

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 30 day of April, 2019, by and between Independent School District #709, a public corporation, hereinafter called District, and Clancy Ward, Saltwood Furniture Company, 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 April 30, 2019 and shall remain in effect until May 1, 2019, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** The contractor will teach a team of teachers from the Perkins Consortium tool sharpening skills that can be used in their classrooms.

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 \$250. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

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

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

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

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

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

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

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

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

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Bradley Vieths, 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 to (mailing address with zip): Saltwood Furniture Company, 1400 W. Railroad St Duluth MN 55816

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.

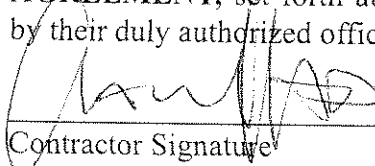
17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

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.

  
\_\_\_\_\_  
Contractor Signature

SSN/Tax ID Number

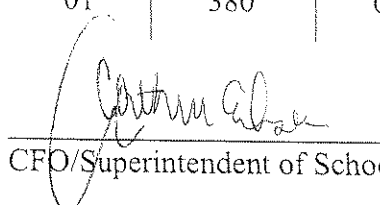
11/04/19  
Date

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

2/17/19  
Date

**Please note:** All signatures *must* be obtained AND the following *must* be completed by Program Director before submission to the CFO for review and approval. This contract is funded by the following budget (include full 16 digit code):

01	380	005	<del>428</del> 475	000	130500
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\_\_\_\_\_  
CFO/Superintendent of Schools/Board Chair

5-20-19  
Date

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 5th day of April, 2019, by and between Independent School District #709, a public corporation, hereinafter called District, and Daniel Benoit, 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 or attach as appropriate)*

1. **Dates of Service.** This Agreement shall be deemed to be effective as of April 5th, 2019 and shall remain in effect until April 6th, 2019, 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.** *Plan for and present a workshop on technical presentation software and projection equipment (both generally and specifically) to be used in various school applications.*

3. **Background Check.** *No students were involved*

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 \$437.50 (through Teacher Development Program). Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

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

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

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

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

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

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

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

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

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn:Greg Jones, 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 to (1901 E. Superior St, Duluth, MN 55812)

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

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

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

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

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

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

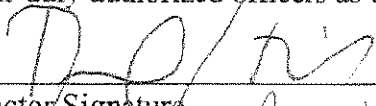
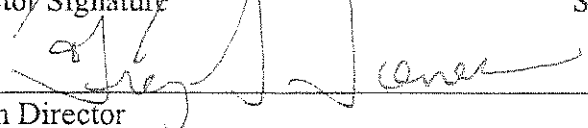
17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

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

**Workers’ Compensation Insurance:** Contractor must provide 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.

 _____ Contractor Signature	_____ SSN/Tax ID Number	<u>5/7/19</u> Date
 _____ Program Director		<u>5/7/19</u> Date

**Please note:** All signatures *must* be obtained AND the following *must* be completed by Program Director before submission to the CFO for review and approval. This contract is funded by the following budget (include full 16 digit code):

01	640	012	000	153	130500
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 _____ CFO/Superintendent of Schools/Board Chair	<u>5.8.19</u> Date
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## AGREEMENT

**THIS AGREEMENT**, made and entered into this 23rd day of April, 2019, by and between Independent School District #709, a public corporation, hereinafter called District, and Tina Nelson, 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 or attach as appropriate)*

1. **Dates of Service.** This Agreement shall be deemed to be effective as of April 23rd, 2019 and shall remain in effect until April 23rd, 2019, 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.** *Plan for an present a workshop on technical presentation software and projection equipment (both generally and specifically) to be used in various school applications.*

3. **Background Check.** *No students were involved*

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 \$140.00 (through Teacher Development Program). Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

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

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

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

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

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

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

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

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

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Greg Jones, 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 to (14 N. 11th Street, Cloquet, MN 55720)

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

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

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

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

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



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



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

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

**Workers' Compensation Insurance:** Contractor must provide 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.

 Contractor Signature	SSN/Tax ID Number	4/23/19 Date
 Program Director		4/23/19 Date

**Please note:** All signatures *must* be obtained AND the following *must* be completed by Program Director before submission to the CFO for review and approval. This contract is funded by the following budget (include full 16 digit code):

01	640	012	000	153	130500
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 CFO/Superintendent of Schools/Board Chair		5-8-19 Date
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Smart engineering of  
roofs, walls, windows,  
pavements  
and waterproofing

May 30, 2019

Mr. David Spooner, CPE  
Manager of Facilities  
Duluth Public Schools  
215 North First Avenue East  
Duluth, MN 55811

RE: Proposal for Update and Presentation of  
Historic Old Central High School Rehabilitation

Dear Mr. Spooner:

We are grateful to have been given the opportunity to submit this proposal on the above-referenced services. This proposal is based upon recent conversations and emails regarding the school board presentation of the above project.

#### A. DEFINITIONS

1. Inspec: INSPEC, INC., Engineers/Architects
2. Client: Duluth Public Schools
3. HOCHS: Historic Old Central High School

#### B. PROJECT INFORMATION

##### 1. Context

Rehabilitation of HOCHS is being considered by the school board. A presentation combining the rehabilitation of all building aspects is required for the school board consideration. For the exterior building enclosure, Inspec provided two assessment reports: first report was of the above grade exterior walls dated May 22, 2015; and the second report was of the roofs, windows, and entrance stairs dated September 30, 2016. Other consultants provided assessments of the other building aspects, interiors and systems.

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

The Client requested Inspec's work on the presentation, including preparing slides, coordinating with the other consultants, and updating the costs from the earlier reports.

5801 Duluth Street  
Minneapolis, MN 55422  
Ph. 763-546-3434  
Fax 763-546-8669

Chicago

Milwaukee

Minneapolis

Rochester

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

**C. BASIC SERVICES**

The following Basic Services pertain only to the Construction Scope described earlier.

1. Attend a coordination meeting with the Client and the other consultants on May 31, 2019 at the Client's office.
2. Create slides from previous assessment reports.
3. Coordinate slides with other consultants.
4. Develop an updated cost for the exterior building enclosure: above grade walls, roofs, windows, and entrances.
5. Present at the school board meeting scheduled for 4:30 pm on June 11, 2019.

**D. COMPENSATION – BASIC SERVICES**

We propose to provide the above services for a fee Not-to-Exceed \$4,100.00; including reimbursables.

**E. REIMBURSABLES**

Reimbursables include mileage, hotel, and per diem as needed.

**F. COMPENSATION – REIMBURSABLES**

Reimbursables will be invoiced at the current rate shown on the attached fee schedule.

**G. 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. Additional meetings than those noted above.
  - b. Refiguring construction costs into phased or future construction packages.
  - c. Providing updated photos of conditions or walkover of the current conditions.
  - d. Design, construction administration, and/or construction observation services of any project as a result of the previous assessments and presentation.

