XXX	XXX

Check if the contract will be paid using Student Activity Funds

Check if the contract is a no-cost contract such as a Memorandum of Understanding

	12/10/21
CFO / Superintendent of Schools / Board Chair	Date



IXL Learning  
 777 Mariners Island Blvd., Suite 600  
 San Mateo, CA 94404

# QUOTE

QUOTE # 1115877-4  
 DATE: DECEMBER 17, 2021

**TO:**  
 Sally Weidt  
 Duluth Independent School District  
 215 N 1ST AVE E  
 DULUTH, MN 55802

**COMMENTS OR SPECIAL INSTRUCTIONS**

SALESPERSON	TERMS	SUBSCRIPTION DURATION	QUOTE VALID UNTIL
Stephanie Kortan		January 3, 2022 – April 15, 2022	January 17, 2022

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
1	IXL site license for 8,150 students, including: Grades K-5: 3,550 students Subjects: Math, ELA, Science, and Social studies	\$22,365.00	\$22,365.00
1	Grades 6-12: 4,600 students Subjects: Math and ELA	\$21,045.00	\$21,045.00
1	Manager discount	-\$43,410.00	-\$43,410.00
1	Professional Development: Pilot Success package	\$1,250.00	\$1,250.00
1	IXL Foundations I for High School: Essential Tools for Daily Instruction (90-minute virtual professional learning session)	\$495.00	\$495.00
1	Professional Development: IXL For Early Elementary  <i>Unlimited instructor accounts included</i>	\$495.00	\$495.00
		<b>SUBTOTAL</b>	<b>\$2,240.00</b>
		<b>SALES TAX</b>	<b>—</b>
		<b>SHIPPING &amp; HANDLING</b>	<b>—</b>
		<b>TOTAL DUE</b>	<b>\$2,240.00</b>

**Ordering instructions**

We accept payment by purchase order, check, or credit card. To submit a purchase order for this quote, [click here](#) or go to <http://www.ixl.com/po-upload> and enter quote # 1115877-4. For international accounts, we can accept wire transfers for an additional fee.



**SALES CONTRACT**

CONTRACT #86771

December 17, 2021

IXL Learning  
777 Mariners Island Blvd., Suite 600  
San Mateo, CA 94404

**CUSTOMER**

Sally Weidt  
Duluth Independent School District  
215 N 1ST AVE E  
DULUTH, MN 55802

**SUBSCRIPTION INFO**

Salesperson	Quote #	Subscription duration
Stephanie Kortan	1115877-4	Jan 3, 2022 - Apr 15, 2022

**PAYMENT PLAN**

Amount	Invoice date
\$2,240	January 17, 2022
<b>TOTAL</b>	<b>\$2,240</b>

*Price valid until January 17, 2022*

**ACCEPTANCE OF SALES CONTRACT**

This is a binding agreement of payment between IXL Learning and the Purchaser. Your signature indicates that you have received, reviewed, and accepted the attached Terms and Conditions of Sale and that you agree to pay the full license price listed above within 60 days of the invoice date. Without a signature, your order may not be processed.

Acknowledged and agreed to:

**AUTHORIZED SIGNATURE**

*Arthur Elson*

**DATE**

*12/22/21*

*01-E-05-211-155-366-000*



## TERMS AND CONDITIONS OF SALE

THIS IS A LEGAL DOCUMENT ("SALES CONTRACT") BETWEEN THE PURCHASER SHOWN ABOVE ("YOU") AND IXL LEARNING ("SELLER"). PLEASE READ THIS AGREEMENT CAREFULLY. YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THE AGREEMENT, AS WELL AS BY THE WEBSITE TERMS OF SERVICE, WHICH ARE INCORPORATED BY REFERENCE. NO VARIATION OF THESE TERMS AND CONDITIONS ARE BINDING ON SELLER UNLESS AGREED TO IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF IXL LEARNING.

1. **PRICING:** The quoted purchase price of the license is valid through the "Price valid until" date on page 1. This price is not binding on IXL unless you have accepted it by sending us an executed Sales Contract by that date.
2. **PAYMENT:** If IXL decides to accept your Sales Contract, we will issue you an invoice. Complete payment of the amount of the stated purchase price is due within sixty (60) days of the invoice date. If payment is not received by the Seller within 60 days, the invoice is considered past due. IXL licenses with past due payments will be put on hold and are subject to termination. Termination does not relieve the Purchaser of the obligation to pay fees due to the Seller.

The full invoice amount must be paid either by check or by credit card. We accept Visa, MasterCard, American Express, and Discover.

