

AIA[®] Document A132™ – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the **Twenty-Eighth (28th)** day of **April** in the year **Two Thousand Twenty-One (2021)**.
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

I.S.D. #2167 – Lakeview Public Schools
875 Barstad Road North
Cottonwood, MN 56229

and the Contractor:
(Name, legal status, address and other information)

Upper Midwest Athletic Construction, Inc.
3017 – 161st Avenue NW
Andover, MN 55304

for the following Project:
(Name, location and detailed description)

2021 Facility Upgrades – Lakeview Public Schools
Cottonwood, MN

#2005

The Construction Manager:
(Name, legal status, address and other information)

R. A. Morton & Associates, LLC
3315 Roosevelt Road, Suite 100
St. Cloud, MN 56301

The Architect:
(Name, legal status, address and other information)

Wendel
401 Second Avenue North, Suite 206
Minneapolis, MN 55401

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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(Paragraph Deleted)

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

Base Bid as follows: 32B Athletic Surfacing (L&M)

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

as per specifications

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than **fourteen(14)** days from R. A. Morton's project schedule completion date.

Init.

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- Stipulated Sum, in accordance with Section 4.2 below
- Cost of the Work plus the Contractor’s Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- Cost of the Work plus the Contractor’s Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be **One Hundred Seven Thousand, Two Hundred Forty and 00/100 Dollars (\$107,240.00 Includes All Applicable Taxes)**, subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 4.2.3 Unit prices, if any:

(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)

| Item | Units and Limitations | Price per Unit (\$0.00) |
|-------------------------------------------|-----------------------|-------------------------|
| See attached bid form and pre-award notes | | |

§ 4.2.4 Allowances included in the Stipulated Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

| Item | Allowance |
|---------------------------|-----------|
| See Specifications Manual | |

Init.

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

Does Not Apply

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

Does Not Apply

§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Does Not Apply

§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed **Does Not Apply** percent (**Does Not Apply** %) of the standard rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

| Item | Units and Limitations | Price per Unit (\$0.00) |
|-----------------------|-----------------------|-------------------------|
| Does Not Apply | Does Not Apply | Does Not Apply |

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

Does Not Apply

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

Does Not Apply

§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Does Not Apply

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed **Does Not Apply** percent (**Does Not Apply**) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)

| Item | Units and Limitations | Price per Unit (\$0.00) |
|-----------------------|-----------------------|-------------------------|
| Does Not Apply | Does Not Apply | Does Not Apply |

Init.

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor’s Fee is guaranteed by the Contractor not to exceed **Does Not Apply (\$ Does Not Apply)**, subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

(Insert specific provisions if the Contractor is to participate in any savings.)

Does Not Apply

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

Does Not Apply

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

| Item | Allowance |
|----------------|----------------|
| Does Not Apply | Does Not Apply |

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

Does Not Apply

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the **last** day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Construction Manager not later than the **last** day of a month, the Owner shall make payment of the certified amount in the Application for Payment to the Contractor not later than **forty-five (45) days of the end of the period covered**. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment shall be made by the Owner not later than **ninety(90) days** after the Construction Manager receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of **five percent (5 %)**. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of **five percent (5 %)**;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to **one hundred percent (100 %)** of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

§ 5.1.4.5 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;
- .2 Add the Contractor's Fee, less retainage of **Does Not Apply percent (Does Not Apply %)**. The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of **Does Not Apply percent (Does Not Apply %)** from that portion of the Work that the Contractor self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

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- .6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232–2009;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Contractor's Fee, less retainage of **Does Not Apply** percent (**Does Not Apply** %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

- .4 Subtract retainage of **Does Not Apply** percent (**Does Not Apply** %) from that portion of the Work that the Contractor self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232–2009.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232–2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Upon receipt of all close-out requirements as per specifications.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232–2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232–2009, the method of binding dispute resolution shall be as follows:

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User Notes:

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(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

Arbitration pursuant to Section 15.4 of AIA Document A232–2009.

Litigation in a court of competent jurisdiction.

