

NON-EXCLUSIVE USE AGREEMENT

THIS AGREEMENT, by and between the **City of Duluth**, a municipal corporation under the laws of the State of Minnesota, hereinafter known as the **City** and **ISD 709 - Denfeld**, hereinafter referred to as **User Group**.

WHEREAS, City is the owner of a baseball stadium facility located generally at 34th Avenue West and Second Street in Duluth, Minnesota commonly known as **Wade Stadium** which includes a walled baseball field, dugouts, bullpens, parking and a grandstand which contains public seating and washrooms and ticketing facilities shown on Exhibit A attached hereto and made a part hereof, all of which is hereinafter referred to as the **Stadium**; and

WHEREAS, User Group desires to use the Stadium for its baseball program; and

WHEREAS, it is the desire of the City to coordinate and allow the cooperative use of the Stadium by as many groups as possible.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, City does hereby grant to User Group the non-exclusive rights to use the Stadium and the facilities subject to the terms and conditions hereinafter set forth:

1. **ADMINISTRATION:** For purposes of administering this Agreement, the City shall act through its Manager of Parks and Recreation or designee (the "Manager"). User Group shall act through Athletic Director or designee.
2. **GRANT OF RIGHTS:** Subject to the terms and conditions of this Agreement, City hereby grants to User Group during the right to use the Stadium and facilities described herein along with one (1) stationary batting cage, one (1) portable batting cage and automatic scoreboard and public address sound system, collectively the **Equipment**, for the playing of baseball and other activities connected with baseball. The use of the Stadium shall not include access to or the use of concession areas in the Stadium's grandstand area nor the locker rooms. User Group accepts that City grants the use of the Stadium without warranty of any kind, express or implied, of its fitness for User Group's use or suitability for a particular purpose and User Group accepts the premises **as is**.
3. **USE OF STADIUM**
 - a. No later than February 1, User Group shall provide to the Manager of the City's Parks and Recreation division or his or her designee ("Manager") its proposed use schedule of the Stadium and field facilities for games and practices during the upcoming season. No later than March 1, the Manager shall furnish to User Group an anticipated schedule for the dates and times when User Group will be allowed to use the Stadium or field facilities ("User Group Schedule"). A copy of User Group Schedule is attached to this Agreement as Exhibit B. The Manager may modify the schedule as he or she deems appropriate or necessary including reducing or increasing the times or dates when User Group will be entitled to use the Stadium, the field facilities or both. In addition, User Group agrees to work with the other user groups to coordinate, when possible, to ensure optimum use of the Stadium, the field facilities or both.
 - b. The Manager shall have control of the scheduling of various users of the Stadium and the field facilities and User Group agrees that it will use the Stadium or the field facilities or both only in conformance with the schedule for the use thereof approved by the Manager.
 - c. User Group agrees that it will provide supervision of its program participants and spectators by an adult User Group representative competently trained as appropriate for the activity.