**H. 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.

**I. CLIENT'S RESPONSIBILITIES**

Provide this proposal, signed; or a purchase order for these services.

**J. 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.

**K. 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.

**L. 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.

**M. 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**

*Catherine Erickson*

Signature

*Catherine Erickson*

Printed Name

*CFO*

Printed Title

Duluth Public Schools

**For Inspec**

*Pamela Jergenson* "NM"

Signature

Pamela Jergenson, CCS, CCCA, BECP, CxA+BE

Printed Name

Senior Building Enclosure Consultant

Printed Title

INSPEC, INC.

PJ/nmm

Enclosures: Fee Schedule 2018-2019

05-865-012-382-000-130500



CHICAGO  
MILWAUKEE  
MINNEAPOLIS

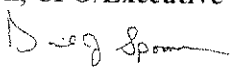
## FEE SCHEDULE

*Valid November 1, 2018 – October 31, 2019*

1 PERSONNEL SERVICES	Regular Time Per Hour	Overtime Per Hour
01 Principal .....	\$190.00	
02 Professional Engineer/Registered Architect .....	\$170.00	
03 Registered Roof or Waterproofing Consultant, Supervisor .....	\$160.00	
04 Senior Consultant .....	\$150.00	\$175.00
05 Consultant .....	\$125.00	\$157.50
06 Registered Roof Observer, Senior Construction Observer .....	\$130.00	\$165.00
07 Specification Writer/Construction Support Specialist .....	\$100.00	
08 Construction Observer .....	\$100.00	\$130.00
09 CAD/REVIT Operator .....	\$95.00	
10 Technical Staff .....	\$80.00	
<b>2 EXPENSES</b>		
01 Automobile Mileage, per mile..... \$0.72	05 Infrared Camera, per hour .....	\$220.00
02 Meals, per day .....	\$40.00	06 Add'l Professional or Contractor Services .....
03 Lodging, per day .....	\$80.00	Invoice x 1.10
04 Airfare, Car Rental, Parking, other job-related costs .....		07 Window Testing Equipment, per day .....
		\$250.00
		Actual cost x 1.10
<b>3 FIELD SAMPLING</b>		
01 Personnel Services as in #1 above		
02 Built-up Roof Sample Analysis for Material Quantities and Workmanship, per sample .....		\$280.00
03 Single-ply Thickness Determination, per sample .....		\$75.00
04 Fastener Withdrawal Test, each .....		\$100.00
<b>4 LABORATORY TESTING</b>		
<b>01 Built-up Roof Systems</b>		
<b>A. Roof Samples</b>		
1. Without flood coat or gravel, Jennings Method .....		\$280.00
2. Without flood coat or gravel, ASTM D 3617 (12" x 12") .....		\$280.00
3. Surfacing inclusive, Jennings Method.....		\$320.00
4. Surfacing inclusive, ASTM D 2829, ASTM D 3617.....		\$320.00
<b>B. Analysis of Bitumen</b>		
1. Softening Point, ASTM D 36.....		\$250.00
2. Penetration, ASTM D 5 .....		\$115.00
3. Flash Point, ASTM D 92 .....		\$125.00
<b>C. Moisture Tests</b>		
1. Felt only, ASTM D95.....		\$100.00
2. Built-up Roof Membrane, ASTM D 95 .....		\$160.00
3. Thermal Roof Insulation, oven dry method .....		\$160.00
<b>D. Mineral Aggregate, ASTM D 1863, Sieve Analysis, ASTM C 136</b>		<b>\$160.00</b>
<b>02 Single-ply Systems</b>		
<b>A. Membrane Thickness .....</b>		<b>\$85.00</b>
<b>B. Insulation Density.....</b>		<b>\$85.00</b>
<b>C. Ballast-mineral Aggregate, Sieve Analysis, ASTM C 136.....</b>		<b>\$80.00</b>
<b>03 Pavement Systems</b>		
<b>A. Coarse and Fine Aggregate Sieve Analysis, ASTM C 136 .....</b>		<b>\$80.00</b>
<b>B. Coarse and Fine Aggregate Wash Sieve, ASTM C 117 .....</b>		<b>\$80.00</b>

• 5801 Duluth Street, Minneapolis, MN 55422 • Ph. 763-546-3434 • Fax 763-546-8669  
 • 126 North Jefferson, Suite 120, Milwaukee, WI 53202 • Ph. 414-744-6962 • Fax 414-744-6981  
 • 8618 West Catalpa, Sultes 1109 – 1110, Chicago, IL 60656 • Ph. 773-444-0206 • Fax 773-444-0221

# Memorandum

**To:** Cathy Erickson, CFO/Executive Director of Business Services  
**From:** Dave Spooner   
**Date:** April 25, 2019  
**Re:** PSS Concrete Slab for Storage Garage

Attached please find two copies of the Agreement between Independent School District #709 and Northland Consulting Engineers LLP to provide design services for the PSS Track storage garage slab. The total cost of this work is lump sum \$1750.00. This cost is being funded from Denfelds athletic funds, and once completed a garage structure will be at some point constructed on this slab. This work is necessary to meet current construction code requirements.

## Recommendation:

I am recommended that the Cathy Erickson, CFO/Executive Director of Business Services enter into an agreement with Northland Consulting Engineers LLP to perform the work scope as defined in the attached Agreement for a lump sum amount of \$1750.00.

Enclosures

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 25th day of April 2019, by and between Independent School District #709, a public corporation, hereinafter called District, and Northland Consulting Engineers LLP, 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 April 25, 2019, and remain in effect until September 30, 2019 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.** Perform all work as referenced in Job Proposal 19-0423 for design services for a 24 x 28 garage slab at PSS for a lump sum amount of \$1750.00.

This Contract consists of the following:

1. Printed Memoranda of Agreement and Title Sheet;
  2. Contractor's response;
  3. Contractor's Insurance Policy;
  4. Any other documents identified by District.
3. **Background Check.** N/A
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 in the total amount of \$1750.00 based on Job Proposal 19-0423.

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 receiving all reports, if required, and 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 David J. Spooner, 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 Northland Consulting Engineers LLP, 102 S 21<sup>st</sup> Ave W #1 Duluth MN 55806.

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. **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 that competitive vendor 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.

15. **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.

16. **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.

17. **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.

18. **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:

19. **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.

20. **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 listed as the certificate holder and 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.

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

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

District Employee  
Cathy Erickson

Position  
CFO/Executive Director of Business Services

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

District Employee  
David Spooner

Position  
Manager of Facilities

23. **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. 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.

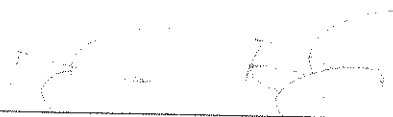
In all respects, the Contractor shall represent the interests of the District and act to protect those interests and endeavor to guard the District against defects, deficiencies and omissions in the performance of the work.

