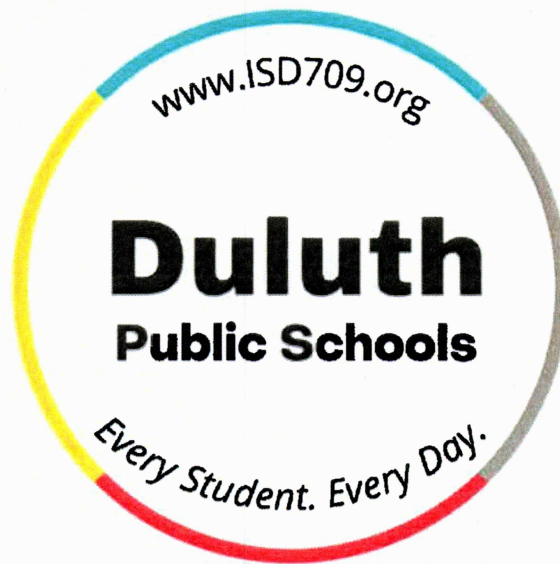
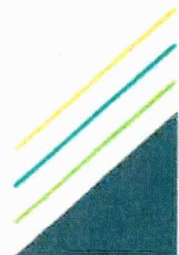




Professional Service Agreement for:
Project Representation and Management
Services



October 1, 2024





October 1, 2024

Bryan Brown
Manager of Facilities
ISD 708
709 Portia Johnson Drive
Duluth, MN 55811

Re: Owner Representative and Project Management Service

Dear Mr. Brown:

At your request, ICS Consulting, LLC. is pleased to provide you with this professional service agreement to provide services on behalf of the District for the Myers Wilkins Elementary Wall Repair due to the damage that occurred on Friday, September 13th.

ICS proposes the following Scope of Services

- Provide temporary shoring and protection of damaged area.
- Provide all professional services necessary to design facility solutions to properly repair damaged area, including architectural and structural and electrical engineering.
- Provide all construction related services and oversight to implement the repairs as determined and designed by the Design Professionals.
- Coordination of Architects, Engineers and Contractors to complete the full repair.

We would be happy to discuss this proposal with you for any clarity and understanding when you see appropriate. Thank you for your consideration and we look forward to facilitating the work in conjunction with Duluth Schools and your insurer.

Sincerely,

Andy Faulkner
President, ICS





PROJECT OVERVIEW

Myers Wilkins Elementary was damaged by a vehicle on September 13, 2024. ICS was contacted to help facilitate the repair work by engaging the necessary design professionals along with interacting with the School District's insurance representative to ensure the work required to repair is in agreement with the Insurance Companies professionals.

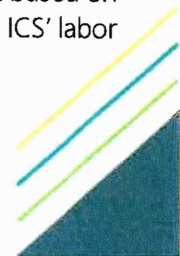
Project Scope of work expected to include:

- Architectural and Engineering services required for the design of the repair.
- Construction contractors to facilitate temporary protection and shoring.
- Construction contractors to repair the building to the design and specifications provided by the Architectural and Engineering professionals.
- Communication and coordination with district staff during the repair of the building to limit disruption.
- Expected scope currently identified as:
 - Replacement of 30'-0" of damaged masonry and brick cavity wall from foundation to top of parapet wall including flashing.
 - Patching Built-Up Roofing along damage wall tying back to new wall construction including all new flashings at parapet.
 - Remove and reinstall 2-Kalwall windows.
 - Remove and reinstall 1-Basketball hoop and structure.
 - Remove and reinstall acoustic wall panels to accommodate new wall construction.
 - Paint new masonry wall and all existing masonry wall to match existing.
 - Repair, Sand, Refinish and re-stripe existing wood gymnasium floor.

BASIS OF COMPENSATION

Our total compensation for project related professional services described above during design, pre-construction, construction, and post construction are proposed as a time and material format. This format will be consistent with all professional services and contractor services.

ICS will submit monthly invoices to Duluth Public Schools in a Time and Material format based on the actual subconsultant and subcontractor invoices plus 10% overhead and 10% profit. ICS' labor will be billed on an hourly basis per the rate schedule in Appendix B.





Billings

The amount billed for ICS's services on a monthly basis will be based on the Basis of Compensation above and will include all subconsultant and subcontractor invoices received and included in that months billing.





