

**Memorandum of Understanding**  
**Workforce Preparation Skills Collaborative Program**

**Duluth Adult Basic Education and SOAR Career Solutions**  
**ABE Program Year 2017 (May 1, 2016 – April 30, 2017)**

**Introduction:** This MOU describes describes the partnership agreement and operating procedures between the Duluth Adult Basic Education consortium and SOAR Career Solutions in regard to offering workforce preparation skills as described in the “MN ABE Conditional Work Referral Policy, Revision date October 6, 2011.” The agreement shall be in effect from May 1, 2016 – April 30, 2017, with option to renew on an annual basis.

**Purpose:** The purpose of this agreement is to increase the quality and readiness of entry-level workers in the Duluth area. This will be done by collaboration between, SOAR, which provides training in job seeking skills, “soft” skills and basic computer skills for work, and ABE, which provides basic skills education as well as support for “soft” skills and basic computer skills.

**Administration and Coordination:** Supervision of programs will be provided by both Duluth ABE and SOAR based on program location, content and reporting requirements. After initial set up, there will be ongoing communication between the partners including face-to-face meetings at least quarterly, to coordinate intake, referrals, curriculum content and delivery, reporting, and any other issues required for efficient and effective program implementation.

**Work Plan for workforce preparation skills:**

1. **SOAR** agrees to provide these services:
  - a. Develop curriculum and identify instructors for classes in the areas of job seeking skills, soft skills for work, and basic computer skills.
  - b. Set a schedule of monthly classes in the three areas of job seeking skills, soft skills for work, and basic computer skills.
  - c. Coordinate with the Duluth Work Force Center to receive written referrals for these classes and to screen and place applicants based on their needs.
  - d. Receive referrals from the Adult Learning Center for ABE participants whose learning plan calls for development of pre-employment skills.
  - e. Conduct regular intake and screening for all interested in SOAR classes.
  - f. Refer SOAR applicants or participants who have basic skills needs to ABE – either to the classroom located at SOAR or to the Duluth Adult Learning Center – for brush-up classes, GED preparation, adult diploma, or ESL, computer training or additional “soft” skills
  - g. Deliver the pre-employment curricula in the areas specified.
  - h. Offer additional, individualized job seeking/job skills to those who complete the basic curriculum on an as-needed basis.
  - i. Complete the required ABE enrollment, attendance and exit reports for those who attend classes at SOAR, including copies of WFC referral forms as required for ABE eligibility.
  - j. Coordinate all paperwork with the ABE program staff to avoid duplication and guarantee accuracy and completeness in ABE state reporting.

- k. Provide data on employment and post-secondary enrollment outcomes for participants who are co-enrolled in ABE and SOAR work preparation programs.
2. **Duluth ABE** (aka Adult Learning Center) agrees to provide these services:
- a. Develop curriculum and identify instructors for classes in basic skills, including GED preparation, ESL, computer training or addition "soft" skills, adult high school diploma completion, and brush-up skills in reading, writing, math and specific test preparation (employment, military, further education including customized training).
  - b. Set a regular schedule of classes in the basic skills areas specified.
  - c. Provide regular intake and screening for all interested in ABE instruction.
  - d. Receive referrals from SOAR for applicants or participants who have basic skills needs in GED Preparation, Adult Diploma coursework, or Brush-up skills.
  - e. Refer ABE applicants or participants to SOAR, if their learning plans call for development of pre-employment skills.
  - f. Provide SOAR quarterly with a list of ABE participants for purposes of verifying dual enrollment in ABE academic skills programs and SOAR classes.
  - g. Deliver the ABE curricula in the basic skills areas specified, including GED preparation, ESL, computer training or additional "soft" skills, adult high school diploma completion, and brush-up skills in reading, writing, math and specific test preparation (employment, military, further education including customized training).
  - h. Provide required ABE forms, and guidance for form completion, to SOAR staff.
  - i. Complete all required ABE state reports, incorporating the data provided by SOAR for those eligible participants enrolled in pre-employment skills classes.
  - j. Provide SOAR data on educational outcomes for co-enrollees and those students referred to ABE by SOAR.

#### Fiscal Plan

- a. Duluth ABE (I.S.D. 709) will act as the Fiscal Agent for the ABE workforce preparation collaborative program.
- b. Duluth ABE will submit all required applications and reports to the Minnesota Department of Education to receive hourly revenue for eligible participants in pre-employment skills classes eligible under the Conditional Work Referral Policy.
- c. Reimbursement to SOAR for services provided will be determined by (1) reported participant contact hours in the pre-employment classes provided by SOAR; and (2) hourly rate of funding by MDE to ABE programs for the given program year. For the 2016-2017 Program Year, the anticipated hourly rate is \$4.00, and the maximum reimbursement shall be \$18,000 (4500 hours) for those in the Conditional Work Referral category. ABE participants who also attend classes at SOAR (not in the Conditional Work Referral category) may be billed in addition to this amount.
- d. Payment by Duluth ABE (I.S.D. 709) to SOAR will be made based on invoices submitted by SOAR for the number of ABE reportable student hours provided by SOAR. These invoices shall be submitted quarterly, within 60 days after the state ABE required quarterly reporting periods (ending July 31, October 31, January 31, and April 30). I.S.D. 709 shall pay SOAR within 60 days of receiving the invoice and verifying the reportable student hours.

**Review/Alteration/Termination of Agreement**

Either party reserves the right to request a review of this agreement, by written notice of 30 days, for purposes of alteration of terms or termination of the full agreement. Examples of possible reasons for alteration or termination include but are not limited to:

- a. If either party's source of funding necessary for this collaborative program is not obtained or continued at the expected level.
- b. If either party does not execute the responsibilities listed above. A written notice will (1) detail the specific requirements or responsibilities which are not being met, (2) detail a remedial process for correcting the specific problems, and (3) include a timeline by which these problems will be corrected. Failure to meet any of these 3 conditions will cause for terminating the agreement.

**Signatures.** This document is approved and accepted by these partners:

**Duluth Adult Basic Education, I.S.D. 709:**

**SOAR Career Solutions:**

\_\_\_\_\_  
Patricia Fleege, Program Coordinator

\_\_\_\_\_  
Emily Edison, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



\_\_\_\_\_  
William Hanson, ISD 709 Business Services Director

7/15/14

\_\_\_\_\_  
Date

# AGREEMENT

**THIS AGREEMENT**, made and entered into this 12th day of July, 2016, by and between Independent School District #709, a public corporation, hereinafter called District, and Tara Frisbie, R.D., 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 July 12, 2016, and shall remain in effect until June 30, 2017, 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.** Work with Child Nutrition on nutritional menu analysis, menu compliance and special diet menus.

3. **Background Check.** (Applies to contractors working independently with students)

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

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 rate of \$22.00 per hour not to exceed \$3,000. Contractors are 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 the 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, or to seek other damages.

7. **Ownership of Materials.** The District reserves the rights to reproduce the documents that are the subject of the Contract, in any form, in any fashion, or appropriate the contents of the documents, 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 the Contractor will act as an independent contractor in the performance of its duties under this Agreement and is not an employee of the District. 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 care of \_\_\_\_\_, ISD 709, Duluth Public Schools, 215 North 1<sup>st</sup> Avenue East, Duluth, MN 55802. 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, \_\_\_\_\_.

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 without regard to conflict of laws considerations.

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.

18. **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.

19. **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. The District shall be named an additional insured under said policy and proof of this insurance shall be provided to the District. This insurance shall be in at least the amount of \$2,000,000.

**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.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR



Program Director



on file with district  
Taxpayer Identification Number



Director of Business Service

**THIS AGREEMENT**, made and entered into this 6th day of September, 2016, by and between Independent School District #709, a public corporation, hereinafter called District, and Mary Ann Marchel, 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 as appropriate)

1. **Dates of Service.** This Agreement shall be deemed to be effective as of September 6, 2016, and shall remain in effect until June 9, 2017, 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.** Provide mental health consultative services for ISD 709 Duluth Early Childhood Family Education First Year Program. Scope of services to include observe children, consult with staff and parents as part of a collaborative team supporting families on a variety of mental health related issues.
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.

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 \$4,500.00 at the rate of \$50.00 per hour. 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 care of Duluth Community Education, ISD 709, Duluth Public Schools, 215 North 1<sup>st</sup> Avenue East, Duluth, MN 55802. 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 care of Mary Ann Marchel, 3929 Rockview Ct., Duluth, MN 55804.

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 Worker's 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.

**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.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR

\_\_\_\_\_  
Chair

Mary Ann Marchel,  
Ph. D., LGSW, IMH IV

\_\_\_\_\_  
Title

*MA Marchel*

\_\_\_\_\_  
Title Signature

\_\_\_\_\_  
~~Clerk~~

\_\_\_\_\_  
Program Director

*WCHanson*

\_\_\_\_\_  
Director of Business Service

\_\_\_\_\_  
Taxpayer Identification Number



## Solution Tree Purchasing Agreement

Effective July 26, 2016, Solution Tree, Inc. ("Solution Tree") located at 555 N. Morton St., Bloomington, IN 47404 and Duluth Independent School District ("Customer") located at 215 N. 1st Ave East agree as follows:

### 1. Product Summary

**1.1. Products:** Customer shall purchase the following Solution Tree products and services ("Products"). Any additional Products may be added to this Agreement by a written Addendum signed by both parties.

Product	Amount
Professional Development Services	6,500.00
<b>Total</b>	6,500.00

### 2. Professional Development Services

- 2.1. Description of Services:** Solution Tree agrees to provide a speaker, Marc Johnson ("Associate"), to disseminate information for Customer on the topic of *Professional Learning Communities* on August 30, 2016.
- 2.2. Reproducibles:** Customer is responsible for the reproduction of all handouts and other print materials related to the services, and Customer will notify the Associate directly of any deadlines for reproduction.
- 2.3. Venue and Audio/Visual Equipment:** Customer will provide a venue, audio/video equipment and technical support for all sessions.
- 2.4. Recording of Presentation:** All audio, video, and digital recording of the services is prohibited.
- 2.5. Rescheduling:** If events beyond the parties' control make performance on the scheduled dates impossible, the parties will make a good faith effort to reschedule the Professional Development Services.

