



ISD #656 - Faribault Public Schools
1051 Faribault Road, Faribault, MN 55021



District-Wide Facility Assessment

June 21, 2022



6/21/2022

Kain Smith
Director of Buildings and Grounds
ISD #656 – Faribault Public Schools
1051 Faribault Road
Faribault, MN 55021



1331 Tyler Street NE, Suite 101
Minneapolis, MN 55413
ics-builds.com
(763) 354-2670

Re: ISD #656 – Faribault Public Schools
District-Wide Facilities Assessment

Dear Kain:

At your request, ICS is pleased to provide you with this letter of understanding and proposal to implement a district-wide facility assessment of Faribault Public School's facilities, input the data into ICS's proprietary software tool and present the outcomes of the data collected.

We will work collaboratively with district administration and leadership to input the existing facility data gained from both site visits of each of the District's facilities as well as information provided by the district. Additionally, we will analyze and change the data as necessary and provide relevant reporting. The goal of these efforts is to provide Faribault Public Schools reports that assist in effectively budgeting and communicating ongoing existing facility needs.

We would be happy to discuss this proposal with you and district leadership for clarity and understanding when you see appropriate. Thank you for your consideration and we look forward partnering with Faribault Public Schools to complete this District-Wide Facilities Assessment.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Ziemer', with a stylized flourish at the end.

Christopher B. Ziemer, CSI, LEED AP
Project Development Director
ICS

CC: File

BUILDING STRONG
CONNECTIONS



District-Wide Facility Assessment

ISD #656 – Faribault Public Schools

I. Introduction

ICS is pleased to present this proposal agreement to provide District-Wide Facility Assessment services on behalf of Faribault Public Schools. Our services include providing the level of effort and expertise needed to deliver a scope of services meeting the needs of the District.

II. Data Capture, Entry & Validation Phase

ICS will complete a District-Wide Facility Assessment for all Faribault Public Schools facilities noting deficiencies and projects that should be incorporated into the District’s annual Long-Term Facility Maintenance (LTFM) plan including preliminary budget estimates for identified items.

The scope of services for this assessment will include collection of data and information that will provide a baseline of the following buildings systems and components:

- Facility Site (including parking lots, sidewalks and hard play areas)
- Building Envelope (brick, metal panel, sealants, windows, roofs, etc.)
- Building Interior Finishes (flooring, walls & ceilings)
- Mechanical Systems (HVAC, plumbing, controls, etc.)
- Electrical Systems (service, power distribution, lighting, etc.)
- Life Safety Systems (PA, fire alarm, fire protection, security, etc.)

Prior to the site visits, ICS will review and organize any information (i.e., past reports, existing building plans, etc.) provided by Faribault Public Schools for potential use in the final report. The observations and categorizing of identified deficiencies will follow the format established by the Minnesota Department of Education (MDE) for reporting the District’s 10-year LTFM plan.

Utilizing the data collected on site and provided by Faribault Public Schools, ICS will input the current deferred maintenance and/or capital facilities needs into ICS’s proprietary software. During data entry, ICS will input each line item into the relevant “systems” and “components” as developed within the software.

Additionally, ICS will meet with designated Faribault Public Schools’ staff to review the data collected and agree upon the following:

- Identify which projects would require consultants (i.e., architect, engineers, etc.) and any other associated soft costs.
- Inflationary rate to be applied to the identified District’s needs.
- Identify and strategize on scopes of work and that best address the deficiencies identified.

These items will help provide outcomes that clearly identify all costs involved with a specific project or wider scopes of work and will give the District a better understanding of all costs involved.

III. Reporting Phase

ICS will work with the District to develop reports based on the data that was gathered during site visits and meetings with staff. It is expected that ICS will need to provide some level of custom reports to meet the needs of Faribault Public Schools. All reports will be exported and generated through Microsoft Excel.

ICS is also available to provide a demonstration of our proprietary software tool to demonstrate the benefits the District can realize in its utilization as well as a presentation of the assessment findings.