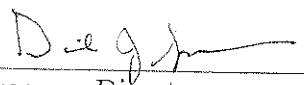
24. **Negotiation, Mediation and Arbitration.** Any disputes between the parties shall first be negotiated. If the parties are not successful in negotiation, they then shall subject the dispute to mediation. If mediation is not successful, then any disputes between the district and the Consultant shall 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, 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 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.

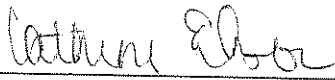
AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

  
\_\_\_\_\_  
Northland Consulting Engineers LLP Tax ID No. Date 4/26/19

  
\_\_\_\_\_  
Program Director Date 4-26-19

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

01	810	215	000	000	130500

  
\_\_\_\_\_  
CFO/Executive Director of Business Services

4-29-19  
Date

YEARBOOK SALES AGREEMENT		Contract Years:	2020 - 2022	Job #:	10437819													
Account Name: Homecroft Elementary School		LID #:		35710														
Address: 4784 Howard Gnesen Rd City: Duluth		State: MN		Zip: 55803														
Phone #: 218-336-8865 Enrollment: 391		Adviser Name: Tom Cawcutt																
School Year Open Date:		Adviser Email: thomas.cawcutt@isd709.org																
School Year Close Date:		Adviser Phone:																
Welcome Packet: Yes		Alt Address Name:																
Ship Yearbooks To: Account		Street Address:																
Send Invoice To: Account		City, State, Zip:																
School Purchase Order Number:		YEARBOOK DATES:																
<b>YEARBOOK SPECIFICATION INFORMATION</b>		<b>COVER DEADLINE:</b> 12-02-2019																
Size: 7		<b>Final Quantity Deadline:</b> 04-22-2020																
Number of Pages: 20		<b>Expected Arrival Date:</b> 05-22-2020																
Number of Copies: 201		Cover and page deadlines will vary based on what enhancements are applied and based on the number of pages within your book. Exact deadline dates will be reflected on the Lifetouch Yearbook website dashboard upon enrollment.																
Base Price \$ 12.58		<b>Set up Parent Notify:</b> Yes <input type="checkbox"/> Date <input type="checkbox"/>																
<b>COVER &amp; BINDING TYPE</b>		<b>Activate YB Pay:</b>																
Cover & Binding Type: Soft Cover - Saddlestitched (Size 7 only)		<b>Sales Flyer Need by Date:</b>																
<b>COVER AND ENDSHEET UPGRADES</b>		<b>1st Back to School Sale:</b>																
Design: Signature Design Free		<b>2nd Yearbook Sale:</b>																
Foil Imprinting: Foil School Name & Year (1 or 2 lines) Free		<b>FRN's Need by Date:</b>																
Foil Spine Imprinting:		<b>PORTRAIT INFORMATION</b>																
Personalization:		<b>Photographed by Lifetouch:</b> Yes <input type="checkbox"/>																
Foil Icon:		<b>Associated Picture Days APO ID(s)</b>																
Endsheets (Hardcovers Only):		<b>SALES REPRESENTATIVE USE ONLY</b>																
<b>BOOK ENHANCEMENTS</b>		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="3" style="width: 20%;">Signing Info:</td> <td><input type="checkbox"/></td> <td>5FB</td> <td><input type="checkbox"/></td> <td>ODC</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>LV1</td> <td><input type="checkbox"/></td> <td>LV2</td> </tr> <tr> <td><input type="checkbox"/></td> <td>SIMPLE4</td> <td><input type="checkbox"/></td> <td>QTYB</td> </tr> </table>				Signing Info:	<input type="checkbox"/>	5FB	<input type="checkbox"/>	ODC	<input checked="" type="checkbox"/>	LV1	<input type="checkbox"/>	LV2	<input type="checkbox"/>	SIMPLE4	<input type="checkbox"/>	QTYB
Signing Info:	<input type="checkbox"/>	5FB	<input type="checkbox"/>	ODC														
	<input checked="" type="checkbox"/>	LV1	<input type="checkbox"/>	LV2														
	<input type="checkbox"/>	SIMPLE4	<input type="checkbox"/>	QTYB														
Paper: Gloss Paper 80# (Default) Free		<b>YB Pay:</b> Direct <input type="checkbox"/>																
Supplements:		<b>Cut-Out Pages:</b> No <input type="checkbox"/>																
<b>Foldout/Gatefolds (Premium):</b>		<b>SPECIAL OFFERS/COMMENTS</b>																
Additional charges may apply for premium cover, endsheet or book upgrades and applications. Changes to the estimated total will be documented for approval prior to finalization.		3 year agreement																
<b>CONSUMER ENHANCEMENTS</b>																		
Zoom Version:																		
Zoom:																		
Auto Inserts:																		
Signing Pen:																		
Yearbook Stickys:																		
Cover Keeper™ Dust Jackets:																		
Packaging Program (B):																		
<b>SPECIAL QUOTE / PREMIUM APPLICATIONS</b>																		
		Estimated Freight \$ 20.00																
		*Estimated Total:																
		Per Copy \$ 12.58																
		Deposit Rate NA																
* School Price excludes any applicable taxes. Lifetouch is required by State Law to apply the appropriate tax on the final invoice. If tax exempt, please supply official documentation. Changes to the estimated total will be documented for approval prior to finalization.																		
Lifetouch Representative Rep Code:		The School, by its authorized representative, designates Lifetouch National School Studios Inc. (Lifetouch) as the School's yearbook publisher for the Agreement years and authorizes and directs Lifetouch to print the materials as specified during the terms of this Agreement. This Agreement is subjected to the terms and conditions on the reverse side and final approval by Lifetouch sales management.																
Sarah Wise MIG1																		
Lifetouch Representative Phone # / Email Address		Authorized School Representative (Print)		Title														
612-219-3303 sarah.wise@lifetouch.com		Catherine A. Erickson, CFO																
Lifetouch Representative (Signature)		Authorized School Representative (Signature)		Date														
Sarah Wise		Catherine Erickson		5-2-19														
<b>OFFICE USE ONLY: (B)=Base, (M)=Mid, (P)=Premium</b>																		

# Terms of the Publication Agreement

**THIS PUBLICATION AGREEMENT** includes the Terms on the front and back of this form and cannot be changed except in writing, signed by the School and Lifetouch National School Studios, Inc. ("Lifetouch").

**LIFETOUGH** will provide materials in the form of yearbook kits, layouts, envelopes, instructions and a production schedule for the programs selected to enable the School to prepare its yearbook for printing. The School agrees to prepare and submit all materials, including photographs, graphics and clip art in accordance with the instructions and deadline schedules.