### 3. Payment Terms

**3.1. Invoicing and Purchase Orders:** Upon execution of this Agreement, CUSTOMER WILL PROVIDE SOLUTION TREE WITH A PURCHASE ORDER FOR THE FULL AMOUNT DUE UNDER THIS AGREEMENT. Solution Tree will invoice Customer off of this purchase order based on the following schedule:

Description	Payment	Expected Invoice Date
20% Deposit (non-refundable)	1,300.00	Upon execution of contract
Professional Development	5,200.00	August 30, 2016

**3.1.1.** The total includes all travel, lodging, and other incidental expenses. All payment terms are net 30 days from the actual date of invoice. All late payments are subject to a finance

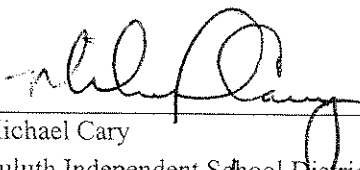


charge of 1.5% monthly. Please make purchase order(s) out to: Solution Tree, 555 North Morton Street, Bloomington, IN 47404.

#### 4. General Terms

- 4.1. Intellectual Property:** Customer acknowledges that Solution Tree or Associate own the copyrights to all tangible or electronic presentation materials, handouts, and/or program books used in conjunction with services performed under this Agreement, and that no materials will be developed specifically for Customer. Solution Tree shall retain all copyrights owned prior to entering this Agreement, and Customer may not reproduce any materials not designated reproducible without the express written permission of Solution Tree.
- 4.2. Termination:** Solution Tree may terminate this Agreement if Solution Tree has not received a purchase order within 30 days of the effective date of this Agreement.
- 4.2.1. Cancellation:** If Customer cancels any Professional Development Services within 90 days of the scheduled date for any reasons but Force Majeure, Customer shall reimburse Solution Tree for any reasonable business expenses incurred in anticipation of performance of this Agreement that exceed the amount of the deposit.
- 4.3. Force Majeure:** If events beyond the parties' control make it impossible to perform under this Agreement, the party unable to perform shall not have any liability to the other party for the prevented performance. All obligations unaffected by such an event shall remain in place.
- 4.4. Entire Agreement:** This Agreement and any exhibits attached hereto constitute the entire agreement of the parties and supersede any prior or contemporaneous written or oral understanding or agreement. No waiver or modification of any of the terms of the Agreement shall be effective unless made in writing and signed by both parties, and the unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal. Any waiver by either party of any default or breach hereunder shall not constitute a waiver or any provision of this Agreement or of any subsequent default of breach of the same or a different kind.
- 4.5. Offer Valid:** The pricing set forth in this Agreement shall be valid for 14 days from the effective date listed above.

This Agreement is acknowledged and accepted by Customer and Solution Tree:

  
\_\_\_\_\_  
Michael Cary  
Duluth Independent School District



7/23/16  
\_\_\_\_\_  
Date

Ali Cummins  
Associate Director of  
Professional Development  
Solution Tree, Inc.

\_\_\_\_\_  
Date



Solution Tree

Please fax or email this agreement to: Diane von Foerster  
Fax: (866.308.3135)  
Email: [diane.vonfoerster@SolutionTree.com](mailto:diane.vonfoerster@SolutionTree.com)



Solution Tree

## CONTACT INFORMATION

Please provide the following information:

### Who will be the contact person for the work?

Contact: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Fax: \_\_\_\_\_

### Who will receive and pay the invoices?

Contact: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Fax: \_\_\_\_\_

### Shipping Information *(required for resource delivery)*

Shipping Contact: \_\_\_\_\_  
Shipping Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Delivery Date: \_\_\_\_\_  
Delivery Times: \_\_\_\_\_

Choose one:  Do you have a Delivery Dock?  
 Do you have double doors (for pallet)?  
 Do you require inside delivery?

# MEMORANDUM

TO: Bill Gronseth, Duluth Public School Superintendent

FROM: Jason Barsness, Coordinator of Health, Safety & Environmental Management

DATE: July 27, 2016

RE: **Contract for Asbestos Cleanup HOCHS Basement**

The attached contracts between ISD 709 and Arrowhead Consulting, Inc. and between ISD 709 and ACCT Inc. are for asbestos consulting work to clean up and encapsulate a dirt tunnel/room in the basement of HOCHS.

Attached for your signature please find two (2) copies of the contract between ISD 709 and Arrowhead Consulting Inc, as well as two (2) copies of the contract between ISD 709 and ACCT, Inc. for the asbestos consulting services. After review, please sign and return to the Facilities Management office for processing.

If you have any questions, please contact me at extension 3240.

Thank you.

cc: Kerry Leider

# Arrowhead Consulting & Testing, Inc.

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5606 Miller Trunk Highway • Duluth, Minnesota 55811 • Phone: 218/729-0987 • Fax: 218/729-8297

July 25, 2016

Mr. Jason Barsness  
Duluth Public Schools  
215 North First Avenue East  
Duluth, Minnesota 55802

**RE: Request for Cost Estimate  
Asbestos Abatement Design Package  
Crawlspace Asbestos Debris Cleanup Project  
Historic Old Central High School - Duluth, Minnesota**

In response to your request for quotation, Arrowhead Consulting & Testing, Inc., (Arrowhead) is pleased to provide the Independent School District No. 709 (District) with the following proposal to provide an asbestos project design package for the renovation of the Historic Old Central High School – Gymnasium Ceiling Project.

## **SCOPE OF WORK**

Arrowhead understands the objectives of the proposal to be the following:

- Prepare bid documents outlining asbestos removal procedures to be used by the awarded contractor.
- Provide air monitoring during asbestos abatement activities.

## **PROJECT COST**

The cost to complete the design package is **\$900.00**. Included in the cost is asbestos project design for abatement of the asbestos containing materials.

## Onsite Air Monitoring

Per your request for a budget cost, Arrowhead can provide qualified air monitoring technicians to provide third-party project oversight and to provide air testing as required by law. Third-party monitoring services will include project inspection, project documentation and coordination.

Arrowhead will provide air monitoring services during the project. Arrowhead applies NIOSH Method 7400 for performing onsite analysis of airborne asbestos fibers. Arrowhead's personnel are certified under the Asbestos Analyst Registry Program to analyze air samples onsite. This certification is required by the Minnesota Department of Health. Air monitoring services include collection and analysis of pre-work area air samples, daily work area air samples, and final work area clearance samples.

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The cost to provide air monitoring/project oversight during asbestos abatement is \$1600.00. It is estimated that 2 to 3 days will be required to complete the asbestos abatement. Included in the cost is one air monitoring technician working 8-hours per day, air sampling equipment, PCM work in progress analysis, PCM clearance analysis, and reporting.

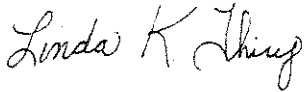
Total Estimated Project Cost

The total estimated project cost is \$2,500.00.

If you have any questions regarding the information provided, please call me at (218) 729-0987. We look forward to your favorable response.

Sincerely,

*Arrowhead Consulting & Testing, Inc.*



Linda K. Thiry  
Owner/Programs Director



## AGREEMENT

**THIS AGREEMENT**, made and entered into 27<sup>th</sup> day of July, 2016, by and between Duluth Public Schools, Independent School District No. 709, a public corporation, hereinafter called ISD 709, and Arrowhead Consulting & Testing, 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 ISD 709 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 July 27, 2016 and shall remain in effect until project is complete, 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.** *Provide an asbestos project design package for the renovation of the Historic Old Central High School Crawlspace. Project design cost estimate - \$900.00; Air monitoring/project oversight estimated cost based on 2-3 days - \$1,600.00.*
3. **Contract Documents.** It is understood that this Contract consists of the following:
  1. Printed Memoranda of Agreement and Title Sheet;
  2. Contractor's Quote;
  3. Contractors Insurance Policy;
  4. Supplementary Conditions and Insurance Requirements; and
  5. Any other documents identified by ISD 709.
4. **Background Check .** *N/A*
5. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, ISD 709 hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$2,500.00. Contractors are 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 the TIN is provided.
6. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:
  - a. Payment shall be made by ISD 709 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.
7. **Propriety of Expenses.** The fact that ISD 709 has reimbursed Contractor for any expense claimed by Contractor shall not preclude ISD 709 from questioning the propriety of

WCH

any such item. ISD 709 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 ISD 709 may have to recover funds expended by Contractor for disallowed costs, or to seek other damages.

8. **Ownership of Materials.** ISD 709 reserves the rights to reproduce the documents that are the subject of the Contract, in any form, in any fashion, or appropriate the contents of the documents, 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.

9. **Independent Contractor.** Both ISD 709 and Contractor agree that the Contractor will act as an independent contractor in the performance of its duties under this Agreement and is not an employee of ISD 709. 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.

10. **Indemnity and defense of ISD 709.** Contractor shall indemnify, hold harmless and defend ISD709, its employees, agents, successors and assigns, and their respective shareholders, directors, officers, employees and agents against and in respect to any and all claims, suits, actions, proceedings, investigations, judgments, deficiencies, damages, settlements, liabilities, general losses, costs and reasonable attorneys' fees, court costs and litigation expenses (collectively "Liabilities") which may arise out of, relate to or result from any act or omission of the Contractor.

In the event that Contractor breaches its obligation to defend, indemnify and hold ISD 709 harmless, then in addition to its other damages ISD 709 shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

11. **Notices.** All notices to be given by Contractor to ISD 709 shall be deemed to have been given by depositing the same in writing in the United States Mail care of Jason Barsness, ISD 709, Duluth Public Schools, 215 North 1<sup>st</sup> Avenue East, Duluth, MN 55802. All notices to be given by ISD 709 to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to: Arrowhead Consulting & Testing, Inc., 5606 Miller Trunk Highway, Duluth, MN 55811

12. **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 ISD 709.

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

14. **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 without regard to conflict of laws considerations.