IV. Implementation Schedule

ICS will work with District staff to commence work upon acceptance of this proposal and will complete the work described in a timely fashion. We anticipate the duration of our total effort to be 6-7 weeks dependent upon availability to existing information and staff availability. ICS has the bandwidth to complete this work in the months of July and August while students and staff are not in the buildings but can also complete this work on the District's schedule as well and will work around occupied buildings if needed.

V. Basis of Compensation

Compensation for completion of all work as described above is proposed as a lump sum amount of **\$35,000***. The actual amount billed for ICS's services on a monthly basis will be based on ICS's estimate of the proportion of total services actually completed during the billing period.

Reimbursable expenses (i.e., mileage, reproduction, printing, postage, etc.) will be billed at 1.25% actual cost. Please note that we do not anticipate reimbursables exceeding \$3,500 for this project. If we foresee reimbursables exceeding this estimate, we will notify Faribault Public Schools prior to proceeding.

Additionally, this agreement is in effect for the duration of 1-year from execution of the Agreement. If the District would like to continue the utilization of the software tool, this will occur at a cost of **\$8,000***.

For project work beyond services outlined in proposal and/or any changes to the agreed upon scope of services or project duration, services will be billed on a time and materials basis in addition to the above noted fees. However, additional work will not be conducted without approval by Faribault Public Schools.

** Note: All costs identified above are eligible for funding under the LTFM State Statute for School District.*

VI. Acceptance

If this proposal is acceptable, please authorize us to proceed by signing a copy of this document (Appendix B) and returning it to ICS. We will proceed with our scope of work upon receipt of your signed proposal. Thank you for your consideration of this proposal; and we look forward to working with Faribault Public Schools to complete this District-Wide Facilities Assessment.

Appendix A

General Conditions

General Conditions

1. Agreement.:

This is an agreement ("Agreement") between Faribault Public Schools ("Client"), and ICS, LLC (ICS), collectively, the "Parties." This Agreement includes (1) these General Terms and Conditions, Exhibit A; (2) the Project Proposal ("Proposal") attached; (3) Signature Page attached as Exhibit B; (4) Overall Budget Summary, Exhibit C; and (5) Fee Schedule attached as Exhibit D. This Agreement represents the entire and integrated agreement between the Parties and is exclusive of and supersedes all other agreements between the Parties, either oral or in writing. If any term or provision of this Agreement is found to be invalid under applicable law, that provision shall be deemed omitted from the Agreement and the remainder of the Agreement shall remain in full force and effect.

2. Professional Services:

The Client engages ICS to provide professional project services ("Professional Services") in connection with the project at the Client's location ("Project") described in the Proposal's Scope of Services. Other services mutually agreed upon by the Parties ("Other Services") not specifically described in the Proposal shall be (1) governed by this Agreement, (2) identified in an amended Scope of Services, and (3) the Client agrees to pay ICS for such Other Services as additional compensation in accordance with ICS's Fee Schedule attached as Exhibit D.

3. Work Product:

Professional Services under this Agreement, including, but not limited to, all drawings, reports, information, recommendations, opinions or other work product prepared or issued by ICS, are for the exclusive use and benefit of the Client in connection with the Project. The work product is not intended to inform, guide, or otherwise influence any other entities or persons, and should not be relied upon by any entities or persons other than the Client and its agents for any purpose other than for the Project. The Client will not distribute, convey or disclose ICS's work product to any other persons or entities without ICS's prior written consent. Written consent shall include an express release of ICS from all liability to the third party receiving the work product from Client, and the Client's indemnification of ICS for any claims or demands asserted against ICS by such third party. All documents produced by ICS under this Agreement shall remain the property of ICS and may not be used by the Client for any other project or purpose without the prior written consent of ICS.