**INTERNET-BASED APPLICATION:** Some of the Lifetouch products and services are provided through an Internet-based application ("Application"). By selecting an Application, the School authorizes Lifetouch to transmit information, including images, to and from the School and Lifetouch, its affiliated companies, their employees, agents and representatives. The School agrees to comply with the security features of the Application and to protect and control access to the Application, including without limitation, user access credentials.

**EMAIL COMMUNICATIONS:** Many yearbook communications between Lifetouch and the School will be by email. The Yearbook Adviser email address designated on the front of this Agreement, or such other email address as provided by the School, will be an agreed communication address and communication method. The School agrees to regularly monitor and keep secure the email address and advise Lifetouch promptly of any changes.

**PHOTOGRAPHS AND GRAPHICS:** Lifetouch reserves the right to crop photographs, graphics, clip art and other materials as deemed necessary by Lifetouch and is not liable for their loss or damage. Lifetouch will make a reasonable effort to return original materials but does not guarantee their return.

**PROOFS:** So that production will not be delayed, the School agrees to check proofs and return them in the envelope provided or approved via the Web site within 48 hours after receipt. Delay in returning proofs will delay delivery of the yearbooks.

**DELIVERY:** For on-time delivery, Lifetouch must receive the materials for the correct pages (including cover selection and final order quantity) on or before the deadline dates indicated on the front of this Agreement as may be updated via the Web site. Lifetouch is excused from meeting the requested ship date if pages are not in the plant by the specified deadline date. Handwork in the book or on the cover will require the final deadline to be one week earlier. Books will be shipped to the School.

**ADDITIONAL CHARGE ITEMS:** The School agrees to pay for artwork provided by Lifetouch, corrective work on School material and non-standard composition or layout. All artwork and custom design work provided by Lifetouch, including any embossing or debossing dies and designs developed at the School's expense, are provided to the School on a nonexclusive basis, and Lifetouch retains all copyrights therein. Charges will be discussed with a School Representative and appear on the final invoice. If the School misses deadline dates and desires to maintain originally-scheduled ship date, the request will be considered based on available capacity. If capacity is available, the School agrees to pay the then current weekly fee.

**END USER BOOK SALES:** As a convenience to the School, Lifetouch may collect yearbook deposits/payments from end users (parents and students) on the school's behalf. In all cases, the Seller of the yearbook to end users is the School or associated School organization, not Lifetouch. Sales tax may or may not apply depending on applicable state and local laws. The School is solely responsible for collecting and remitting any taxes applicable to yearbook sales to end users.

**PAYMENT PLAN:** The School is the purchaser of the books. The School agrees to pre-sell all books. The School agrees to pay a minimum deposit of 75% at the time final pages are submitted to Lifetouch's plant. A deposit notice will be sent at the later of on or about October 1 or 30 days after this Agreement has been signed. The deposit must be remitted to Lifetouch National School Studios Inc., Accounts Receivable, P.O. Box 46993, Eden Prairie, MN 55344-9728. A final invoice will be sent to the School approximately three days after book shipment. Full payment is due (to above address) within 10 days after books are received at the School. The School agrees to pay a 1% monthly service fee for late payment. If during the manufacturing process overruns are printed, Lifetouch may offer to sell extra yearbooks to the School.

**PAYING BY CHECK:** When the School pays by check, the School authorizes Lifetouch to process the payment as a check transaction, or to use information from the check to make a one-time electronic fund transfer from the School's checking account. Funds may be withdrawn from the account on the day Lifetouch receives payment, and the financial institution will not return the check. A service fee may be charged on returned checks.

**THE SCHOOL** grants to Lifetouch and its related companies permission to reproduce, distribute and otherwise use reproductions of the School's materials, including without limitation the cover design and production materials, in sales and promotional literature and as samples, without compensation to the School.

**MISC:** Lifetouch may assign its rights and obligations hereunder. This Agreement binds and benefits the parties and their respective successors and assigns.

**LIFETOUGH** reserves the right to refuse to print any material, which in its opinion is tortious, illegal or violates any copyright or proprietary rights. Lifetouch assumes no obligation for reviewing or editing materials submitted by or on behalf of the School.

**THE SCHOOL** is responsible for the content of the book and materials submitted to Lifetouch for printing. Upon request, the School agrees to obtain such authorizations as considered necessary by Lifetouch. The School releases Lifetouch and, to the extent permitted by applicable law, will indemnify and hold harmless Lifetouch, its affiliated companies, employees, agents and representatives from any and all claims, demands, actions, losses, costs, expenses and reasonable attorney fees arising out of or in connection with the printing of any materials submitted by the School, its faculty, administrators, students, employees, representatives, agents or breach of the School's obligations for Applications.

**CANCELLATION:** This Agreement is not subjected to cancellation by either party during the term of this Agreement except by written consent of both the School and Lifetouch.

**NEITHER PARTY** is liable for delays or losses as a result of strikes, accidents, government restrictions, acts of God, acts of war, or other causes beyond its control, and such delays will not constitute a breach of contract.

**Remit Payment To:**

Lifetouch National School Studios Inc.  
Accounts Receivable  
PO Box 46993  
Eden Prairie, MN 55344-9728

**Customer Care**

Email: [ybcustomer@lifetouch.com](mailto:ybcustomer@lifetouch.com)  
Phone: 1.800.736.4761

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 2nd day of May, 2019, by and between Independent School District #709, a public corporation, hereinafter called District, and Christina Trok, 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 or attach as appropriate)*

1. **Dates of Service.** This Agreement shall be deemed to be effective as of May 13, 2019, and shall remain in effect until June 30, 2019, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** The Contractor will provide services at elementary and middle schools during school class periods, and/or W.I.N. periods through a presentation in the following area: *A History of Juneteenth - Celebrating Our Identity.*

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

\*Not Applicable

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 at a rate of \$100.00/presentation up to a sum not to exceed \$1,000.00 (one-thousand and no/100 dollars). Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

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

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

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

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

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

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

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement. In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: **William Howes**, 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 to: **Christina Trok**

Address: 133 Summit Street #102 Duluth, MN 55803 Phone # (612) 799-8765

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.

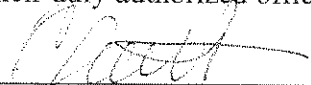
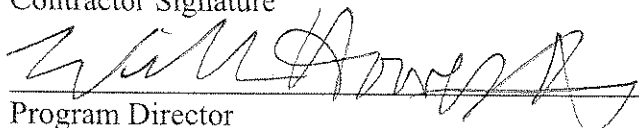
17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

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.