15. **Compliance with Laws.** The Contractor shall comply with all governing laws, rules and regulations, whether federal, state, local or those of ISD 709. Those governing laws include but are not limited to Minnesota Statute 16C.05 (5) (formerly 1998 Minnesota Laws Ch. 386, Art. 1 Section 6) which Statute presently provides that the books, records, documents and accounting procedures and practices of the vendor or other party, that are relevant to the Contractor transaction, are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years. The other provisions of the Statute also apply.

The Contractor recognizes that, to the extent that competitive bidding requirements apply to this Contract that those requirements apply to the award and performance of this Contract.

The Regulations of ISD 709 are incorporated into this Contract by reference and must be complied with whether or not specifically identified in this Contract.

16. **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.

17. **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.

18. **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.

19. **Insurance.** 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:

20. **Workers' Compensation Insurance:** Contractor must provide Worker's 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.

21. **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.

ISD 709 shall be named an additional insured under said policy and proof of this insurance shall be provided to ISD 709. This insurance shall be in at least the amount of \$1,500,000.

22. **Professional Liability:** Contractor is required to maintain insurance protecting it from claims 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 including coverage relating to asbestos and environmental hazards.

23. **Representatives of ISD 709.** The Contractor shall perform work pursuant to this Agreement pursuant to the request and authority of the following persons:

<u>ISD 709 Employee</u>	<u>Position</u>
William Gronseth	Duluth Public Schools Superintendent

The Consultant shall report to the following persons regarding its work pursuant to this Agreement, or the designees:

<u>ISD 709 Employee</u>	<u>Position</u>
Jason Barsness	Safety Coordinator

24. **Protection of ISD 709.** To the extent that work by the Contractor or others on behalf of ISD 709 is to be planned, conducted, supervised or reviewed by the Contractor, the Contractor shall advise ISD 709 if such work:

- a. is not being performed pursuant to the plans and specifications, according to the best practice or in accordance with industry standards;
- b. should be rejected or modified;
- c. should be performed in a different manner and whether other work should be performed;
- d. requires ISD 709 to be advised of any other facts or opinions regarding that work.

In all respects, the Contractor shall represent the interests of ISD 709 and act to protect those interests and endeavor to guard ISD 709 against defects, deficiencies and omissions in the performance of the work.

25. **Negotiation, Mediation and Arbitration.** Any disputes between the parties shall first be negotiated. If the parties are not successful in negotiation, they then shall subject the dispute to mediation. If mediation is not successful, then any disputes between ISD 709 and the Consultant shall be resolved through binding arbitration. The arbitration shall be conducted in the State of Minnesota, and Minnesota law shall apply. Unless otherwise agreed by the parties, the arbitration shall be conducted pursuant to the rules of the American Arbitration Association.

At the option of ISD 709, the arbitration shall include in one consolidated arbitration proceeding, all claims and disputes regarding the Contractor and any architects, contractors, subcontractors, material men and other consultants as may be involved in the dispute. Contractor shall include this paragraph in all its subcontracts dealing with the work of ISD 709.

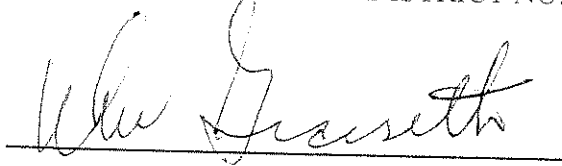
Following the issuance of a demand for arbitration, any party to the arbitration shall be entitled to use all discovery methods permitted in the Minnesota Rules of Civil Procedures for ISD 709

courts. Once selected, the arbitrator shall hear any discovery disputes regarding discovery unless otherwise agreed by the parties.

**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.

INDEPENDENT SCHOOL DISTRICT NO. 709

ARROWHEAD CONSULTING &  
TESTING, INC.



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Duluth Public Schools Superintendent

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By

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Title

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Taxpayer Identification Number

# MEMORANDUM

TO: Bill Gronseth, Duluth Public School Superintendent

FROM: Jason Barsness, Coordinator of Health, Safety & Environmental Management

DATE: July 27, 2016

RE: **Contract for Asbestos Cleanup HOCHS Basement**

The attached contracts between ISD 709 and Arrowhead Consulting, Inc. and between ISD709 and ACCT Inc. are for asbestos consulting work to clean up and encapsulate a dirt tunnel/room in the basement of HOCHS.

Attached for your signature please find two (2) copies of the contract between ISD 709 and Arrowhead Consulting Inc, as well as two (2) copies of the contract between ISD 709 and ACCT, Inc. for the asbestos consulting services. After review, please sign and return to the Facilities Management office for processing.

If you have any questions, please contact me at extension 3240.

Thank you.

cc: Kerry Leider

# ACCT

I N C O R P O R A T E D

## Asbestos Control & Consulting Team

230 HWY 33 N, CLOQUET, MN 55720  
Telephone (218) 879-2241 \* Fax (218) 879-6194

## Fax

TO: Arrowhead Consulting & Testing

FAX: E-Mail

Linda Thiry

DATE: 7-22-16

FROM: Steve Proulx

# OF PAGES: 1 (including cover sheet)

RE: ACM debris cleanup quote

Old Central High School

We propose to furnish the material, labor, & equipment to provide 2 workers for 2 days for debris cleanup at the above location for a time & material not-to-exceed price of ..... \$2,820.00

Add \$7,270.00 to perform the work for add alternate #1

Thank you for the opportunity of submitting this quote

Sincerely,

Steve Proulx

## AGREEMENT

**THIS AGREEMENT**, made and entered into 27<sup>th</sup> day of July, 2016, by and between Duluth Public Schools, Independent School District No. 709, a public corporation, hereinafter called ISD 709, and ACCT Incorporated., 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 ISD 709 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 July 27, 2016 and shall remain in effect until project is complete, 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.** *Provide asbestos cleanup, debris removal, and encapsulation per quote from July 19<sup>th</sup>, 2016 provided by Arrowhead Consulting. Project Base Quote time and materials not to exceed - \$2820.00; Add/Alternate Quote time and materials not to exceed - \$7,270.00.*
3. **Contract Documents.** It is understood that this Contract consists of the following:
  1. Printed Memoranda of Agreement and Title Sheet;
  2. Invitation for Quote including scope of work and work procedures;
  3. Contractor's Quote;
  4. Contractors Insurance Policy;
  5. Supplementary Conditions and Insurance Requirements; and
  6. Any other documents identified by ISD 709.
4. **Background Check .** *N/A*
5. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, ISD 709 hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$10,090.00. Contractors are 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 the TIN is provided.
6. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:
  - a. Payment shall be made by ISD 709 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.

*WCH*



7. **Propriety of Expenses.** The fact that ISD 709 has reimbursed Contractor for any expense claimed by Contractor shall not preclude ISD 709 from questioning the propriety of any such item. ISD 709 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 ISD 709 may have to recover funds expended by Contractor for disallowed costs, or to seek other damages.

8. **Ownership of Materials.** ISD 709 reserves the rights to reproduce the documents that are the subject of the Contract, in any form, in any fashion, or appropriate the contents of the documents, 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.

9. **Independent Contractor.** Both ISD 709 and Contractor agree that the Contractor will act as an independent contractor in the performance of its duties under this Agreement and is not an employee of ISD 709. 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.

10. **Indemnity and defense of ISD 709.** Contractor shall indemnify, hold harmless and defend ISD709, its employees, agents, successors and assigns, and their respective shareholders, directors, officers, employees and agents against and in respect to any and all claims, suits, actions, proceedings, investigations, judgments, deficiencies, damages, settlements, liabilities, general losses, costs and reasonable attorneys' fees, court costs and litigation expenses (collectively "Liabilities") which may arise out of, relate to or result from any act or omission of the Contractor.

In the event that Contractor breaches its obligation to defend, indemnify and hold ISD 709 harmless, then in addition to its other damages ISD 709 shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

11. **Notices.** All notices to be given by Contractor to ISD 709 shall be deemed to have been given by depositing the same in writing in the United States Mail care of Jason Barsness, ISD 709, Duluth Public Schools, 215 North 1<sup>st</sup> Avenue East, Duluth, MN 55802. All notices to be given by ISD 709 to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to: ACCT Incorporated, 230 Hwy 33 N, Cloquet, MN 55720.

12. **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 ISD 709.

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

14. **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 without regard to conflict of laws considerations.

15. **Compliance with Laws.** The Contractor shall comply with all governing laws, rules and regulations, whether federal, state, local or those of ISD 709. Those governing laws include but are not limited to Minnesota Statute 16C.05 (5) (formerly 1998 Minnesota Laws Ch. 386, Art. 1 Section 6) which Statute presently provides that the books, records, documents and accounting procedures and practices of the vendor or other party, that are relevant to the Contractor transaction, are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years. The other provisions of the Statute also apply.

The Contractor recognizes that, to the extent that competitive bidding requirements apply to this Contract that those requirements apply to the award and performance of this Contract.

The Regulations of ISD 709 are incorporated into this Contract by reference and must be complied with whether or not specifically identified in this Contract.

16. **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.

17. **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.

18. **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.

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

20. **Workers' Compensation Insurance:** Contractor must provide Worker's 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.

21. **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. ISD 709 shall be named an additional insured under said policy and proof of this insurance shall be provided to ISD 709. This insurance shall be in at least the amount of \$1,500,000.

22. **Professional Liability:** Contractor is required to maintain insurance protecting it from claims 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 including coverage relating to asbestos and environmental hazards.

23. **Representatives of ISD 709.** The Contractor shall perform work pursuant to this Agreement pursuant to the request and authority of the following persons:

<u>ISD 709 Employee</u>	<u>Position</u>
William Gronseth	Duluth Public Schools Superintendent

The Consultant shall report to the following persons regarding its work pursuant to this Agreement, or the designees:

<u>ISD 709 Employee</u>	<u>Position</u>
Jason Barsness	Safety Coordinator

24. **Protection of ISD 709.** To the extent that work by the Contractor or others on behalf of ISD 709 is to be planned, conducted, supervised or reviewed by the Contractor, the Contractor shall advise ISD 709 if such work:

- a. is not being performed pursuant to the plans and specifications, according to the best practice or in accordance with industry standards;
- b. should be rejected or modified;
- c. should be performed in a different manner and whether other work should be performed;
- d. requires ISD 709 to be advised of any other facts or opinions regarding that work.