- d. User Group is authorized to use the existing automatic scoreboard and public address sound system at the Stadium during times immediately before, during and after baseball games played by User Group at the Stadium. Prior to any use of said Equipment, User Group shall provide to the Manager the names of persons it intends to operate the scoreboard and sound system for his or her approval together with evidence of their qualifications to properly operate it. User Group shall allow only persons who have been previously approved in writing by the Manager to operate the scoreboard and sound system. User Group shall be responsible for turning off the scoreboard and sound system used by it after each use, for returning to its proper place of storage and for securing it.
- e. All Equipment used by User Group shall be used in accordance with its design and intended use and shall be responsible for any damage occurring during User Group's use.
- f. User Group shall comply with the Usage Guidelines attached to this Agreement as Exhibit C. City reserves the right to modify the Usage Guidelines in writing from time to time and will provide User Group with the modified Usage Guidelines which shall be binding upon User Group. User Group shall provide its game opponent with a copy of the Usage Guidelines and shall use best efforts to ensure its opponent's compliance. User Group shall be responsible for any damage caused by or resulting from the opposing team.
- g. User Group specifically agrees that, in its use of the playing field and related areas, it will follow best practices to appropriately utilize said facilities and in particular will use its best efforts to minimize or eliminate to the extent practical any damage to the field and related areas.
- h. User Group shall insure that the Stadium is kept clean and in an orderly condition and that all paper, garbage, and other debris has been picked up and is deposited in the appropriate receptacles.
- i. User Group shall promptly notify the Manager in writing of any incident of injury or loss or damage to the property of City or any User Group participants or invitees occurring within the premises during its use of the facilities. Such written report shall be in a form acceptable to the City's Claims Investigator and Adjuster. A copy of the City's form of Incident Report is attached hereto as Exhibit D.
4. **Usage Fee.** A copy of the City's current Fee Schedule is attached as Exhibit E. User Group will pay the City the total use fee of \$1,417.50 as outlined on Exhibit B (the "Usage Fee"). User Group will pay the Usage Fee in full on or before April ____, 2015, rental payments shall be deposited in Fund 210, Agency 030, Organization 3190, Revenue Source 4625-04; such rental payments shall be due absolutely without right of set-off or any other reduction for any reason whatsoever. User Group agrees to pay interest at a rate of 1.5% per month (18% per annum), on all past due balances due to the City. User Group agrees to pay any collection costs, including but not limited to court costs, collection fees, and attorneys' fees.
5. **TERM AND TERMINATION**
- a. Notwithstanding the date of execution of this Agreement, this Agreement shall be deemed to commence on April 1, 2015 and expire on June 30, 2015 unless sooner terminated as provided for herein.
- b. This Agreement may be terminated by either party, and with or without cause, by serving thirty (30) days written notice of such termination upon the other. In addition, should User Group be in violation of any of the material terms and conditions of this Agreement and such violation be determined by the Manager, in the exercise of his or her discretion, to represent a material hazard to the Stadium or field facilities or to users thereof, the Manager may terminate this Agreement on such notice as he or she shall deem reasonable under the circumstances; in case of such termination, the notice of termination shall set forth in explicit terms the nature of the violation and the reason or reasons justifying such earlier termination.

6. **Indemnity and Insurance**

a. Indemnification. User Group agrees to indemnify, save harmless, and defend the City and its officers, agents, servants and employees from and against any and all claims, suits, loss, judgments, costs, damage and expenses asserted by any person by reason of injury to or death of any and all persons, including employees or agents of the City or User Group, and including any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of User Group, arising out of, related to or associated with the User Group's use of the Stadium or field facilities or performance of its obligations under this Agreement. User Group will indemnify the City for any damage to any City property on the premises caused by User Group, its agents, employees, or invitees.

b. Insurance. User Group shall provide the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota.

- i. Workers' compensation insurance in accordance with the laws of the State of Minnesota.
- ii. Comprehensive General Liability Insurance in an amount not less than \$1,500,000 Single Limit. Such coverage shall include all User Group's activities occurring on or within the premises whether said activities are performed by employees, agents or invitees.
- iii. The City shall be named as Additional Insured under the Comprehensive General Liability policy. User Group shall provide Certificates of Insurance evidencing the required coverages. The certificates of insurance provided shall contain an unconditional requirement that the insurer notify the City without fail not less than 30 days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to City will render any such change or changes in said policy or coverages ineffective as against the City. The use of an "Accord" form as a certificate of insurance shall be accompanied by two forms – 1) ISO Additional Insured Endorsement (CG-2010 pre-2004) and 2) Notice of Cancellation Endorsement (IL 7002) or equivalent, as approved by the Duluth City Attorney's Office. Certificates shall be furnished to the City prior to the execution of this Agreement and a certificate showing continued maintenance of such insurance shall be on file with the City during the term of this Agreement.
- iv. The insurance required herein shall be maintained in full force and effect during the life of this Agreement and shall protect User Group, its employees, agents and representatives from claims and damages including but not limited to personal injury and death and any act or failure to act by User Group, its employees, agents, invitees and representatives in the negligent performance of its activities covered by this Agreement.

c. The City of Duluth does not represent or guarantee that these types or limits of coverage are adequate to protect the User Group's interests and liabilities. City officials are granted the authority to refuse to execute this Agreement upon default by User Group of the requirements of this paragraph.