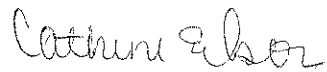
**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations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

	.....	5-6-19
Contractor Signature	SSN/Tax ID Number	Date
		5/6/19
Program Director		Date

**Please note:** All signatures *must* be obtained AND the following *must* be completed by Program Director before submission to the CFO for review and approval. This contract is funded by the following budget (include full 16 digit code):

01	640	005	313	315	130500
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	5-8-19
CFO/Superintendent of Schools/Board Chair	Date

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 2nd day of May, 2019, by and between Independent School District #709, a public corporation, hereinafter called District, and Stephan Witherspoon, 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 or attach as appropriate)*

1. **Dates of Service.** This Agreement shall be deemed to be effective as of May 13, 2019, and shall remain in effect until June 30, 2019, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** The Contractor will provide services at elementary and middle schools during school class periods, and/or W.I.N. periods through a presentation in the following area: *A History of Juneteenth - Celebrating Our Identity.*

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

\*Not Applicable

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 at a rate of \$100.00/presentation up to a sum not to exceed \$1,000.00 (one-thousand and no/100 dollars). Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

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

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

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

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

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

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

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement. In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: **William Howes**, 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 to: **Stephan Witherspoon**

Address: 1827 Logan Ave Superior, WI 54880 Phone # (218) 310-3987

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.


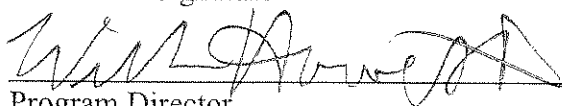
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Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**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.

		<u>5/6/19</u>
Contractor Signature	SSN/Tax ID Number	Date
		<u>5/6/19</u>
Program Director		Date

**Please note:** All signatures *must* be obtained AND the following *must* be completed by Program Director before submission to the CFO for review and approval. This contract is funded by the following budget (include full 16 digit code):

01	64E	005	313	315	130500
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	<u>5-8-19</u>
CFO/Superintendent of Schools/Board Chair	Date



## **AGREEMENT FOR CONSULTING SERVICES**

THIS AGREEMENT FOR CONSULTING SERVICES ("Agreement") is made and entered into this 3 day of May, 2019 ("Effective Date"), by and between Duluth Public Schools at 215 N. 1<sup>st</sup> Avenue East, Rm 214, Duluth, MN 55802, hereinafter called "Client", and Cooperative Strategies, LLC at 3325 Hilliard Rome Road, Hilliard, OH 43026, hereinafter called "Consultant". The Client and the Consultant in consideration of the mutual promises and conditions herein contained agree as follows:

### **ARTICLE I.**

#### **SERVICES TO BE PERFORMED BY CONSULTANT**

**Section 1.1** Consulting Services, Statement of Work. Client hereby retains Consultant to perform the services ("Consulting Services") set forth in the statement of work (the "Statement of Work" or "SOW") as attached as Exhibit A to this Agreement. The Consulting Services and the Statement of Work are governed by this Agreement. In the event of any conflict between the terms of this Agreement and the terms of the SOW, the terms of this Agreement shall control. This Agreement along with the SOW shall be referred to hereinafter as the "Agreement".

**Section 1.2** No Agency. The relationship of Client and Consultant hereunder is that of independent contractors. In all matters relating to this Agreement, each of Client and Consultant shall be solely responsible and liable for the acts of its employees and agents, and the employees or agents of either party shall not be considered employees or agents of the other party. Neither party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other party, nor shall Client or Consultant act or represent or hold itself out as having authority to act as an agent or partner of the other, or in any way to bind or commit the other to any obligations. Nothing in this Agreement is intended to create or constitute, nor does it create or constitute, an employment, joint venture, partnership, agency, trust or other relationship or association of any kind between the parties.

### **ARTICLE II.**

#### **OWNERSHIP; USE**

**Section 2.1** Consultant Materials. As between Client and Consultant, Consultant owns any and all, including all intellectual property rights therein, (collectively, "Consultant Materials"), which includes, but is not limited to the following: (a) computer software (including without limitation financial models, compilations of formulas and spreadsheet models), inventions, designs, programs, improvements, techniques, ideas, concepts, trade secrets and know-how, proprietary models, processes and methods used by Consultant in the performance of the Consulting Services, and (b) reports, drawings, templates, specifications, computer files, field data, notes, other documents and instruments and other works of authorship and developments made, conceived, created, discovered, invented or reduced to practice in the performance of the Consulting Services or otherwise under this Agreement.

**Section 2.2** Client's Rights and Obligations. Client acknowledges and agrees that the consideration paid by Client herein only entitles Client to a right to use the hard copy or electronically transmitted reports portion of the Consultant Materials generated pursuant to the Consulting Services (each a "Report"). Client shall not reuse (for any purpose other than the purpose for which the Report was intended) or make any modification to the Reports without the prior written authorization of the Consultant. As Consultant is performing the Consulting Services solely for the benefit of Client, Client shall, to the fullest extent permitted by law, indemnify and hold harmless Consultant, its shareholders, officers, directors, employees and subcontractors against any damages, losses, liabilities and costs and expenses, including reasonable attorneys' fees and costs, arising from or allegedly arising from or in any way connected with the unauthorized use of the Consultant Materials or the unauthorized use, reuse or modification of the Reports by or through Client.

**Section 2.3** Rights. Consultant reserves all rights in the Consultant Materials, including without limitation the Reports, not granted hereunder. Nothing in this Agreement shall prohibit Consultant from using the Consultant Materials for any purpose either during the term of this Agreement or thereafter. Without limiting the generality of the foregoing, Client acknowledges that Consultant may have used reports and analyses that Consultant authored for other clients as base works or templates for the Reports, and Client acknowledges and agrees that Consultant has the right to use the Reports as base works or templates for reports and analyses that Consultant authors for Consultant's other clients, provided, however that Consultant shall not use any Confidential Information (defined below) provided by Client in such future reports and analyses. Client further acknowledges and agrees that Consultant has spent and will spend substantial time and effort in collection and compiling data and information (including without limitation Client Data, as defined below) (the "Data Compilations") in connection with the Consulting Services and that such Data Compilations may be used by Consultant for its own purposes, including, without limitation, sale or distribution to third parties; provided, however, that Consultant will not sell or distribute any of Client's Confidential Information that may be contained in such Data Compilations, unless such information is used only on an aggregated and anonymous basis.

### **ARTICLE III. COMPENSATION**

**Section 3.1** Fees. Client shall pay Consultant a professional fee computed according to the fee schedule attached as Exhibit B hereto (the "Fee Schedule") for the Consulting Services rendered hereunder. Consultant may adjust its rates in the event of an amendment of the Statement of Work, any other agreed-to expansion of the Consulting Services to be rendered hereunder or upon agreement of the parties.

**Section 3.2** Reserved.

**Section 3.3** Invoices. On or about the fifteenth (15) day following each month during which Consulting Services are rendered hereunder, or as soon as is reasonably practicable thereafter, Consultant shall deliver to Client an invoice covering the Consulting Services performed and the reimbursable expenses incurred in the prior month. Client shall pay all invoices within forty-five (45) days of the date of each invoice.