In all respects, the Contractor shall represent the interests of ISD 709 and act to protect those interests and endeavor to guard ISD 709 against defects, deficiencies and omissions in the performance of the work.

25. **Negotiation, Mediation and Arbitration.** Any disputes between the parties shall first be negotiated. If the parties are not successful in negotiation, they then shall subject the dispute to mediation. If mediation is not successful, then any disputes between ISD 709 and the Consultant shall be resolved through binding arbitration. The arbitration shall be conducted in the State of Minnesota, and Minnesota law shall apply. Unless otherwise agreed by the parties, the arbitration shall be conducted pursuant to the rules of the American Arbitration Association.

At the option of ISD 709, the arbitration shall include in one consolidated arbitration proceeding, all claims and disputes regarding the Contractor and any architects, contractors, subcontractors, material men and other consultants as may be involved in the dispute. Contractor shall include this paragraph in all its subcontracts dealing with the work of ISD 709.

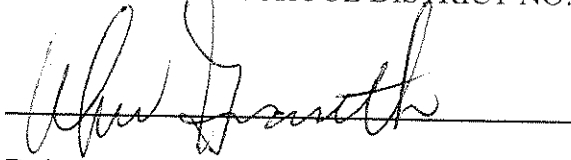
Following the issuance of a demand for arbitration, any party to the arbitration shall be entitled to use all discovery methods permitted in the Minnesota Rules of Civil Procedures for ISD 709

courts. Once selected, the arbitrator shall hear any discovery disputes regarding discovery unless otherwise agreed by the parties.

**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.

INDEPENDENT SCHOOL DISTRICT NO. 709

ACCT INCORPORATED



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Duluth Public Schools Superintendent

By

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Title

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Taxpayer Identification Number

# Memorandum

**To:** Bill Hanson

**From:** Kerry M. Leider



**Date:** July 13, 2016

**Re:** Asbestos Abatement Services in the Boiler Room at Historic Old Central High School

Attached are two (2) copies of the Agreement between Independent School District #709 and Mavo Systems to remove approximately 40 lf of tsi on three different lines of various sizes in the boiler room at Historic Old Central High School. The total estimated cost of this service is \$2,950.00..

I am recommending approval of the agreement with Mavo Systems. After review and if you concur, please sign both copies of the Agreement and return them to the Facilities Management office for processing.

Attachments



# PROPOSAL

DATE: **July 12, 2016**

PROPOSAL SUBMITTED TO:	<b>Duluth Public Schools</b>	DESCRIPTION OF WORK:	<b>TSI Abatement</b>
ADDRESS:	<b>215 N. 1st Ave. E.</b>	SITE LOCATION:	<b>HOCHS</b>
CITY, STATE, ZIP:	<b>Duluth, MN 55802</b>	ADDRESS:	<b>Boiler Room</b>
ATTENTION:		CITY, STATE, ZIP:	<b>Duluth, MN</b>
PHONE:			

Mavo Systems, Inc. proposes the following scope of work:

Provide abatement services to remove approximately 40 lf of tsi on 3 different lines of various sizes. Work will be performed using a combination of glovebag and wrap/cut procedures. All work will be performed in compliance of all federal, state and local regulations governing asbestos abatement.

**T&M Not-to-Exceed: \$2,950.00**

\*Price includes labor, materials, equipment, disposal and insurance.

Payment(s) to be made as follows:  
 In the event payment are not made as outlined herein, the undersigned agrees to pay all costs of collection and attorney's fees incurred by Mavo Systems, Inc. All material is guaranteed to be specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration of deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation insurance. Owner/GC agrees to supply Mavo Systems, inc. with power and potable water to complete the cleaning process.

Authorized Signature John Kraskey Note: This proposal may be withdrawn by us if not accepted within 90 days  
 John Kraskey - Operations Manager

**Acceptance of Proposal:** The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined.

Date of Acceptance: 7/13/16 Signature W. C. Hanson  
 kraskey@mavo.com

MAVO SYSTEMS, INC.  
 2305 BRICKS ROAD  
 DULUTH, MN 55810

CELL PHONE: 218-349-6785  
 FAX: 218-626-1064  
 OFFICE: 218-626-1356

# Memorandum

To: Bill Hanson

From: Kerry M. Leider



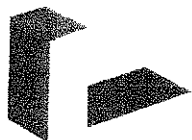
Date: July 7, 2016

Re: **Window Quality Control Testing for 2016 Window Replacement and Masonry Rehabilitation at Myers-Wilkins Elementary School – Inspec, Inc.**

Attached are two (2) copies of the Agreement between Independent School District #709 and Inspec, Inc. for window quality control air and water infiltration testing for the 2016 window replacement and masonry rehabilitation at Myers-Wilkins Elementary School. The total estimated cost of this service for a two-day window test trip for three windows is \$6,350.00.

I am recommending approval of the agreement with Inspec, Inc. After review and if you concur, please sign both copies of the Agreement and return them to the Facilities Management office for processing.

Attachments



**INSPEC**

Smart engineering of

roofs, walls, windows

pavements

and waterproofing

July 7, 2016

Mr. Kerry Leider, Property and Risk Manager  
Duluth Public Schools  
215 North First Avenue East  
Duluth, MN 55802

RE: Proposal for Window Quality Control Testing for  
2016 Window Replacement and Masonry Rehabilitation at  
Myers-Wilkins Elementary School  
Duluth, Minnesota  
Inspec File No.: 213686

Dear Mr. Leider:

We are grateful for the opportunity to submit this proposal to provide quality control air and water infiltration testing services for the newly installed fenestrations at Myers-Wilkins Elementary School.

#### **A. DEFINITIONS**

1. Inspec: INSPEC, INC., Engineers/Architects
2. Client: Duluth Public Schools

#### **B. PROJECT INFORMATION**

##### **1. Context**

The 2016 Window Replacement and Masonry Rehabilitation at the Myers-Wilkins project specified field testing of the newly installed windows. The field testing method specified was AAMA, 502.90; Method B, air and water infiltration. A quantity of 10% of the windows (13) or a minimum of three windows were specified to be tested. For the failed test, testing two additional windows and retesting the failed window was also specified; but at the contractor's cost.

##### **2. Client's Known Problems or Needs**

Inspec recommends the specified quality control testing be completed for one W-AO window, one W-JO window, and one WD, WF, or similar non-operable window. According to the submitted shipping report, the three window types will be in the first shipment and could potentially be installed on July 28 for testing on August 4 and 5. Testing of the three windows is anticipated to be completed in two days. The contractor will be responsible to provide access for window testing.

5801 Duluth Street  
Minneapolis, MN 55122  
Ph: 763-746-3434  
Fax: 763-546-8060

Chicago

Milwaukee

Minneapolis

[www.inspec.com](http://www.inspec.com)



**C. BASIC SERVICES**

1. Quality Control Testing Services for newly installed windows.
  - a. Air and water infiltration testing will be completed in general conformance with AAMA 502-12 for newly installed fenestration products. As specified, the water infiltration testing will be completed at a 2/3 of the design pressure assigned to the unit to achieve the class rating specified.
  - b. A field report for each test trip would be written summarizing the testing results.

**D. COMPENSATION – BASIC SERVICES**

We propose to provide the above-described Basic Services for the fees as indicated below:

Two-day window test trip for three windows .....	\$6,350
One-day window test trip * .....	\$4,750
One day of testing added to trip while on-site * .....	\$3,190/day

\* Pricing provided for testing beyond the three windows identified.

**E. REIMBURSABLES**

Mileage, per diem, and overhead is included in the above fees. No other reimbursables are anticipated.

**F. CLIENT'S RESPONSIBILITIES**

1. Return a copy of the signed proposal prior to the start of services.
2. Provide access to the interior and exterior of the building and access to water for the purpose of water testing.

**G. PAYMENT PROVISIONS**

Progress payment invoices for Inspec services shall generally be submitted monthly and are payable upon receipt. Invoices shall be considered past due if not paid within thirty (30) days of invoice date.

**H. SUSPENSION OR TERMINATION OF SERVICES**

This Agreement may be terminated by either party in the event of substantial failure to perform in accordance with the terms of this Agreement through no fault of the terminating party, but only after written notice of the specific nature of the failure to perform has been submitted and after seven days opportunity to cure such failure. If this Agreement is terminated, Inspec shall be paid for services performed to the termination notice date including reimbursable expenses due.

## I. RISK ALLOCATION/DISPUTE RESOLUTION

1. All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including, but not limited to, breach thereof, shall be referred for mediation under the then current Construction Industry Mediation Rules of the American Arbitration Association prior to any recourse to arbitration or litigation.
2. The Client agrees to compensate Inspec for reasonable expenses incurred if Inspec is required to respond to legal processes which are related to Inspec's services, but that arise out of a lawsuit or proceeding to which Inspec is not a party.
3. If the Client brings a lawsuit against Inspec that is dismissed or to which a verdict is rendered for Inspec, the Client will reimburse Inspec for costs of defense, including but not limited to reasonable attorney's fees.
4. In recognition of the relative risks and benefits of the project to both the Client and to Inspec, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit Inspec's liability to the Client for any and all claims, losses, costs, damages of any nature whatsoever, or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of Inspec to the Client shall not exceed five times the total fee. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

In the event the Client does not wish to limit Inspec's liability to this sum, Inspec agrees to waive this limitation upon receiving Client's written request, and agreement by the Client to pay an additional consideration of 30 percent of our total fee or \$2,500, whichever is greater.

## J. REMARKS

This proposal is valid for thirty (30) days, after which time Inspec reserves the right to modify and resubmit.

This Agreement represents the entire and integrated agreement between Client and Inspec and supersedes all prior negotiation, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Inspec and Client. Nothing herein shall be construed to give any rights or benefits to anyone other than Client and Inspec.

This Agreement entered into as of the day and year first above written.

**For Client**

*Bill Hanson*  
\_\_\_\_\_  
*Signature*

Bill Hanson  
\_\_\_\_\_  
*Printed Name*

CFO  
\_\_\_\_\_  
*Printed Title*

Duluth Public Schools

**For Inspec**

*Pamela Jergenson*  
\_\_\_\_\_  
*Signature*

Pamela Jergenson, CCS, CCCA  
\_\_\_\_\_  
*Printed Name*

Senior Building Envelope Consultant  
\_\_\_\_\_  
*Printed Title*

INSPEC, INC.