4. Payment.:

The Client shall pay ICS's invoices within thirty (30) days of the date of the invoice. Invoices shall be considered past due if not paid within 30 days after the invoice date. If the Client does not tender payment within 30 days of the invoice date, ICS may, without waiving any claim or right against the Client, and without liability to the Client, terminate this Agreement in accordance with Section 10(a) of this Agreement. Retainers shall be credited on the final invoice. ICS, at its sole discretion, may charge interest at 1.5% (or the applicable legal rate) per month on the unpaid balance. In the event any portion of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

5. Standard of Care:

ICS will strive to perform the Professional Services in a manner consistent with that level of care and skill ordinarily exercised by members of ICS's profession practicing in the same locality under similar circumstances at the time the Professional Services are performed. This Agreement creates no other representation, warranty, or guarantee, expressed or implied. ICS hereby excludes and disclaims any and all implied warranties including, but not limited to, any implied warranty of fitness for a particular purpose and any implied warranty of merchantability.

6. Limitation of Liability

To the fullest extent permitted by law, the total liability of ICS for any damages, costs, fees, expenses, or other losses or demands for payment or performance regarding any claim or cause of action related in any way to this Agreement, the Project, or the Professional Services, shall be limited to fifty-thousand dollars (\$50,000). The Client hereby releases ICS for all liability above such amount. This Limitation of Liability applies to all claims, no matter how stated, asserted, alleged, or pleaded, including but not limited to, claims for errors and omissions, breach of contract, tort/negligence, quantum merit/unjust enrichment, or breach of fiduciary duty, and applies to all phases of Professional Services performed under this Agreement. The Client agrees ICS 's services will not involve the design of any equipment or the implementation of equipment. The Client agrees ICS will not be liable for any claims, damages, demands, costs, or expenses for personal injury or any other injuries or damages alleged by the Client or any third party relating to the design or implementation of equipment, and the Client agrees to indemnify and hold ICS harmless for any liability for such claims.

7. 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:

- (a) Employers' Liability: \$1,000,000.00.
- (b) General Liability: \$2,000,000.00 Occurrence;
\$4,000,000.00 Aggregate
- (c) Automobile Insurance: \$1,000,000.00 Liability.
- (d) Umbrella Liability: \$1,000,000.00 Occurrence;
\$1,000,000.00 Aggregate
- (e) Professional Liability: \$5,000,000.00 Each Claim;
\$5,000,000.00 Annual Aggregate

8. Client Responsibilities.

The Client shall bear sole responsibility for (a) notifying third parties, including any governmental agency or prospective purchaser, of the existence of any hazardous materials located in or around the Project site; and (b) cooperation with all requests by ICS, including obtaining permission for access to the Project site. The Client releases and discharges ICS from all liability for any incorrect advice, judgment, or decision based on inaccurate information furnished by the Client or others. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the Project site, ICS shall immediately stop work in the affected area and promptly report the condition to the Client.

9. Hazardous Materials.:

It is acknowledged by both parties that ICS 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.

10. Construction Observation.

If included in the Professional Services, ICS 's construction observation service shall be limited to general observation of construction operations. ICS shall not be responsible for inspection of the work, the means and methods of construction, or the safety procedures employed by any contractor. Performance of construction observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies, or omissions in the contractor's work may occur. The Client shall hold its contractor and/or any sub-contractor solely responsible for the methods and means of construction, the quality of the Work, and performance of the Work. The Client, or its designees, shall notify ICS at least twenty-four (24) hours in advance of any observations required by the construction documents.

11. Dispute Resolution:

Any claim or dispute between them arising out of or related to this Agreement shall first be informally negotiated in good faith between the Parties. If the claim or dispute cannot be amicably resolved within thirty (30) days by good faith negotiation, the Parties shall jointly submit the claim or dispute to mediation. Mediation shall be through a mediator agreed upon by the Parties, or if ICS cannot be agreed upon within 15 days after the party seeking mediation provides written notice upon the other party to the Agreement demanding mediation, a mediator shall be appointed by the district court in the jurisdiction in which the Project is located. Demand for mediation shall be provided in writing to the other party to the Agreement within a reasonable time after the claim or dispute has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitation or repose. If the claim or dispute cannot be amicably resolved by good faith negotiation or mediation, then either party may exercise its rights under law. In no event shall a claim or dispute be made or sustained if it would be barred by the applicable statute of limitations or repose.