A monthly charge of 1.2% may be imposed against past due accounts. Payment of invoices shall not be subject to any discounts or set-offs by Client, unless agreed to in writing by Consultant.

**Section 3.4** Records. Consultant shall maintain records of its fees relating to the Consulting Services performed and any reimbursable expenses incurred under this Agreement for review by an authorized representative of Client for a period of three (3) years from the date of each invoice delivered by Consultant in relation thereto, provided, however, that (a) Client shall be entitled to no more than one such review per year, (b) any such reviews shall take place during normal business hours, and (c) all authorized representatives of Client performing a review under this Section 3.4 shall first sign a nondisclosure agreement in form and substance reasonably satisfactory to Consultant protecting Consultant's confidential information before conducting such review.

#### **ARTICLE IV.** **OTHER AGREEMENTS OF CONSULTANT**

**Section 4.1** Performance. Consultant shall perform the Consulting Services in accordance with the Statement of Work and the applicable generally accepted industry standards and practices. Client shall provide prompt written notice to Consultant if Client becomes aware of any fault or defect in the Consulting Services, including any errors, omissions or inconsistencies in the Reports. Subject to Section 5.2, should any errors in the Reports caused by Consultant's negligence be detected within thirty (30) days after the applicable Consulting Services were performed, Client's sole remedy and Consultant's exclusive liability shall be for Consultant, at Consultant's option, to (a) correct the error at no additional charge to Client by revising the Reports to eliminate the errors; or (b) refund to Client the amount paid by Client for the deficient portion of the Consulting Service(s) that resulted in the error.

**Section 4.2** Necessary tools. Consultant shall supply all tools and instrumentalities required to perform the Consulting Services under the Agreement.

**Section 4.3** Workers' Compensation. Consultant shall maintain workers' compensation insurance for Consultant's employees and agents performing Consulting Services as required by law. Consultant agrees that it shall comply with all federal, state, and local laws and ordinances as it relates to the work to be performed under this Agreement.

**Section 4.4** Liability Insurance. Consultant shall, at its sole cost and expense, carry and maintain throughout the term of this Agreement professional liability insurance covering errors and omissions, with limits of not less than \$1,000,000 per occurrence or \$2,000,000 aggregate. Evidence of such insurance shall be provided to Client as soon as reasonably practicable following Client's written request.

#### **ARTICLE V.** **OTHER AGREEMENTS OF CLIENT**

**Section 5.1** Client's Assistance. Client shall provide all information, data and documents as specified in the SOW, or reasonably requested by Consultant and which is reasonably necessary to the performance of the Consulting Services. Client shall also

satisfy any assumptions and perform any Client obligations identified in the Statement of Work, and shall comply with all applicable laws and regulations in performing hereunder.

**Section 5.2** Client Responsibility.

(a) Client acknowledges that, in performing the Consulting Services and preparing the Reports, Consultant will be using and relying upon various data, reports, studies, computer printouts and other information, documents and representations as to facts, the source of which may be Client, public agencies or other third-parties, (all of which shall be referred to herein as the "Client Data"). Client agrees that Consultant is entitled to use and rely upon such Client Data in preparing the Reports and performing the other Consulting Services hereunder, and that Consultant shall not be obligated to establish or verify the accuracy of the Client Data, nor shall Consultant be responsible for the impact or effect of Client Data on its work products (including without limitation the Reports) in the event that such Client Data is in error and therefore introduces error into the work products (including without limitation the Reports).

(b) Client represents and warrants to Consultant that Client has the right to deliver to Consultant the Client Data delivered to Consultant hereunder and neither the Client Data, nor its use as contemplated hereunder, shall (i) infringe any intellectual property rights of any third party, (ii) violate any laws or privacy rights of any third party, or (iii) violate any third parties' privacy policies, and Client shall use commercially reasonable efforts to ensure that the Client Data does not contain any viruses or other damaging or disabling code.

**Section 5.3** Indemnification by Client. Except as set forth in Section 8.10, Client shall defend, indemnify and hold Consultant harmless from and against all obligations, losses, liabilities, damages, claims, attachments, executions, demands, actions and/or proceedings (collectively, "Claims") and all costs and expenses in connection therewith, including reasonable attorneys' fees and expenses, arising out of or connected with the performance of the Consulting Services under this Agreement when such Claims arise from, relate to, or in any way result from (i) errors contained in Client Data furnished to Consultant, (ii) Client's breach of its warranties or covenants hereunder or (iii) infringement, misappropriation or misuse of Consultant Materials. Client's obligations under this subsection shall be reduced to the extent that they arise out of Consultant's gross negligence or willful misconduct.

**Section 5.4** Non-Solicitation. Client shall not solicit the employment of or hire any of Consultant's employees during the term, and for one year following the termination of, this Agreement; provided, however, that the foregoing restrictions shall not prohibit Client from generalized solicitation or advertising, including the use of an independent employment agency or search firm whose efforts are not specifically directed at such employees. Notwithstanding the foregoing, such employees shall not include any individual (a) whose employment with Consultant has terminated for any reason (other than through breach of this Section 5.5), or (b) whose employment or solicitation thereof has been agreed upon in writing by Consultant.



**ARTICLE VI.**  
**TERM; TERMINATION**

**Section 6.1** Term. This Agreement shall become effective on the Effective Date and will continue in effect until the earlier of (a) completion of performance under the SOW, or (b) termination as provided herein.

**Section 6.2** Convenience. Either party may terminate this Agreement (and the Statement of Work) for convenience upon thirty (30) prior written days' notice to the other party.

**Section 6.3** Breach. Either party may terminate this Agreement (and the Statement of Work) with written notice to the other party if the other party is in material breach of any of its obligations under this Agreement, which breach is not cured within ten (10) days' written notice from the other party. Without limiting the generality of the foregoing, if Client fails to make payments when due hereunder, Consultant may suspend performance of the Consulting Services upon notice to Client. Consultant shall have no liability to Client for any costs or damages arising as a result of such suspension. Upon payment in full by Client (provided that Consultant has not terminated the Agreement in the interim), Consultant shall resume Consulting Services under this Agreement, and the Statement of Work shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for the Consultant to resume performance.

**Section 6.4** Fees. Upon expiration or termination of this Agreement, Client shall pay all of Consultant's fees, expenses and other costs payable by Client pursuant to Article III, which have accrued through the date of expiration or termination.

**Section 6.5** Survival. Sections 1,2, 3.1, 3.2, 3.3, 5.2, 5.3, 5.4, 5.5, 6.4, 6.5 and Articles II, VII and VIII shall survive the expiration or termination of this Agreement.