PJ/bap

# Memorandum

**To:** Bill Hanson

**From:** Kerry M. Leider



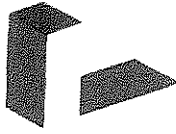
**Date:** July 11, 2016

**Re:** Proposal for Design Services for the Masonry Rehabilitation of Boiler, Hallway,  
And Stack at Historic Old central High School

Attached are two (2) copies of the proposal and Agreement between Independent School District #709 and Inspec, Inc. Design Services for the Masonry Rehabilitation of Boiler, Hallway, and Stack at Historic Old central High School. The total proposed cost of this service is \$11,600.00.

I am recommending approval of the agreement with Inspec, Inc. After review and if you concur, please sign both copies of the Agreement and return them to the Facilities Management office for processing.

Attachments



**INSPEC**

Smart engineering of

roofs, walls, windows,

pavements

and waterproofing

July 11, 2016

Mr. Kerry Leider, Property and Risk Manager  
Duluth Public Schools  
215 North First Avenue East  
Duluth, MN 55802

RE: Proposal for Design Services of the Masonry Rehabilitation of  
Boiler, Hallway, and Stack at  
Historic Old Central High School  
Duluth, Minnesota

Dear Mr. Leider:

We are grateful to have been given the opportunity to submit this proposal on the above-referenced services. This proposal is based upon the recommendations in the Limited Building Envelope Assessment report for Historic Old Central High School dated May 22, 2015.

#### A. DEFINITIONS

1. Inspec: INSPEC, INC., Engineers/Architects
2. Client: Duluth Public Schools
3. HOCHS: Historic Old Central High School
4. Report: Limited Building Envelope Assessment for: Historic Old Central High School, dated May 22, 2015

#### B. PROJECT INFORMATION

##### 1. Context

The Boiler, Hallway, and Stack of HOCHS were recommended in the Report as the first priority in masonry rehabilitation due to the level of deterioration. (See the attached sketch from the Report.) The Client is submitting a grant application to the Minnesota Historical Society through the City of Duluth to secure grant funding for the construction of this project. For the grant application submission, a set of construction documents is required with a scope of work that can begin after November 1, 2016.

##### 2. Client's Known Needs

In further discussion with the Client, the grant application submission documents will contain construction drawings consisting of photographs with the scope of work noted and project manual comprising of Division 01 through the technical sections. These documents will be presented to the Minnesota Historical Society for their review and comment prior to the grant application submission.

5801 Duluth Street  
Minneapolis, MN 55422  
Ph 763-546-3434  
Fax 763-546-8609

Chicago

Milwaukee

Minneapolis

[www.inspec.com](http://www.inspec.com)

### **C. BASIC SERVICES**

The following Basic Services pertain only to the scope of services described earlier.

#### **1. Design Phase**

- a. Conduct a review of drawings available for the area of work from the Northwestern Architectural Archives.
- b. Photograph all exterior elevations of the boiler and hallway, one side of the stack, and architectural detailing.
- c. Conduct observations of interior side of exterior walls.
- d. Prepare construction drawings with a plan, select photographs, details, and scope of work notes.
- e. Prepare a project manual with Division 01 through the technical sections.
- f. Submit the construction drawings and project manual to the Minnesota Historical Society for review and comment.
- g. Incorporate comments from the Minnesota Historical Society into the documents.
- h. Submit the 90% construction documents \* to the Client for the grant submission by July 27, 2016.

\* Construction documents will not include the front end bidding and contracting requirements. No state plan review, bid, or construction phase services are part of the scope of work or basic services.

### **D. COMPENSATION – BASIC SERVICES**

We propose to provide the above services for the fee of \$11,600.

### **E. REIMBURSABLES**

Mileage, per diem, and overhead is included in the above fees. No hazardous materials or structural subconsultant fees are anticipated at this time.

### **F. ADDITIONAL SERVICES**

1. Based on our current knowledge of the existing conditions, we have, to the best of our ability, matched our Basic Services to the needs of your project. However, should the need arise for us to expand our services in response to conditions or events outside our control, we would, under your direction, submit a separate proposal covering such Additional Services. Additional Services are not included under Basic Services nor are they covered by the compensation thereof.
2. Additional Services may include, but are not necessarily limited to, the following:
  - a. Verification of existing structural capacity for the purpose of establishing construction equipment weight restrictions.
  - b. Consultants (professional or otherwise) hired by Inspec, but not included under this proposal.

- c. Additional meetings and/or site visits beyond those under Basic Services.
- d. Preparation work and/or meetings related to arbitration, mediation, legal, or other conflict resolution proceedings of which Inspec is not a party.
- e. Adapting the documents to modifications in the Scope of Work made necessary by situations or conditions outside of Inspec's control.
- f. Any services resulting from the discovery of asbestos, mold, lead, or any other existing hazardous materials.
- g. Submission of State Initial Plan Review application and further submissions as requested by the State.
- h. Bidding and construction services for this project.

#### **G. COMPENSATION – ADDITIONAL SERVICES**

1. Compensation for Additional Services shall be established by separate Additional Services proposal(s) unless indicated otherwise herein.
2. Compensation for Additional Services provided directly by Inspec shall be based on Inspec's rate schedule that is current at the time that the Additional Services are provided.
3. Compensation for Additional Services that are provided by others but retained by Inspec shall be based on the amount billed to Inspec times a factor of 1.10.

#### **H. CLIENT'S RESPONSIBILITIES**

1. Provide roof and interior space access at the project site.
2. Return this proposal signed or a purchase order prior to these services starting.

#### **I. PAYMENT PROVISIONS**

1. Progress payment invoices for Inspec services shall generally be submitted monthly and are payable upon receipt. Invoices shall be considered past due if not paid within thirty (30) days of invoice date.
2. Payment of invoices for Inspec services shall not be contingent on payments received by the Client from other parties.

#### **J. SUSPENSION OR TERMINATION OF SERVICES**

This Agreement may be terminated by either party in the event of substantial failure to perform in accordance with the terms of this Agreement through no fault of the terminating party, but only after written notice of the specific nature of the failure to perform has been submitted and after seven days opportunity to cure such failure. If this Agreement is terminated, Inspec shall be paid for services performed to the termination notice date including reimbursable expenses due.

**K. RISK ALLOCATION / DISPUTE RESOLUTION**

1. All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including, but not limited to, breach thereof, shall be referred for mediation under the then current Construction Industry Mediation Rules of the American Arbitration Association prior to any recourse to arbitration or litigation.
2. The Client agrees to compensate Inspec for reasonable expenses incurred if Inspec is required to respond to legal processes which are related to Inspec's services, but that arise out of a lawsuit or proceeding to which Inspec is not a party.
3. If the Client brings a lawsuit against Inspec that is dismissed or to which a verdict is rendered for Inspec, the Client will reimburse Inspec for costs of defense, including but not limited to reasonable attorney's fees.
4. In recognition of the relative risks and benefits of the project to both the Owner and to Inspec, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit Inspec's total liability to the Owner for any and all claims, losses, costs, damages of any nature whatsoever, or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of Inspec to the Owner shall not exceed \$20,000 or the total amount actually paid by Owner to Inspec under this proposal, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

**L. REMARKS**

This Agreement represents the entire and integrated agreement between Client and Inspec and supersedes all prior negotiation, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Inspec and Client. Nothing herein shall be construed to give any rights or benefits to anyone other than Client and Inspec.

This Agreement entered into as of the day and year first above written.