Appendix A

General Conditions

General Conditions

The word "Consultant" refers to ICS Consulting, LLC, the company with which the Owner is contracting. "Owner" is our client. The Agreement with you, the client, is comprised of this Agreement.

1. Scope of Work and Duration of Services

The commencement date for basic services shall be the date of approval of this agreement.

Consultant's obligation to perform the Services shall terminate upon completion of the 1-year statutory warranty period for the project or upon completion of all specified services described in Fee Letter unless mutually agreed upon to extend the services by both parties.

2. General Provisions

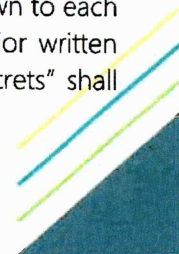
In addition to the Agreement, Consultant and Owner agree as follows:

A. Right of Access

Unless otherwise agreed in writing, Owner will furnish Consultant with right-of-access to the Site and accurate information necessary to conduct the Services, as requested by Consultant.

B. Confidential & Proprietary Information

The Consultant and Owner agree not to disclose to others or use any confidential or proprietary information or trade secrets of the other, which may become known to each prior to, during or after the performance of this Agreement without the prior written consent of the other. "Confidential or proprietary information" and "trade secrets" shall



mean any information about the other which is neither publicly known nor legally accessible to the other parties from third parties. Prior to the disclosure of any such confidential or proprietary information or trade secrets, each shall obtain the written approval of the other. Neither Owner nor Consultant shall use the specification or other materials produced under this Agreement for any purpose beyond the scope of this project, without prior written agreement of the other.

C. Quality

Consultant warrants that the Services it performs under this Agreement will be performed with the care and skill ordinarily exercised by reputable members of its profession practicing under similar conditions during the period of this Agreement and in the same or similar locality.

2. Payment for Services

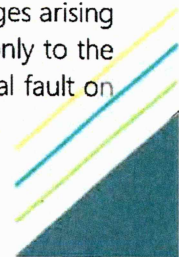
- A. Invoices will be submitted monthly for services performed during the previous month.
- B. Payments will be considered due and payable 30 days from the date of the associated invoice. If payments are not received upon becoming due and payable, interest may be assessed on the outstanding balance at a rate of the US Bank Reference Rate plus 5%, with interest accruing beginning 30 days from the original date of the invoice.

3. Indemnity & Insurance

A. Indemnity

Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless Owner, its agents, and employees, from all claims, losses, costs, and damages arising in any way out of Consultant's performance of work under this agreement, but only to the extent caused in whole or in part by negligent acts or omissions or intentional fault on the part of the consultant, regardless of whether such claim, loss, cost, or damage is caused in part by the Owner.

Owner agrees, to the fullest extent permitted by law, to indemnify and hold harmless Consultant, its agents, and employees, from all claims, losses, costs, and damages arising in any way out of Owner's performance of work under this agreement, but only to the extent caused in whole or in part by negligent acts or omissions or intentional fault on



the part of the Owner, regardless of whether such claim, loss, cost, or damage is caused in part by the Consultant.

B. Insurance

Insurance Provided by Consultant. Before the start of its work, the Consultant shall procure and maintain in force coverage and limits of insurance for its own negligence as follows:

COVERAGES	LIMITS OF LIABILITY
Workers' Compensation, including Employer's Liability Insurance	Statutory
Comprehensive General Bodily Injury Liability Insurance, including Contractual	\$1,000,000
Comprehensive General Property Damage Liability Insurance, including Contractual	\$1,000,000 Per Claim \$2,000,000 Aggregate
Comprehensive Automobile Injury Liability Insurance	\$500,000 Per Claim \$500,000 Aggregate
Comprehensive Automobile Property Damage Liability Insurance	\$500,000
Professional Liability Insurance	\$5,000,000 Per Claim \$5,000,000 Aggregate

4. Limitations on Liability

- A. The obligations of the Owner under this Agreement do not constitute personal obligations of Owner or its directors, officers, or agents. Consultant will look solely to Owner's assets for satisfaction of any liability in respect of this Agreement and will not seek recourse against the directors, officers or agents of Owner or any of their personal assets for such satisfaction, unless there is a written agreement which makes an individual personally liable, executed by that individual. The provisions of this Paragraph 4 are not intended to relieve Owner from the performance of its obligations under this Agreement, but only to limit personal liability in the case of recovery of judgment. They do not limit Consultant's rights to obtain injunctive relief and specific performance or to maintain any other action not involving the personal liability of Owner or its directors, officers, or agents.