**ARTICLE VII.**  
**CONFIDENTIALITY**

**Section 7.1** Definition. "Confidential Information" means all information that is disclosed by a party to the other party and that: (a) is designated as confidential, regardless of the form in which it is disclosed; or (b) relates to a party's markets, customers, patents, trade secrets, inventions, procedures, methods, designs, strategies, distributors or business in general. The term Confidential Information shall not include any item of information which: (i) the receiving party can prove was in its possession without a duty of confidentiality prior to disclosure thereof by the disclosing party whether prior to or during the term of this Agreement; (ii) is or becomes generally available to the public other than as a result of any action or omission by the receiving party; (iii) is rightfully disclosed to the receiving party by a third party without the imposition on the third party of any confidentiality obligation or restrictions on use; or (iv) is independently developed by the receiving party without reference to the disclosing party's Confidential Information, as evidenced by the receiving party's written records. The Consultant Materials are Consultant's Confidential Information (subject to the rights set forth in Section 2.2).

**Section 7.2** Obligation. Each party, as a receiving party, shall (a) hold all Confidential Information of the disclosing party in confidence and not disclose the other party's Confidential Information to anyone except its employees who have a need to know and who are at all times informed of, and understand that they are bound to observe, the same confidentiality and nondisclosure restrictions and obligations as are set forth in this Agreement; (b) use the other party's Confidential Information only as necessary for its performance hereunder; and (c) hold and protect the other party's Confidential Information with the same degree of care that it uses with its own information of like importance, but in no event less than a reasonable standard of care.

**Section 7.3** Compelled Disclosure. If either receiving party is requested or required by law or legal process to disclose any of the disclosing party's Confidential Information, the person required to disclose such Confidential Information shall provide the disclosing party with prompt oral and written notice, so that the disclosing party may seek a protective order or other appropriate remedy. In the event that such a protective order or other remedy is not promptly obtained, the receiving party shall furnish only that portion of the disclosing party's Confidential Information which is legally required and shall exercise its best efforts to obtain a protective order or other reliable assurance that confidential treatment shall be accorded to the disclosing party's Confidential Information.

**Section 7.4** Injunctive Relief. Each party, as a receiving party, agrees that remedies at law are inadequate to protect against its breach or threatened breach of this Article VII. Accordingly, each party agrees that the other party may obtain injunctive relief against it in the event of any such breach or threat thereof, in addition to any other legal or equitable remedies that may be available.

## **ARTICLE VIII. GENERAL PROVISIONS**

**Section 8.1** Notice. Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing, by mail or by electronic mail (reader receipt requested). Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, or at the following email addresses (Consultant: [lferchaw@coopstrategies.com](mailto:lferchaw@coopstrategies.com); Client: \_\_\_\_\_), but each party may change the address by written notice in accordance with the first sentence of this Section 8.1. Notices delivered personally or by electronic mail (reader receipt requested) will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of two (2) days after mailing.

**Section 8.2** Assignment. Neither party may assign this Agreement, in whole or in part without the express written consent of the other party, with the exception of an assignment carried out as part of a merger, restructuring or reorganization, or as a sale or transfer of all or substantially all of a party's equity or assets. Any such attempted assignment or delegation without proper consent shall be void. This Agreement shall inure to the benefit of and shall be binding upon the party's respective successors and permitted assigns.

**Section 8.3** Not Public Official. Neither this Agreement, nor any duties or obligations under this Agreement, nor the intentions or expectations of Client will cause

Consultant to be a "public official" as that term, or a similar term, is used under applicable law. Client and Consultant agree that Consultant is not a "public official" or "participating in governmental decision" as those terms, or similar terms, are used under applicable law. Client and Consultant also agree that no actions and opinions necessary for the performance of duties under this Agreement will cause Consultant to be a "public official" or "participating in a governmental decision" as those terms, or similar terms, are used under applicable law.

**Section 8.4** Entire Agreement. This Agreement and Exhibits A and B hereto supersede any and all agreements, either oral or written, between the parties hereto with respect to the rendering of service by Consultant for Client and contains all of the covenants and agreements between the parties with respect to the rendering of the Consulting Services. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any reference to any statute herein shall be construed as including all statutory provisions consolidating, amending or replacing such statute.

**Section 8.5** Amendment. This Agreement and any exhibit hereto (including the Statement of Work) may not be amended or modified except as expressly provided herein or in writing by the parties and signed by authorized representatives of both parties.

**Section 8.6** Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**Section 8.7** Dispute Resolution.

(a) Except as set forth in Section 7.4, the parties agree to first try in good faith to settle any dispute hereunder by mediation pursuant to the Mediation Rules of the American Arbitration Association. If the dispute is not settled by mediation, the dispute may be resolved by final and binding arbitration.

(b) Except as set forth in Section 7.4, on the written request of one party served on the other, the dispute shall be submitted to binding arbitration in accordance with the commercial rules and regulations of the American Arbitration Association and the provisions of applicable law. The arbitration shall take place in a location mutually agreed to by the parties. Consultant shall select the arbitrator. If Consultant and Client do not agree on such arbitrator, however, Client shall select a second arbitrator. The Client-selected arbitrator and the Consultant-selected arbitrator shall then select a third arbitrator, which arbitrator shall conduct the arbitration. The parties may select arbitrators from JAMS, ADR, ARC or any independent arbitrator/neutral for dispute resolution. The parties are not required to hire an AAA arbitrator for resolution of a dispute hereunder. No arbitration shall include by way of consolidation or joinder any parties or entities not a party to this Agreement without the express written consent of Client, Consultant and any party or entity sought to be joined with an express reference to this provision. Any party or entity joined in the arbitration, after mutual consent, shall be bound by this provision. The decree or judgment

of an award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

(c) The prevailing party in any arbitration brought by one party against the other and arising out of this Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorneys' fees. The non-prevailing party shall be liable, to the extent allowable under law, for all fees and expenses of the arbitrator(s) and all costs of the arbitration.

**Section 8.8** Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Minnesota, excluding its choice of law rules.

**Section 8.9** Third Parties. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either Client or Consultant. The Consulting Services are being performed solely for Client's benefit, and no other party or entity shall have any claim against Consultant because of this Agreement or the performance or nonperformance of services hereunder.

**Section 8.10** DISCLAIMER OF CONSEQUENTIAL DAMAGES. EXCEPT FOR DAMAGES ARISING FROM BREACH OF SECTION 2.2 or ARTICLE VII, NEITHER CONSULTANT NOR CLIENT, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS, WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, TREBLE, PUNITIVE OR SPECIAL DAMAGES (INCLUDING DAMAGES FOR LOST PROFITS, LOST BUSINESS OPPORTUNITY, LOSS OF USE, LOSS OF INCOME, LOSS OF REPUTATION, PERSONAL INJURY OR THE LIKE) RESULTING FROM OR RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, LIABILITY ARISING OUT OF CONTRACT, TORT, NEGLIGENCE, AND STRICT LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**Section 8.11** Force Majeure. Neither party will be liable for any failure to perform (except for payment of monies due hereunder) due to unforeseen circumstances or causes beyond its reasonable control, including, but not limited to, acts of God, war, acts of terrorism, embargoes, acts of civil or military authorities, fire, flood, accident, strikes, inability to secure transportation, facilities, fuel, energy, labor or materials. In the event of force majeure, time for delivery or other performance will be extended for a period equal to the duration of the delay caused thereby.