All checks should be mailed to:

IXL Learning  
777 Mariners Island Blvd., Suite 600  
San Mateo, CA 94404

Credit card payments may be made by phone at (855) 255-8800.

Any late payment will incur interest at the rate of the lesser of 1% a month or the maximum permissible by law.

3. **CANCELLATION AND REFUND:** No cancellation will be accepted, and no refund issued, if it is more than thirty (30) days beyond the date of purchase for the license referenced in this Sales Contract. For cancellations and refunds of the license tendered under this Sales Contract to be accepted, the Seller must receive written notification of the cancellation within 30 days of purchase. Cancellations requested outside of the 30-day period will not be refunded, and the Purchaser will be responsible for completing the purchase as stated in the Sales Contract.
4. **LICENSES:** IXL grants you the right to provide access, through unique log-in IDs, to no more individuals than the quantity indicated on the first page. The terms and conditions of use for each of these individuals are governed by our websites Terms of Service. You agree to be responsible for their accounts, to monitor their use of their accounts, and to indemnify, defend, and hold us harmless for any claims arising out of or related to their use of IXL Learnings website and services. To the extent that these individuals are minors, you consent to our collection of their personal information as described in our Privacy Policy.

Classroom and Site licenses will be activated immediately upon receipt of your payment unless another date is specified or agreed to by IXL. Activation confirmation will be sent to the e-mail address provided by the school or individual completing the purchase.

If an individual who has an IXL account through a Classroom or Site license purchased by you is no longer affiliated with you, you may request that we deactivate the individuals account, or no longer associate it with your license, so that that license can be reassigned to another individual associated with your institution.

If you are a teacher, you represent and warrant that you have permission and authorization from your school and/or district to use the Services as part of your curriculum, and for purposes of Childrens Online Privacy Protection Act ("COPPA") compliance, you represent and warrant that you are entering into these Terms on behalf of your school and/or district.

5. **PRIVACY:** If you are a school, district, or teacher, you acknowledge and agree that you are responsible for complying with COPPA, meaning that you must obtain advance written consent from all parents or guardians whose children under 13 will be accessing the website and services and you represent and warrant that you have obtained that consent. When obtaining consent, you must provide parents and guardians with our Privacy Policy. You are to keep all consents on file and provide them to us if we request them.

**6. DISCLAIMER OF WARRANTIES. YOU EXPRESSLY UNDERSTAND AND AGREE THAT:**

- a. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED "AS IS," "AS AVAILABLE," AND WITH ALL FAULTS. IXL EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.
- b. IXL MAKES NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE SERVICE WILL BE CORRECTED.
- c. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.
- d. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM IXL OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS.

**Some states do not allow certain limitations on warranties, so certain of the above limitations may not apply to you.**

- 7. **LIMITATION OF LIABILITY:** YOU EXPRESSLY UNDERSTAND AND AGREE THAT IXL SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES RESULTING FROM THE USE OR INABILITY TO USE THIS SERVICE. IN ALL INSTANCES, DAMAGES SHALL BE CAPPED AT ONE MONTHS FEES.
- 8. **SEVERABILITY:** If any provision of this agreement is deemed invalid, illegal, or unenforceable, then that provision shall be deemed severable from these terms and shall not affect the validity and enforceability of any remaining provisions of this Sales Contract, which shall remain in full force and effect.
- 9. **ARBITRATION:** You agree that any dispute or claim you may have against IXL arising out of or related to this Sales Contract or the use of Services must be submitted to arbitration, before a single arbitrator appointed by JAMS/Endispute and conducted according to their rules in San Francisco, CA, USA, and that the determination of any such arbitrator shall be binding. The courts located in San Francisco, CA, USA, have exclusive jurisdiction over any judicial proceedings related to this agreement, and you waive any claim that such a court is an improper venue, inconvenient, or lacks jurisdiction over you.
- 10. **GOVERNING LAW:** The Sales Contract and the relationship between you and IXL are governed by the laws of the State of California without regard to conflict of law provisions.
- 11. **ENTIRE AGREEMENT:** This Sales Contract, which incorporates the Terms of Service by reference, is the final expression of the agreement between Purchaser and Seller and supersedes all prior representations, understandings, and agreements between the Purchaser and Seller relating to its subject matter. This Sales Contract cannot be modified, amended, or changed except in writing and signed by IXL.

Please contact IXL Learning with any questions regarding this sales contract:  
Toll-free (855) 255-8800 | Direct (650) 372-4300 | E-mail [orders@ixl.com](mailto:orders@ixl.com)  
Completed sales contracts should be emailed to your sales consultant.