Other: (Specify)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2009.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232–2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232–2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232–2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232–2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

%

§ 8.3 The Owner's representative:

(Name, address and other information)

§ 8.4 The Contractor's representative:

(Name, address and other information)

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

1. No tobacco, alcohol, guns or drugs are to be on or near the facility or project property.
2. Objectionable behavior (cursing, obscene gestures, inappropriate or sexual advances or suggestions) will not be tolerated and may be cause for the construction manager to ban employee(s) from the project or termination of this contract.
3. All changes to the contract amount shall originate with R. A. Morton's project manager and be completed via an AIA change order or a field change order signed before work is started. No additional compensation shall be paid without written authorization from the offices of R. A. Morton.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are, AIA Document A232–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Init.

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User Notes:

(3B9ADA42)

| Document | Title | Date | Pages |
|----------------|------------------------------------------------------------------------------------------|----------------|-------|
| Project Manual | Lakeview Public Schools 2021 Facility Upgrades Bid Package 2 Volume 1 – Division 0 - 14 | March 17, 2021 | |
| | Lakeview Public Schools 2021 Facility Upgrades Bid Package 2 Volume 2 – Division 21 - 33 | March 17, 2021 | |

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

| Section | Title | Date | Pages |
|--------------------|------------------------------------------------------------------------------------------|----------------|-------|
| See Project Manual | Lakeview Public Schools 2021 Facility Upgrades Bid Package 2 Volume 1 – Division 0 - 14 | March 17, 2021 | |
| | Lakeview Public Schools 2021 Facility Upgrades Bid Package 2 Volume 2 – Division 21 - 33 | March 17, 2021 | |

§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

| Number | Title | Date |
|-----------------------|-------------------------------------------------------|----------------|
| See Index of Drawings | Lakeview Public Schools 2021 Upgrades – Bid Package 2 | March 17, 2021 |

§ 9.1.6 The Addenda, if any:

| Number | Date | Pages |
|--------|----------------|---------------------------------|
| 1 | March 31, 2021 | 8 – 8 ½ x 11 5 Plan Sheets |
| 2 | April 9, 2021 | 19 – 8 ½ x 11 11 Plan Sheets |

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

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User Notes:

(3B9ADA42)

- .1 AIA Document A132™–2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- .2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

- .3 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

- .4 Other documents, if any, listed below:
(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232–2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Proposal dated April 15, 2021 and general pre-award notes dated April 27, 2021 are attached and incorporated as an integral part of this contract.

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.
(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

| Type of Insurance or Bond Per Project Manual | Limit of Liability or Bond Amount Per Project Manual |
|-------------------------------------------------|---------------------------------------------------------|
|-------------------------------------------------|---------------------------------------------------------|

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

(Table Deleted)

I.S.D. #2167 – Lakeview Public Schools

Chris Fenske

OWNER *(Signature)*

Upper Midwest Athletic Construction, Inc.

[Signature]

CONTRACTOR *(Signature)*

Chris Fenske, Superintendent

(Printed name and title)

5-18-21

(Date)

Eric Hicks - President

(Printed name and title)

5/6/2021

(Date)

RECEIVED

MAY 14 2021

R. A. MORTON & ASSOCIATES

Init.

**Lakeview Public Schools
2021 Facility Upgrades
Pre-Award Meeting Notes
Base Bid Section 32B Athletic Surfacing
Date: April 27, 2021**

The following pre-award meeting notes document and confirm requirements as identified in the project plans, specifications and addendums. These notes are per conversation between Eric Hicks of Upper Midwest Athletic Construction, Inc. and Brad Bednar of R. A. Morton & Associates, LLC and are incorporated as part of the contract.

1. Bid Amount:

Confirmed contractor's bid amount includes all applicable taxes.

| | |
|----------|--------------|
| Base Bid | \$107,240.00 |
|----------|--------------|

2. Addenda: Contractor acknowledges receipt and review of addenda 1 and 2.

3. Bonding: Contractor's bid includes providing a 100% performance and payment bond.

4. Insurance: Contractor to provide a certificate of insurance that meets the project requirements as identified in the project specification manual.

5. Responsible Contractor Requirements: Contractor has submitted Responsible Contractor Verification form. Contractor is also responsible to provide verification forms for any of their subcontractors whose work is \$50,000.00 or more.

6. Contract Documents: Contractor shall furnish both signed contract agreements, certificate of insurance, W-9 form, payment and performance bonds, listing of suppliers and subcontractors and schedule of values within ten (10) days of receipt of contract and/or upon notification of acceptance of this bid. **Failure to adhere to this project requirement may result in the rejection of the Contractor's bid and forfeiture of the bid bond.**

7. Schedule: Contractor has reviewed the project schedule and their bid reflects the required staffing to meet the established project timeline. Contractor must coordinate their work with other trades and adhere to the established schedule and working hours. R. A. Morton reserves the right to change the schedule as may be required for the best interest of the project.