**Section 8.12** Limitation. The parties intend that the Consulting Services shall not subject the Consultant's individual shareholders, officers, directors, members, managers or employees to any personal legal exposure for the risks associated with the Consulting Services. Therefore, and notwithstanding anything to the contrary contained herein, Client agrees that Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Consultant and not against any of the individual shareholders, officers, directors, members, managers or employees.

**Section 8.13** DISCLAIMER. EXCEPT AS MAY BE SPECIFIED IN THIS AGREEMENT, CONSULTANT EXPRESSLY DISCLAIMS ALL WARRANTIES UNDER THIS AGREEMENT, EXPRESS AND IMPLIED, INCLUDING THE IMPLIED

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON- INFRINGEMENT AND WARRANTIES ARISING UNDER COURSE OF DEALING OR TRADE USAGE.

**Section 8.14 Limitation of Liability.** In recognition of the relative risks and benefits of the Consulting Services to both Client and Consultant, the risks have been allocated such that Client agrees, to the fullest extent permitted by law, that, except for breach of Article VII by Consultant, Consultant's total aggregate liability under or relating to this Agreement for any cause of action, including contract, tort and otherwise, shall not exceed the sum of amounts actually paid to Consultant under this Agreement. The limitations of liability set forth in this Article VIII and exclusion of certain damages shall apply regardless of the success or effectiveness of any of the exclusive remedies provided for under this Agreement. Any action against Consultant must be brought within twelve (12) months after the cause of action arises.

IN WITNESS WHEREOF, this Agreement has been executed on the Effective Date.

CONSULTANT:

CLIENT:

Cooperative Strategies, LLC

Duluth Public Schools

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

Larry Ferchaw  
Partner

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

Date: 5/2/2019

Date: 5/3/2019

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## EXHIBIT A

### STATEMENT OF WORK

#### DULUTH PUBLIC SCHOOLS SCHOOL DISTRICT BOUNDARY PLANNING SERVICE

Cooperative Strategies, LLC shall provide boundary planning services to Duluth Public Schools ("School District" or "Client") in calendar year 2019. The specific tasks to be performed under this Statement of Work include the following:

#### **ACTIVITY I. DATA ANALYSIS AND REVIEW**

##### Task 1      Data Collection

This task involves collecting and organizing information gathered from the sources identified above. Such data may include, but not be limited to:

- Existing enrollment projections
- District demographic profile
- GIS
- Capacity of facilities
- Corporation's program profile, financial and budgetary information
- Current student database including student ID, lunch program code, special education data, address, and school and grade level data (any identification information such as student name should be eliminated from the database before being submitted to Cooperative Strategies)
- Current housing developments
- Planned and / or approved residential developments within the School Corporation

##### Task 2      Project Website

This task involves creating a project website and updating as necessary throughout the process to ensure public information is up-to-date with project schedules and status.

#### **ACTIVITY II. BOUNDARY OPTIONS DEVELOPMENT**

##### Task 3      Plan for Planning Meeting

This task involves holding a one-day work session with the School District to set the parameters for the boundary planning process.

**Task 4**      **Boundary Committee Meetings**

This task involves facilitating four (4) meetings of local stakeholders to develop boundary options over two (2) days. This committee will utilize all current enrollment data and have a live version of GIS at their disposal to use in the development of options. These options will then be presented to the larger community.

**Task 5**      **Options Packet**

This task involves developing an options packet outlining scenarios drafted in the above tasks to be used at community meetings.

**Task 6**      **Focus Group Meetings**

This task involves facilitating four (4) focus group sessions to collect anecdotal qualitative feedback from stakeholder groups selected by the District.

**ACTIVITY III. INTERACTIVE MAPPING**

**Task 7**      **Geographic Information Systems**

This task involves the use of GIS to depict students that live within the boundary, students who live in but attend outside the boundary, and students who live outside the boundary but attend in. Population and housing demographics can also be overlaid to determine growth trends in different areas of the School Corporation. GIS services will include:

- Updating existing GIS database from previous planning process
- Geocoding students up to current enrollment
- Updating all boundary maps
- Creating options maps for community input
- Providing adopted boundary maps and physical descriptions of all new boundaries

**Task 8**      **School Locator**

This task involves providing software as a service ("SaaS") known as myschoolLOCATION™. This SaaS will create the school location software that will be available for the District's residents to identify which boundaries they reside in and the specific school sites their students can attend. Additionally, myschoolLOCATION™ will be linked to and accessible through the District's website. No additional costs will be incurred by the District for this SaaS during the school year(s) in which attendance boundary redistricting services are being provided. Should the District choose to continue using myschoolLOCATION™ after the initial project service period, a separate maintenance agreement can be negotiated.

## ACTIVITY V. COMMUNITY OUTREACH

### Task 9      Community Presentation

This task involves hosting two (2) meetings to share the options with the community. After a presentation of the background data and options packets, participants are asked to work in small groups to identify benefits and challenges of each option.

### Task 10      Web Questionnaire

This task involves providing a web-based questionnaire to be available to community members who are unable to attend in-person meetings to ensure full participation from stakeholders. All presentation materials and options packets will also be available online.

## ACTIVITY VI. FINAL RECOMMENDATIONS

### Task 11      Recommendations Work Session

This task involves holding a one-day work session with the District to finalize the recommended options. These options will incorporate input from the Community Meeting and the boundary committees.

### Task 12      Final Report

This task involves compiling the preferred option into an official recommendation that will be presented to the Board for final approval.

### Task 13      Board Meeting Attendance

This task involves attending two (2) meetings of the School Board to provide an update on the process and present the final recommendations.



**EXHIBIT B**

**FEE SCHEDULE**

**DULUTH PUBLIC SCHOOLS  
BOUNDARY PLANNING SERVICE**

Consulting services performed under this agreement by Cooperative Strategies, LLC for Duluth Public Schools ("Client" or "School District") shall be fees as identified below.

Service Description	Proposed Fee
K-12 Boundary Planning	\$58,900 (Plus, Estimated Expenses at \$14,855)

**Reimbursable Expenses:**

In addition to professional fees, the School District is responsible for reimbursable expenses including travel (mileage, lodging, parking, etc.), meals, all printing, postage, overnight delivery service, and other direct expenses associated with the project. Reimbursable expenses will be invoiced monthly with professional fees.

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