- B. In any event, the financial liability of the Consultant for any alleged breach of this Contract, or for any tort committed in performance of this contract, shall not exceed 25% of the





total contract amount due to Consultant as payment to it for services performed under this Contract.

C. ICS shall not be responsible for the acts or omissions of any consultant, contractor or any subcontractor, supplier or other individuals or entities performing design and/or furnishing any portions of the work. ICS shall not be responsible for the failure of any Contractor to perform or furnish the work in accordance with the Contract Documents.

5. Assignment

This Agreement shall not be assigned by Consultant without prior written consent of the Owner.

6. Authorities for Action

Owner designates a responsible employee for administration and coordination of the work. Consultant designates a responsible employee to act on its behalf in any matter under this Agreement. Either party may designate in writing one or more persons to act on its behalf in any manner under this Agreement, provided notice is given according to the provisions set forth in Paragraph 8 below.

7. Independent Contractor

It is specifically understood and agreed that at all times pertinent to this Agreement, Consultant shall be an independent Contractor and shall not be considered an employee of the Owner.

8. Notices

Any notice under this Agreement shall be in writing and shall be deemed to be properly given when delivered to an officer of Owner or Consultant or upon receipt by the other party, when mailed by registered or certified mail, postage prepaid, return receipt requested.

Either party shall have the right to designate by notice, in the manner set forth above, a different address to which notices are to be mailed.

9. Applicable Law

This Agreement shall be governed by and construed under the laws of the State of Minnesota.

10. Extent of Agreement





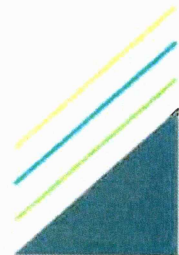
This Agreement represents the entire Agreement between Owner and Consultant, and supersedes all prior obligations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument, dated, and executed by both Owner and Consultant.

11. **Termination**

This Agreement may be terminated for proper cause by either party upon thirty (30) days written notice to the other party. Upon termination, Consultant will deliver to Owner or its designee all records, documents or materials in its possession or control of Consultant which relate to the Project and for which payment has been received. If Services have been prepared for, or performed, for which payment has not been received as of the date of termination, Owner shall be entitled to purchase the products of those Services, such as records, materials, and documents, for the consideration due therefore under this Agreement. If Owner does not purchase the products of these Services, Owner remains liable to Consultant for any incurred but unpaid charges for Services performed.

12. **Hazardous Materials**

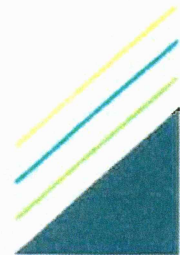
It is acknowledged by both parties that ICS Consulting, Inc.'s scope of services does not include any services related to asbestos, hazardous, or toxic materials that may be encountered or found to be present at or in areas adjacent to the site. Any such materials that are encountered shall be immediately brought to the attention of the owner, who will be solely responsible for any required abatement and/or removal of the materials in full compliance with applicable laws and regulations.



Appendix B

Rate Schedule

<u>Description</u>	<u>Rate per hour</u>
Construction Executive	\$180.00
Project Director	\$150.00
Safety Director	\$135.00
Senior Project Manager	\$140.00
Project Manager	\$130.00
General Superintendent	\$140.00
Site Superintendent	\$125.00
Project Engineer	\$95.00
Clerical / Accounting	\$70.00





Appendix C

Signature Page





Duluth Public Schools
Professional Service Agreement
September 30, 2024

Proposal Terms

Terms are continual with termination executed as noted in General Conditions.

Signature includes acceptance of attached proposal, fee schedule, and general conditions.

Authorization to Proceed

We appreciate the opportunity to present this proposal for Professional Services. Please sign and return this document to our office. Upon receipt of a signed copy, a fully executed original copy will be forwarded back to you for your records. We will begin the project at the time of signature acceptance of this proposal.

Please proceed according to the above stated terms, attached general conditions and the proposal.

For ISD 709, Duluth Public Schools:

For ICS Consulting, LLC.

10/07/2024
Date

10/7/24
Date

Theresa Severance
Printed Name

Andy Faulkner
Printed Name

[Signature]
Authorized Signature

[Signature]
Authorized Signature

Girmona Zurich
Girmona Zurich
10/8/24