For Client

Signature

Printed Name

Printed Title

Duluth Public Schools

PJ/bap

Enclosure: HOCHS plan view

For Inspec

Signature

Pamela Jergenson, CCS, CCCA

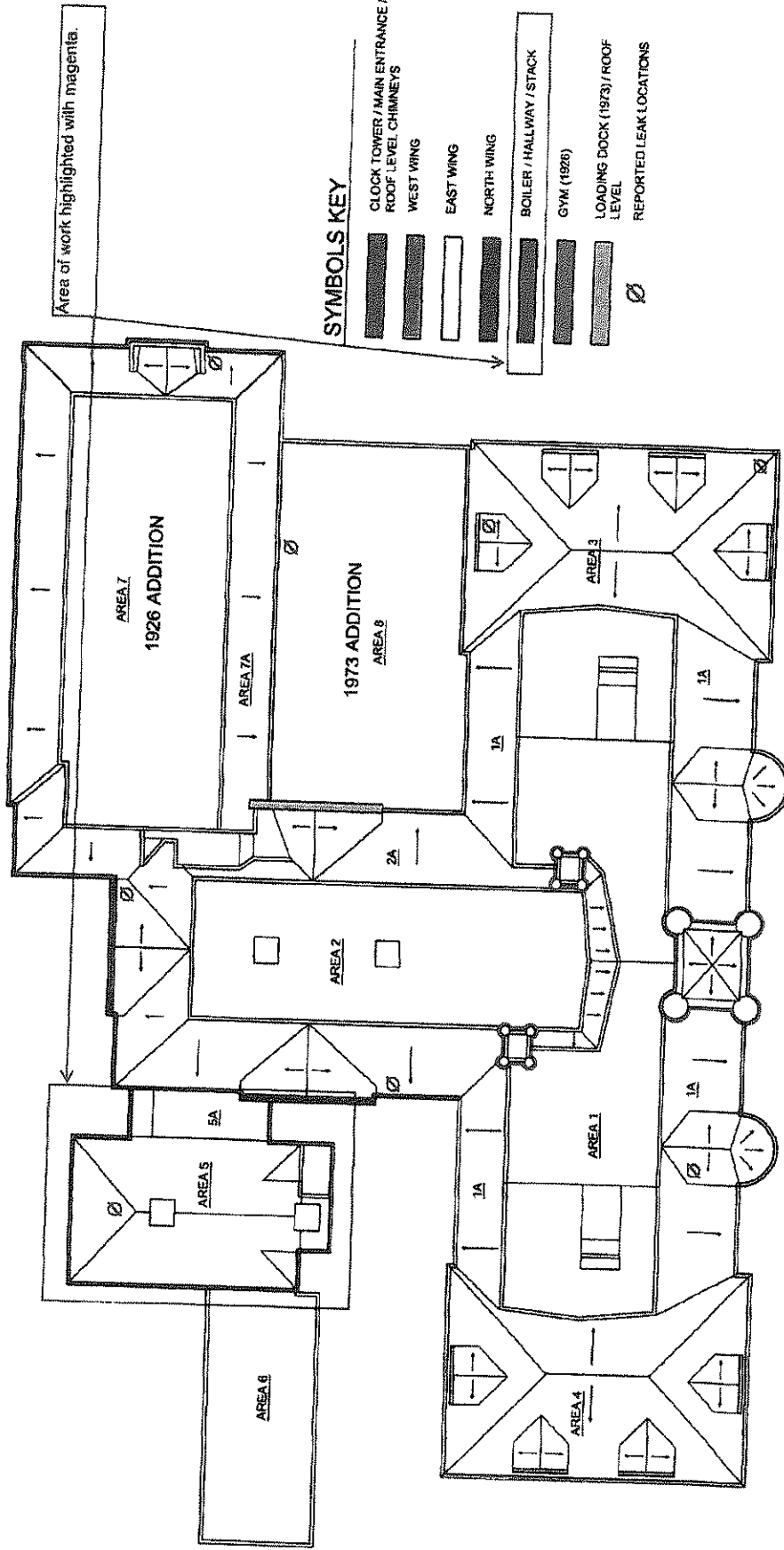
Printed Name

Senior Building Envelope Consultant

Printed Title

INSPEC, INC.





Area of work highlighted with magenta.

**ROOF PLAN**  
NO SCALE



**DULUTH PUBLIC SCHOOLS**

Project for:  
**HISTORIC OLD CENTRAL HIGH SCHOOL**  
215 NORTH FIRST STREET EAST  
DULUTH, MINNESOTA, 55802

DATE: 11/15  
CLIENT PROJECT No: 0000  
ARCHITECT PROJECT No: 11900  
PROJECT MARK: 11900  
DRAWN BY: J. W. HANSEN  
CHECKED BY: J. W. HANSEN  
DATE: 11/15/00

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# Memorandum

**To:** Bill Hanson

**From:** Kerry M. Leider



**Date:** July 1, 2016

**Re:** Special Inspection and Materials Testing Services for the Parking Lot Improvements at Historic Old Central High School

Attached find two (2) copies of the Agreement between Independent School District #709 and Braun Intertec Corporation to provide special inspection and materials testing services for the parking lot improvements at Historic Old Central School. The total estimated cost of this service is \$22,471.00.

I am recommending approval of the contract with Braun Intertec Corporation to provide testing and inspection services. If you concur, please sign both copies of the proposal and return them to the Facilities Management office for processing.

Attachments

June 30, 2016

Proposal QTB036818

Mr. Kerry Leider  
Independent School District #709  
215 North First Avenue East  
Duluth, MN 55802

Re: Proposal for Special Inspection and Testing Services  
HOCHS Parking Lot Improvements  
215 North First Avenue East  
Duluth, Minnesota

Dear Mr. Leider:

Braun Intertec Corporation is pleased to submit this proposal to provide special inspections and testing services for the proposed parking lot improvements at the Historic Old Central High School in Duluth, Minnesota.

## **Our Understanding of the Project**

We understand this project will include the construction perimeter retaining wall to the existing parking lot and pavement section replacement at the Historic Old Central High School. Included in the project are improvements to the existing Coal Room and Music Room at the school, as well as various site improvements.

## **Available Information**

This proposal was prepared using the following documents and information.

- Project plans and specifications prepared by Northland Consulting Engineers L.L.P., dated April 28, 2016.
- Discussions with Adam Zwak of Northland Consulting Engineers L.L.P.

Other than the references cited above, Special Inspection and Testing Schedule, construction schedule, or geotechnical report were provided to help us prepare this proposal.

## **Overview of Procedures 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 reinforced concrete, structural masonry, pre-tension/post-tension (pre-stressed) concrete, spray-applied fireproofing, structural steel and bolting, and structural welding.

### **Qualifications and Experience**

ICC certified special inspectors will provide our special inspections. An ICC certified special inspector is one who has successfully demonstrated their ability to understand the building code, 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 their special inspection activities, at the time they are performed, on Special Inspection Daily Report forms that are submitted to the general contractor's on-site personnel for their 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 required, the Special Inspection Daily Report forms will be accompanied by a tabulation titled Summary of Discrepancies Needing Correction or Review by the Design Engineer or Architect. This tabulation will list the items that are determined to be in conflict with the project documents and have not been corrected by the contractor. The summary will include resolutions when the design team provides them. An updated copy of the tabulation will be submitted each time an existing discrepancy has been resolved or a new one is recorded. Special inspection procedural and final reports for structural steel inspections and non-structural steel inspections will be prepared and submitted periodically or at the end of our involvement with the project according to the requirements of the building code.

### **Communications**

Our special inspectors will communicate the results of their inspections back to our supervising engineer each day special inspections are performed. It is important for our special inspectors to develop a working relationship with the project's structural engineer-of-record. We will be in 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. These requests, and their responses, can also be sent to the owner, the project design and construction teams, and other interested parties, such as the building official, as needed.

### **Efficient Staff Use**

Cross-utilization of personnel on a project is an excellent means to provide efficiencies and to economize inspection and testing costs. As a result, most of our special inspectors hold certifications in several areas, as well as being certified to use a nuclear gauge for soil density testing, and are generally ACI Concrete Field Testing Technician – Grade I certified. The ACI Grade I certification, or equivalent, is also requirement of the American Society of Testing and Materials (ASTM) to cast concrete test cylinders.

### **Construction Materials Testing**

We will commit that each concrete technician assigned to this project will be ACI Concrete Field Testing Technician – Grade I certified to conduct the required concrete testing, and that each soil technician will be certified to use a nuclear gauge for soil density testing, so that the test results can be determined on site and evaluated once the required laboratory testing is completed.

### **Scope of Services**

ICC certified special inspectors, or qualified technicians working under the direction of ICC certified special inspectors, will provide the required special inspection services under the direction of a licensed professional engineer, either on a full-time or periodic basis depending on the construction schedule and when requested by the general contractor. The special inspectors or qualified technicians will perform the specified construction materials testing services on a full-time or on-call basis as scheduled by the general contractor. After reviewing the available information, to determine compliance with the project plans and/or specifications, other design or construction documents and applicable ASTM and other industry standards, we interpret our scope of services for this project will be limited to the tasks defined below. *Special inspections are italicized.*

### **Soil Related Services**

- *Observe and evaluate the soils exposed in the bottoms of excavations to determine if the soils are suitable for support of excavation backfill, additional required fill, and the project's structural design loads.*
- Perform laboratory mechanical analyses of prospective fill and backfill materials.
- Perform laboratory Proctor tests to determine the maximum standard Proctor dry densities and optimum moisture contents of prospective backfill and fill materials.
- *Observe the placement and compaction of backfill and fill.*
- Test compacted backfill and fill placed below building footprints and oversizing areas, below slabs and/or pavements, behind retaining walls, in utility trenches, and in areas for which compaction specifications have been provided, to determine if the relative compaction was achieved.

### **Concrete Related Services**

- *Observe concrete reinforcement placement.*
- *Observe the concrete placement and test sample preparation.*
- Sample and test the plastic concrete for slump, air content and temperature.
- Prepare test cylinders for laboratory compressive strength testing.

- Perform laboratory compressive strength testing of the concrete samples.

#### **Structural Steel Services**

- Observe and test the structural steel bolted connections.
- *Observe the installation of drilled-in-place, epoxy secured anchor bolts.*

#### **Pavement Related Services**

- Provide test-roll observations of the pavement subgrade soils and/or aggregate base layer to determine if the materials tested are capable of supporting bituminous or concrete pavement.
- Perform laboratory mechanical analyses of aggregate base material samples.
- Perform laboratory Proctor tests to determine the maximum standard Proctor dry density and optimum moisture content of the aggregate base material.
- Test compacted aggregate base material to determine if the relative compaction was achieved.
- Sample and test the plastic concrete for slump, air content, temperature, and unit weight.
- Prepare test cylinders of concrete for laboratory compressive strength testing.
- Perform laboratory compressive strength testing of the concrete samples.

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

- Provide engineering consulting services and service management including scheduling of our field personnel, review of field reports, and communication with the contractor, owner, building official and design team.

#### **Cost**

We will furnish the services described in this proposal for an estimated fee of \$22,471. A tabulation showing hourly and/or 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 timeframes 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 7:00 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 work 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 normal hourly rate for the service provided. The factor for services provided on Sunday or legal holidays will be 1.5 times the normal hourly rate for the service provided.

Because our services are directly controlled by the schedule and performance of others, the actual cost may vary from our estimate. Invoices for our services will be based on the actual number of hours spent on the project and the units tested.

Our work will extend over multiple invoicing periods. As such, for work that is performed during the course of each invoicing period, we will submit partial progress invoices.

### **Additional Services**

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 herein, we will provide them at the rates shown in the attached table or, if not shown, at our current Schedule of Charges.

### **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. ***Please sign and return a copy to us in its entirety.***

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.

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 call Joe Butler or David Morrison at 218.624.4967.

Sincerely,

BRAUN INTERTEC CORPORATION



David E. Morrison, EIT  
Staff Engineer



Joseph C. Butler, PE  
Associate Principal / Senior Engineer

Attachments:  
Estimated Cost Tabulation  
General Conditions Inspections (9-1-13)

---

The proposal is accepted, and you are authorized to proceed.