12. Termination.

- a. This Agreement may be terminated upon than seven (7) business days' prior written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. Upon termination, ICS will deliver to the Client or its designee all records, documents or materials in its possession or control of ICS which relate to the Project and for which payment has been received. If ICS has prepared for or performed Professional Services for which payment has not been received as of the date of termination, the Client shall be entitled to purchase the products of those Professional Services, such as records, materials, and documents, from ICS provided the Client and ICS agree to a purchase price and terms of sale. If the Client does not purchase the products of these Professional Services, the Client remains liable to ICS for any amounts incurred by unpaid charges for Professional Services performed. If this Agreement is terminated through no fault of ICS, the Client shall compensate ICS for all Professional Services performed prior to termination, all expenses incurred, all costs attributable to termination, including the costs attributable to ICS 's termination of consultant agreements, plus termination expenses of 25% of all unbilled fees.
- b. If after Design Development is accepted by the Client, redesign or analysis of alternates is required to accommodate value engineering items due to lack of funding, or if there are contractor requests requiring a re-negotiated engineering services contract, this Agreement shall be deemed terminated, and within 14 days of the date of termination, Client shall pay ICS for all Professional Services completed through the date of termination.
- c. If the Project is suspended, placed on hold or temporarily terminated for more than 15 calendar days, this Agreement will be deemed to be terminated on the 16th calendar day and the Parties shall negotiate a new agreement prior to restart of the Project to re-establish a new schedule and adjusted compensation and any other necessary revisions. Within 14 days of the date of termination, the Client agrees to pay ICS for all Professional Services completed through the date of termination plus all expenses incurred, all costs attributable to the termination, including the costs attributable to ICS 's termination of consultant agreements.

13. Other Provisions.

- a. The Parties each acknowledge that they will act in good faith in carrying out their duties and obligations under this Agreement.
- b. The Parties each acknowledge that they have reviewed and familiarized themselves with this Agreement, including its attachments, and agree to be bound by the terms and conditions contained therein.
- c. The Client shall designate a responsible employee as its contact for administration and coordination of the Work. The Client's contact shall have the authority to approve changes in the scope of the Project and shall be available during working hours as necessary to examine information submitted by ICS, to render or convey decisions, and to furnish information in a timely manner.
- d. It is specifically always understood and agreed that pertinent to this Agreement that ICS shall be an independent contractor and shall not be considered an employee of the Client.
- e. The Client shall provide prompt written notice to ICS if the Client becomes aware of any errors, omissions or inconsistencies in ICS 's Professional Services or information furnished by Client or Client's agents.
- f. The Client shall ensure that Project team leaders directly contracted to the Client have budgeted and thoroughly discussed and accepted all Project costs and values with the Client.
- g. The Parties understand and agree this Agreement may be changed or modified only through written agreement signed and dated by the Client and ICS. No act, omission or course of dealing by the Parties shall alter the requirement that modifications or changes to this Agreement can be accomplished only by mutual written agreement signed and dated by the Parties.
- h. This Agreement shall not be assigned by the Client or ICS without prior written consent of the other party to this Agreement.
- i. This Agreement shall be governed by and construed under the laws of the state where the Project is located.
- j. Unless otherwise provided, all notices and notifications shall be in writing and considered duly given if sent by U.S. Mail, postage prepaid, or by facsimiles to the business address of the parties set forth in this Agreement. Such notice(s) shall be deemed given as of the second business day following the date of posting by U.S. Mail or the next business day following the date of sending in the case of a facsimile or telecopy.

End of General Conditions

Appendix B

Signature Page

Signature Page

ISD #656 – Faribault Public Schools
District-Wide Facilities Assessment
6/21/2022

Proposal Terms

Terms on payment of services are delineated in the proposal dated 6/21/2022.

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

Authorization to Proceed

We appreciate the opportunity to present this proposal for Commissioning and Technical Services. Please sign and return both copies of this document to our office. Upon receipt of both signed copies, 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.

ISD #656 – Faribault Public Schools

Date

Printed Name

Authorized Signature

ICS

Date

Printed Name

Authorized Signature