8. Shop Drawings and/or Submittals: Contractor agreed to provide submittals to R. A. Morton within 1 week(s) after receiving the contract. Provide submittals electronically as PDF's as stated in the specification. Contractor must review, stamp and sign submittals prior to forwarding. Include a detailed transmittal listing specification sections and subsections of the products. Do not submit products that do not have prior approval. This contractor is responsible for their field verifications. Confirmed material lead time(s) after approved submittals are as follows: none right now

- 9. Safety:** Contractor and their subcontractors to provide a written safety manual that meets the requirements of the "AWAIR Act" and "Right to Know" and identifies the firm's safety officer. The prime contractor is responsible for their employees' and subcontractor's safety, OSHA compliance and any fines for being out of compliance.
- 10. Subcontractors:** Contractor confirmed they will have subcontractors working on this project. All contractor's subcontractors must also provide insurance certificate and safety manuals and meet all specified project requirements.
- 11. Personnel Management:** Contractor is responsible for supervising their crews including subcontractors at all times. The contractor's foreman must be qualified for the type of project and must remain the foreman for the duration of the project. In the event of a change in foreman, R. A. Morton must be notified in advance.
- 12. Material Delivery/Responsibilities:** Material delivery to the job site requires a 48-hour minimum notice. Responsibilities include receiving, unloading, inventorying, storing, securing and protecting their materials and materials supplied by others that this contractor is installing.
- 13. Construction Meetings:** Contractor must attend all meetings while working on site and when notified in advance. Failure to attend a required meeting does not relieve the contractor of coordination and work discussed regarding their scope of work. Contractor is responsible for updating their staff and subcontractors of all formal communication from the offices of the Construction Manager and Architect.
- 14. Clean Up:** The Contractor is responsible for clean up on a weekly basis or more if necessary. The Construction Manager will provide dumpsters for normal construction waste. Failure to adhere to this requirement may subject the Contractor to a deduct change order.
- 15. Payment Procedures:** Requests for payments are due no later than the **last** day of each month. Payment schedule is within 45 days from cutoff date. Pay requests are required to be on the specified AIA forms (G732 and G703).

SECTION 003000- BID FORM

Name of Project: **Lakeview Public Schools 2021 Facility Upgrades**

Owner: Lakeview Public Schools ISD #2167

Cottonwood, MN

Bid Date: **Thursday, April 15, 2021 at 2:00 pm (CST)**

Bidding Company: Upper Midwest Athletic Construction, Inc.

The undersigned acknowledges that he/she has received and familiarized their self with the following:

Project Manual: Divisions and Sections, as listed by Table of Contents 000200

Drawings: As listed by the Sheet Index

And has received the following Addenda:

No. 1 Dated 3/31/21

No. 2 Dated 4/9/21

No. _____ Dated _____

No. _____ Dated _____

The undersigned further acknowledges that he/she has visited the site and familiarized their self with local conditions affecting the cost of the Work at the place where the Work is to be done. To furnish all material, labor, tools, expendable equipment, and all utility and transportation services necessary to provide and complete, in a workmanlike manner, all of the Work in accordance with the Bidding Documents prepared by Wendel Architecture for the consideration hereinafter set forth.

BASE BID (Individual Packages)

- For bidders wishing to submit bids on more than one Bid Package, space has been provided to submit bids for multiple Bid Packages on the same bid form.
- Indicate the Bid Package Number and Title in the space for each Bid Package which bidder is submitting a bid for.
- Base Bid amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.
- Bidders submitting bids for more than one Bid Package are invited to submit a combined bid for work included under all Bid Packages. In order to submit a combined bid, an individual bid is required per package.