ISD #709

---

Authorizer's Firm

WCHanson

---

Authorizer's Signature

Bill Hanson

---

Authorizer's Name (please print or type)

CFO

---

Authorizer's Title

7/6/16

---

Date



**Client:**

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

**Work Site Address:**

215 North First Avenue East  
Duluth, MN 55804

**Service Description:**

Construction Materials Testing and Special Inspections

Description		Quantity	Units	Unit Price	Extension
<b>Phase 1</b>	<b>Construction and Materials Testing</b>				
<b>Activity 1.1</b>	<b>Soil Observations and Testing</b>				<b>\$5,225.00</b>
206	<b>Excavation Observations</b>	8.00	Hour	78.00	\$624.00
	<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	<b>Compaction Testing - Nuclear</b>	38.00	Hour	68.00	\$2,584.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Retaining Wall Backfill	8.00	Trips	2.00	16.00
	Coal Room Slabs	4.00	Trips	2.00	8.00
	Utilities, Storm, Sanitary, Water Main	2.00	Trips	2.00	4.00
	Select Granular Borrow	2.00	Trips	2.00	4.00
	Aggregate Base	3.00	Trips	2.00	6.00
1308	<b>Nuclear moisture-density meter charge, per hour</b>	38.00	Each	10.00	\$380.00
209	<b>Sample pick-up</b>	4.00	Hour	68.00	\$272.00
1318	<b>Standard Proctor Test(ASTM D 698)</b>	3.00	Each	160.00	\$480.00
1162	<b>Sieve analysis with 200 wash (ASTM C 136 and C 117), per sample</b>	4.00	Each	120.00	\$480.00
1861	<b>CMT Trip Charge</b>	27.00	Each	15.00	\$405.00
<b>Activity 1.2</b>	<b>Concrete Observations and Testing</b>				<b>\$14,151.00</b>
260	<b>Concrete Observations</b>	41.00	Hour	78.00	\$3,198.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Stairs	4.00	Trips	1.00	4.00
	Grade Beams	2.00	Trips	1.00	2.00
	Retaining Wall	15.00	Trips	1.00	15.00
	Footings	4.00	Trips	1.00	4.00
	Retaining Wall Epoxy Anchors	4.00	Trips	4.00	16.00
261	<b>Concrete Testing</b>	68.00	Hour	68.00	\$4,624.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Stairs	4.00	Trips	2.00	8.00
	Grade Beams	2.00	Trips	2.00	4.00
	Retaining Wall	15.00	Trips	2.00	30.00
	Footings	4.00	Trips	2.00	8.00
	Slab On Grade	2.00	Trips	2.00	4.00
	Sidewalks	5.00	Trips	2.00	10.00
	Curb & Gutter	2.00	Trips	2.00	4.00
1364	<b>Compressive strength of concrete cylinders (ASTM C 39), per specimen</b>	156.00	Each	24.00	\$3,744.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Stairs	4.00	Set	5.00	20.00
	Grade Beams	2.00	Set	5.00	10.00
	Retaining Wall	15.00	Set	5.00	75.00
	Footings	4.00	Set	5.00	20.00
	Slab on Grade	2.00	Set	5.00	10.00
	Sidewalks	5.00	Set	3.00	15.00
	Curb & Gutter	2.00	Set	3.00	6.00

**Project Proposal**

**QTB036818**

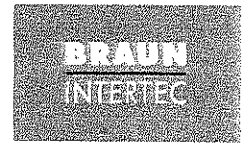
**HOCHS Parking Lot Improvements**

1861	<b>CMT Trip Charge</b>	59.00	Each	15.00	\$885.00
278	<b>Concrete Cylinder Pick up</b>	25.00	Hour	68.00	\$1,700.00
<b>Activity 1.3</b>	<b>Structural Steel Observations</b>				<b>\$1,206.00</b>
605	<b>ICC Structural Steel Technician</b>	12.00	Hour	88.00	\$1,056.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	<i>Stair Inspection</i>	2.00	Trips	6.00	12.00
1664	<b>NDE Trip charge</b>	2.00	Each	75.00	\$150.00
<b>Activity 1.4</b>	<b>Pavement Observations &amp; Testing</b>				<b>\$249.00</b>
211	<b>Proofroll Observations</b>	3.00	Hour	78.00	\$234.00
1861	<b>CMT Trip Charge</b>	1.00	Each	15.00	\$15.00
<b>Activity 1.5</b>	<b>Project Management, Engineering Review &amp; Oversight</b>				<b>\$1,640.00</b>
238	<b>Project Assistant</b>	8.00	Hour	70.00	\$560.00
226	<b>Project Manager</b>	8.00	Hour	135.00	\$1,080.00
<b>Phase 1 Total:</b>					<b>\$22,471.00</b>

<b>Proposal Total:</b>	<b>\$22,471.00</b>
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# General Conditions

## Construction Material Testing and Special Inspections



### Section 1: Our Agreement

1.1 Our agreement ("Agreement") with you consists of these General Conditions and the accompanying written proposal or authorization. This Agreement is our entire agreement. 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 form to authorize our services, any conflicting or additional terms are not part of our 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 withdraw our proposal without liability to you or others, and you will compensate us for services already rendered.

### Section 2: Our Responsibilities

2.1 We will provide the services specifically described in our Agreement with you. You agree that we are not responsible for services that are not fairly included in our specific undertaking. 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.

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 change over time.

2.4 Our duties do not include supervising your contractors or commenting on, overseeing, or providing the means and methods of their work, unless we accept such duties in writing. We will not be responsible for the failure of your contractors to perform in accordance with their undertakings, and the providing of our 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, job, or site health or safety unless we accept that duty in writing.

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 Estimates of our fees or other project costs will be based on information available to us and on 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 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 our work.

3.2 You will provide access to the site. In the course of our work 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 normal 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 at the work site. If we observe or suspect the presence of contaminants not anticipated in our Agreement, we may terminate our work without liability to you or to others, and we will be paid for the services we have provided.

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 but are subject to a license to you for your use in the related project 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 and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use. At your request, we will provide endorsements of our reports or letters of reliance, but only if the recipients agree to be bound by the terms of our Agreement with you and only if we are paid the administrative fee stated in our then current Schedule of Charges.

4.3 Because electronic documents may be modified intentionally or inadvertently, you agree that we will not be liable for damages resulting from change in an electronic document occurring after we transmit it to you.

4.4 If you do not pay for our 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.

4.5 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 agreed upon or according to our then current Schedule of Charges if there is no other written agreement as to price. An estimated cost 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 on 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 another, we will do so, but you agree to be responsible for our compensation unless you provide us with that person's written acceptance of all terms of our Agreement and we agree to extend credit to that person and to release you.

5.4 Your obligation to pay for our services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of lawsuit in which we are not involved, your successful completion of a project, receipt of payment from another, or any other event. No retainage will be withheld.

5.5 If you do not pay us within 60 days of invoice date, you agree to reimburse our expenses, including but not limited to attorney fees, staff time, and other costs of collection.

5.6 You agree to compensate us in accordance with our fee schedule 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 change, or if changed labor union conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice and we will receive an equitable adjustment of our compensation. If you and we do not reach agreement on such compensation within 30 days of our written application, we may terminate without liability to you or others.

5.8 If you fail to pay us within 60 days following invoice date, we may consider the default a total breach of our Agreement and, at our option, terminate our duties without liability to you or to others.

5.9 In consideration of our providing insurance to cover claims made by you, you hereby waive any right of offset as to 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 Neither of us will be liable for special, incidental, consequential, or punitive damages, including but not limited to those arising from delay, loss of use, loss of profits or revenue, loss of financing commitments or fees, or the cost of capital.

6.3 We will not be liable for damages unless suit is commenced within two years of the date of injury or loss or within two years of the date of substantial completion of our services, whichever is earlier. We will not be liable unless you have notified us of the discovery of the claimed breach of contract, negligent act, or omission within 30 days of the date of discovery 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.

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 our 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 our 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 above and to insure this obligation.

6.6 The prevailing party in any action relating to this Agreement shall be entitled to recover

its costs and expenses, including reasonable attorney fees, staff time, and expert witness fees.

6.7 The law of the state in which our servicing office is located will govern all disputes. Each of us waives trial by jury. 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 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 sole 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 nor 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 Our Agreement may be terminated early only in writing. We will receive an equitable adjustment of our compensation in the event of early termination.

8.5 If a provision of this Agreement is invalid or illegal, all other provisions shall remain in full force and effect.

# MEMORANDUM

TO: Bill Hanson, Director of Business Services

FROM: Jason Barsness, Coordinator of Health, Safety & Environmental Management 

DATE: July 19, 2016

RE: **Contract for 3-Year Asbestos Re-inspection and Management Plan Updating**

The attached contract between ISD 709 and Twin Ports Testing, Inc. is for asbestos consulting work for the 3-Year Asbestos Re-inspection and Management Plan updating. Twin Ports Testing, Inc. will be updating our AHERA Management Plan taking into account any asbestos abatement for 12 buildings.

Attached for your signature please find two (2) copies of the contract between ISD 709 and Twin Ports Testing, Inc. for the asbestos consulting services. After review, please sign and return to the Facilities Management office for processing.

If you have any questions, please contact me at extension 3240.

Thank you.

cc: Kerry Leider

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 5<sup>th</sup> day of July, 2016, by and between Independent School District #709, a public corporation, hereinafter called District, and Twin Ports Testing, 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:

1. **Dates of Service.** This Agreement shall be deemed to be effective as of July 5, 2016, and shall remain in effect until September 27, 2016, 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.**
  1. Consultant shall perform that work requested from time to time by the authorized representatives of the District. Consultant shall perform only that work specifically requested by the District. Except as otherwise specifically agreed, no specific or minimum amount of work is guaranteed by this Contract, and the District shall use such consulting services as it chooses and in its sole discretion. The Consultant shall advise the District if it recommends that other work or additional work be performed.
  2. The work to be performed by Consultant is described as follows: Outlined in the Scope of Work section of RFP #303.
3. **Contract Documents.** It is understood that this Contract consists of the following:
  1. Printed Memoranda of Agreement and Title Sheet;
  2. Contractors Insurance Policy;
  3. Supplementary Conditions and Insurance Requirements;
  4. RFP #303; and
  5. Any other documents identified by the District.
4. **Background Check .** N/A
5. **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 \$12,920.00, additionally, if bulk sampling is necessary, each bulk sample shall not exceed \$30.00 per sample unless authorized in advance by the District. Contractors are 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 the TIN is provided.

6. **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.

7. **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, or to seek other damages.

8. **Ownership of Materials.** The District reserves the rights to reproduce the documents that are the subject of the Contract, in any form, in any fashion, or appropriate the contents of the documents, 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.

9. **Independent Contractor.** Both the District and Contractor agree that the Contractor will act as an independent contractor in the performance of its duties under this Agreement and is not an employee of the District. 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.

10. **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.

11. **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 care of Kerry M. Leider, ISD 709, Duluth Public Schools, 215 North 1<sup>st</sup> Avenue East, Duluth, MN 55802. 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 care of Tracy Jacobs, Twin Ports Testing, Inc., 3101 North 3<sup>rd</sup> Street, Superior, WI 54880.

12. **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.

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

14. **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 without regard to conflict of laws considerations.

15. **Compliance with Laws.** The Contractor shall comply with all governing laws, rules and regulations, whether federal, state, local or those of the District. Those governing laws include but are not limited to Minnesota Statute 16C.05 (5) (formerly 1998 Minnesota Laws Ch. 386, Art. 1 Section 6) which Statute presently provides that the books, records, documents and accounting procedures and practices of the vendor or other party, that are relevant to the Contractor transaction, are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years. The other provisions of the Statute also apply.

The Contractor recognizes that, to the extent competitive proposal requirements apply to this Contract, those requirements apply to the award and performance of this Contract.

The Regulations of the District are incorporated into this Contract by reference and must be complied with whether or not specifically identified in this Contract.

16. **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.

17. **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.

18. **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.

19. **Insurance.** 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:

20. **Workers' Compensation Insurance:** Contractor must provide Worker's 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.

21. **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 and maintain coverage not excluding asbestos hazards. The District shall be named an additional insured under said policy and proof of this insurance shall be provided to the District. This insurance shall be in at least the amount of \$1,500,000.

22. **Bonding.** Contractor shall provide such Payment and Performance Bonds as may be required, if any.

23. **Representatives of the District.** The Contractor shall perform work pursuant to this Agreement pursuant to the request and authority of the following persons:

<u>District Employee</u>	<u>Position</u>
William Hanson	Director of Business Services

The Consultant shall report to the following persons regarding its work pursuant to this Agreement, or the designees:

<u>District Employee</u>	<u>Position</u>
Jason M. Barsness	Coordinator of Health, Safety & Environmental Management

24. **Protection of the District.** To the extent that work by the Contractor or others on behalf of the District is to be planned, conducted, supervised or reviewed by the Contractor, the Contractor shall advise the District if such work:

- a. is not being performed pursuant to the plans and specifications, according to the best practice or in accordance with industry standards;
- b. should be rejected or modified;
- c. if the work should be performed in a different manner and whether other work should be performed;
- d. if the District should be advised of any other facts or opinions regarding that work.

In all respects, the Contractor shall represent the interests of the District and act to protect those interests and endeavor to guard the District against defects, deficiencies and omissions in the performance of the work.

25. **Negotiation, Mediation and Arbitration.** Any disputes between the parties shall first be negotiated. If the parties are not successful in negotiation, they then shall subject the dispute to mediation. If mediation is not successful, then any disputes between the district and the Consultant shall be resolved through binding arbitration. The arbitration shall be conducted in the State of Minnesota, and Minnesota law shall apply. Unless otherwise agreed by the parties, the arbitration shall be conducted pursuant to the rules of the American Arbitration Association.

At the option of the District, the arbitration shall include in one consolidated arbitration proceeding, all claims and disputes regarding the Contractor and any architects, contractors, subcontractors, materialmen and other consultants as may be involved in the dispute. Contractor shall include this paragraph in all its subcontracts dealing with the work of the District.

Following the issuance of a demand for arbitration, any party to the arbitration shall be entitled to use all discovery methods permitted in the Minnesota Rules of Civil Procedures for the District courts. Once selected, the arbitrator shall hear any discovery disputes regarding discovery unless otherwise agreed by the parties.

**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.

INDEPENDENT SCHOOL DISTRICT NO. 709

CONTRACTOR

WC Hansen  
CFO/Executive Director of Business Services

Judy Jacobs  
By

IH Services Manager  
Title

410990975  
Taxpayer Identification Number

# Proposal

**Driveways - Parking Lots - Seal Coating**  
**All Your Blacktop Needs**  
 Steve Sinnott and Scott Sinnott  
 327 2nd Street, Proctor, MN 55810  
 www.SinnottBlacktop.com



Duluth: 218-626-1822

Fax: 218-740-3465

Toll Free: 866-626-1822

Client Name:	City of Duluth	Project Name:	Congdon Elementary School
Address:	215 N 1st Ave E	Address:	
City, State, Zip:	Duluth, MN 55812	City, State, Zip:	Duluth, MN 55812
Phone:	343-0275	Fax:	
		Date:	7/18/2016

We hereby submit specifications and estimates for:

- Excavate area as shown for proper grade
- Furnish and Install Geotextile Stabilization Fabric
- Furnish and install 8" Recycled Concrete
- Prepare, Shape and Compact sub base for final grade
- Labor and Material

**Total Sub Base Prep: \$2,300.00**

- Furnish and install 4" Compacted MN Spec Bituminous
- Labor and Material

**Total Paving: \$2,600.00**

- 2" Non Wear
- 2" Wear course

Excavated SqFt: 436                      Bituminous SqFt: 436

**"ANY PERSON OR COMPANY SUPPLYING LABOR OR MATERIALS FOR THIS IMPROVEMENT TO YOUR PROPERTY MAY FILE A LIEN AGAINST YOUR PROPERTY IF THAT PERSON OR COMPANY IS NOT PAID FOR THE CONTRIBUTIONS. UNDER MINNESOTA LAW, YOU HAVE THE RIGHT TO PAY PERSONS WHO SUPPLIED LABOR OR MATERIALS FOR THIS IMPROVEMENT DIRECTLY AND DEDUCT THIS AMOUNT FROM OUR CONTRACT PRICE, OR WITHHOLD THE AMOUNTS DUE THEM FROM US UNTIL 120 DAYS AFTER COMPLETION OF THE IMPROVEMENT UNLESS WE GIVE YOU A LIEN WAIVER SIGNED BY PERSONS WHO SUPPLIED ANY LABOR OR MATERIALS FOR THE IMPROVEMENT AND WHO GAVE YOU TIMELY NOTICE"**

We Propose hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:

Four Thousand Nine Hundred Dollars and No Cents                      dollars:           \$4,900.00          

All materials to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Sinnott Blacktop, Inc will not be held liable for damage to indicated wires, or heavy equipment crossing existing concrete or pavement.

Authorized Signature:

Note: This proposal may be withdrawn by us if not accepted within 15 days.

**Acceptance of Proposal:** The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. "It is agreed that if payment as indicated herein is unpaid after 10 days of job completion, customer will agree to pay a finance charge of 1.5% per month on any unpaid balance. This is an annual percentage rate of 18%. Further, it is agreed that in the event contractor commences legal action to enforce payment, customer will be responsible for all collection costs, including, but not limited to attorney's fees associated with any legal action.

Date of Acceptance: 7/19/14

Signature:



**Proposal**  
**Driveways - Parking Lots - Seal Coating**  
**All Your Blacktop Needs**  
**Steve Sinnott and Scott Sinnott**  
**327 2nd Street, Proctor, MN 55810**  
www.SinnottBlacktop.com



Duluth: 218-626-1822

Fax: 218-740-3465

Toll Free: 866-626-1822

Client Name:	City of Duluth	Project Name:	East High School / Speed Bump Repair
Address:	215 N 1st Ave E	Address:	
City, State, Zip:	Duluth, MN 55812	City, State, Zip:	Duluth, MN 55812
Phone:	343-0275	Fax:	
		Date:	7/18/2016

We hereby submit specifications and estimates for:

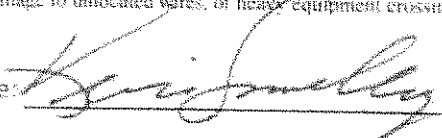
- Saw cut areas as specified
- Excavate area as shown for proper grade 4"
- Furnish and install 2" Recycled Concrete
- Prepare, Shape and Compact sub base for final grade
- Labor and Material Total Sub Base Prep: \$1,200.00
  
- Furnish and install 6" Compacted MN Spec Bituminous
- Labor and Material Total Paving: \$2,400.00
  
- Sawcutting areas will ensure the strongest bond for longevity

Excavated SqFt: 456      Bituminous SqFt: 456

"ANY PERSON OR COMPANY SUPPLYING LABOR OR MATERIALS FOR THIS IMPROVEMENT TO YOUR PROPERTY MAY FILE A LIEN AGAINST YOUR PROPERTY IF THAT PERSON OR COMPANY IS NOT PAID FOR THE CONTRIBUTIONS. UNDER MINNESOTA LAW, YOU HAVE THE RIGHT TO PAY PERSONS WHO SUPPLIED LABOR OR MATERIALS FOR THIS IMPROVEMENT DIRECTLY AND DEDUCT THIS AMOUNT FROM OUR CONTRACT PRICE, OR WITHHOLD THE AMOUNTS DUE THEM FROM US UNTIL 120 DAYS AFTER COMPLETION OF THE IMPROVEMENT UNLESS WE GIVE YOU A LIEN WAIVER SIGNED BY PERSONS WHO SUPPLIED ANY LABOR OR MATERIALS FOR THE IMPROVEMENT AND WHO GAVE YOU TIMELY NOTICE"

We Propose hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:  
Three Thousand Six Hundred Dollars and No Cents      dollars: \$3,600.00

All materials to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control Sinnott Blacktop, Inc will not be held liable for damage to unlocated wires, or heavy equipment crossing existing concrete or pavement

Authorized Signature: 

Note: This proposal may be withdrawn by us if not accepted within 15 days.

Acceptance of Proposal: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. "It is agreed that if payment as indicated herein is unpaid after 10 days of job completion, customer will agree to pay a finance charge of 1.5% per month on any unpaid balance. This is an annual percentage rate of 18%. Further, it is agreed that in the event contractor commences legal action to enforce payment, customer will be responsible for all collection costs, including, but not limited to attorney's fees associated with any legal action.

Date of Acceptance: 7/19/16

Signature: 