BASE BIDS

BID PACKAGE# 32B DESCRIPTION: Athletic Surfacing

Base Bid Amount: One hundred seven thousand two hundred forty Dollars \$ 107,240.00

Hourly rates for adding or deleting work to include overhead and profit:

- 1. Hourly rate, apprentice: \$ 65.00 /hr
- 2. Hourly rate, journeyman: \$ 90.00 /hr

BID PACKAGE# _____ DESCRIPTION: _____

Base Bid Amount: _____ Dollars \$ _____

Hourly rates for adding or deleting work to include overhead and profit:

- 1. Hourly rate, apprentice: \$ _____ /hr
- 2. Hourly rate, journeyman: \$ _____ /hr

BID PACKAGE# _____ DESCRIPTION: _____

Base Bid Amount: _____ Dollars \$ _____

Hourly rates for adding or deleting work to include overhead and profit:

- 1. Hourly rate, apprentice: \$ _____ /hr
- 2. Hourly rate, journeyman: \$ _____ /hr

ALTERNATES

- Refer to Specification Section 012300 for complete description of Alternates

ALTERNATE 1 DESCRIPTION: Bi-polar ionization equipment

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

ALTERNATE 2 DESCRIPTION: PRV replacement

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

ALTERNATE 3 DESCRIPTION: Direct-fired/indirect-fired units

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

ALTERNATE 4 DESCRIPTION: Duct furnaces

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

ALTERNATE 5 DESCRIPTION: Controls upgrade

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

ALTERNATE 6 DESCRIPTION: Press box

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

ALTERNATE 7 DESCRIPTION: Flooring

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

ALTERNATE 8 DESCRIPTION: Flooring

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

ALTERNATE 9 DESCRIPTION: Scoreboard

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

Bid Pkg # _____ (Circle One) Add / Deduct / No Change for the lump sum of: Dollars \$ _____

UNIT PRICES

- Refer to Specification Section 012200 for complete description of unit prices

UNIT PRICE #1 _____

UNIT PRICE #2 _____

RESPONSIBLE CONTRACTOR VERIFICATION

Re: Lakeview Public Schools – ISD #2167 – 2021 Facility Upgrades

The undersigned owner/officer of Upper Midwest Athletic Construction, Inc. (“Contractor”) hereby certifies that it complies with each of the minimum criteria in Minn. Stat. § 16C.285, subd. 3, as of the time of the submission of its bid for the above-referenced project (“Project”).

The first-tier subcontractors that Contractor intends to retain for work on the Project have not yet been determined. Contractor will obtain and submit signed verifications from each of its subsequently retained subcontractors, confirming compliance with Minn. Stat. § 16C.285, subd. 3, within 14 days of retaining the subcontractors.

Dated: 4/15/2021

Upper Midwest Athletic Construction, Inc.

Contractor

By: [Signature] Eric Hicks

Its: President

Owner/Officer



Subscribed and sworn to before me

This 15th day of April, 2021

[Signature]

Notary Public



TIME OF COMPLETION:

If awarded this Contract, the undersigned agrees to commence work within seven days of receipt of Notice to proceed. All work, including subsequent contract, will start in accordance with the requirements of the construction schedule to be prepared by the Construction Manager.

PROOF OF COMPETENCY:

Undersigned agrees to furnish evidence satisfactory to Owner of sufficient means and expertise to assure completion of Contract in a satisfactory manner, and to furnish such evidence within five (5) days of receipt of written request.

Lakeview Public Schools
2021 Facility Upgrades
Cottonwood, Minnesota
Comm. No. 462902 – BP2

The names of all persons interested in foregoing bid as principals follow: (IMPORTANT NOTICE: If bidder or interested person is a corporation, give legal name of corporation, state where incorporated names of president and secretary; if a partnership, give name of firm and names of all individual co-partners composing firm; if bidder or interested person is an individual, give first and last names in full).

The undersigned acknowledges that they have reviewed all plans & specifications including Division zero and one. The low qualified bidder will be asked to break down their bid per area of work.



AUTHORIZED OFFICER SIGNATURE OF BIDDER Eric Hicks
(Hand written in ballpoint ink) PRINTED NAME

Legal Business Name of Bidder: Upper Midwest Athletic Construction, Inc.

- a corporation organized and existing under the laws of the State of Minnesota;
 a corporation organized and existing under the laws of the State and is licensed to do business in the State of Minnesota as a foreign corporation;
 a partnership consisting of partners; or
 a sole proprietor

Business Address: 3017 161st Ave NW
Andover, MN 55304

(must include complete address)

Telephone: () 763-753-1127 Fax: () 763-753-3619
Bid Contact: Eric Hicks Email: Eric@UMAthleticConstruction.com
Project Manager: James Mecl Email: James@UMAthleticConstruction.com
Project Manager's Cell: () 763-656-3607
Date of Proposal: 4/15/2021