7. **General Terms and Conditions:**

a. It is agreed that nothing herein contained is intended or shall be construed in any manner as creating or establishing a relationship of co-partners, joint venture or joint enterprise between the parties hereto or of constituting User Group as an agent, representative, employee, or independent contractor of the City for any purpose or in any manner whatsoever and any such claimed status is expressly waived by User Group. User Group's employees shall not be

considered employees of the City, and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of User Group while so engaged and any and all claims whatsoever on behalf of User Group arising out of employment or alleged employment, including without limitation, claims of discrimination against the City, or its officers, agents, contractors or employees shall in no way be the responsibility of the City. User Group and its officers and employees shall not be entitled to any compensation or rights or benefits of any hospital care, sick leave and vacation pay, Workers' Compensation, Unemployment Insurance, disability pay or severance pay.

b. User Group agrees that it will obey all laws, rules, and regulations applicable to its use of or occupancy of the Stadium and to use its best efforts to insure that its players, coaches, employees and invitees so conform to such requirements. In addition, User Group agrees to procure at its expense all licenses and permits necessary for carrying out the provisions of this Agreement.

c. User Group agrees that it will not sublet the demised premises, or any part thereof, and will not assign this lease or any interest therein, nor permit such lease to become transferred by operation of law or otherwise, and that no act or acts will be done or suffered whereby the same may be or become sublet or assigned in whole or in part.

d. Unless otherwise provided herein, notice to the City or User Group shall be sufficient if sent by regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

City of Duluth
Parks and Recreation Division
Attention: Manager
411 W. 1st Street
Duluth, MN 55802

ISD 709 –Denfeld High School
Attn: Athletic Director
4405 W 4th St
Duluth, MN 55807

e. This Agreement, together with all of its terms, covenants and conditions is made in the State of Minnesota and is to be interpreted in accordance with the laws of the State of Minnesota.

f. The waiver by the City or User Group of any breach of any term, covenant, or condition herein contained, shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant, or condition herein contained.

g. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

h. This Agreement is to be construed and understood solely as an agreement between the parties hereto and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that they are a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties hereto, may be waived at any time by mutual agreement between the parties hereto.

i. This Agreement is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon. This Agreement shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties or stipulations, either oral or written, not herein contained. No amendments to this Agreement shall be binding unless such amendment is in writing and executed with the same formality and

approvals as this Agreement. This Agreement may be amended only by a written instrument signed by both parties. This Agreement may be executed in counterparts, each of which shall be deemed to be original and all of which together shall constitute the binding and enforceable agreement of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first above shown.

CITY OF DULUTH

**USER GROUP:
ISD 709**

By: _____
Mayor

By: WCHanson
Its: CFO
Printed Name Bill HANSON

ATTEST:

City Clerk
Date: _____

By _____
Its: Athletic Director
Printed Name _____

Approved as to form:

By _____
Its: Board Member
Printed Name _____

City Attorney

Countersigned:

City Auditor

Exhibit A
Map of the Stadium

Exhibit B
User Group Schedule & Fees

Denfeld Baseball at Wade - 2015

Date	Practice/Game	Time	Fee
4/14/2015	game	4:30 p.m.	\$200.00
4/16/2015	game	4:30 p.m.	\$375.00
4/23/2015	game	4:30 p.m.	\$200.00
4/28/2015	game	4:30 p.m.	\$200.00
4/30/2015	game	4:30 p.m.	\$200.00
5/2/2015	game	6:00 p.m.	\$200.00
5/11/2015	game	4:30 p.m.	\$200.00

Total Fees \$1,575.00

10% package discount

\$1,417.50

Exhibit C
Usage Guidelines

It is the responsibility of the field representative and/or individual identified as the person on the permit to enforce the rules and regulations regarding the conduct of the group while using Wade facility. These rules include, but are not limited to:

PRACTICE/BATTING PRACTICE/INFIELD DRILLS

- A hitting mat is to be used in the batters' and catchers' boxes during batting practice and all non-game/scrimmage situations.
- Protective matting is to be used in the catchers' area of bullpens.
- A pitching platform is to be used by the pitcher during batting practice
- Protective matting is to be used by hitters during practice and "infield" drill
- Move repetitive drills to various areas of the field to minimize wear patterns

FOOTWEAR

- Clean (free of mud) athletic shoes are required.
- In all non-game situations only plastic or molded spikes may be worn by players

FOOD & BEVERAGES

- No food including sunflower seeds, peanuts, gum or any form of tobacco are allowed on the turf surface. No sunflower seeds allowed in dugouts.
- Please do not spit on artificial turf
- Clear water in bottles or coolers with water are the only beverage permitted on the field. Absolutely no coffee, soda pop, alcohol, or colored drinks including sport drinks are permitted on the field
- No glass containers allowed on turf

FIELD CARE

- Groups shall inspect the fields/facility prior to and subsequent to each use to determine whether condition are safe and/or appropriate for any intended use. Groups shall promptly advise the Manager of any unsafe/dangerous condition.
- Field use begins and ends at the times stated on the permit, including inspections, set-up and clean-up. Groups are not allowed on the fields prior to the start time stated on the permit and are required to exit the fields and have adjacent areas cleaned up at the ending time indicated on the permit.
- Property boundary walls and fences are not to be used as backstops at any time. No hitting or kicking balls into backstops or fences. No climbing of fences.
- No unauthorized tents, chairs, or shade structures will be allowed on the turf surface.
- Only free standing field markers and sports equipment may be used on the turf surface. No stakes, posts, poles, or markers of any kind may be driven into the turf surface.
- Wheeled devices, including but not limited to motorized vehicles, bikes, wagons, inline skates, scooters and skateboards are not allowed on the turf.
- No paint, chalking, tape or other adhesive material is permitted without prior approval.
- Golfing or other non-authorized use is prohibited on the turf surface.
- Animals are NOT ALLOWED inside the turf area. (Official guide or therapy animals on duty allowed.)

WASTE/CLEAN-UP

- Disposal of recyclables must comply with the City's and Western Lake Superior Sanitary District (WLSSD)'s reasonable guidelines relating to recycling, energy efficiency and maintenance of the premises. A copy of the current guidelines is attached to this Exhibit C.
- Please dispose of all garbage in trash cans.

Exhibit D
Incident report

Exhibit E
Rental Fees

**Concurrent Enrollment
Between
Lake Superior College
And
Duluth Public Schools High School ISD # 709
2015-2016**

PURPOSE

This agreement between Duluth Public School District (ISD #709) and Lake Superior College, Duluth, Minnesota, is effective for the academic year 2015-2016. The intent of this agreement is to provide Duluth Public School students an opportunity to enroll through Concurrent Enrollment in Lake Superior College courses. The purpose for providing Concurrent Enrollment is to create a seamless educational path for area high school students. Lake Superior College is building bridges with our area high schools. Lake Superior College will work cooperatively and in partnership with high school personnel and students in the enrollment procedures, validating course competencies, and grade transcription.

COST: The cost to the high school is **\$1,500 per course/teacher**. The cost will cover all sections taught at Duluth Public Schools. The total cost is **\$12,000 for the courses listed. (\$1,500 x 8 courses = \$12,000) *** If one teacher teaches multiple sections it is one fee; if more than one teacher is assigned to the separate sections of the same course there is an additional fee of \$1500.00 per teacher. The billing date of these courses will be November 1, 2015 with payment expected 30 days later.

Course grades will be recorded on a LSC transcript. The LSC High School Connections Program staff will send a grade report to the high school each term for the students enrolled. Students may request an official transcript with a written request and a processing fee.

STUDENT QUALIFICATIONS

The Colleges in The Schools Program, (CITS) is available as part of the Post-Secondary Enrollment Option program. The CITS program allows high school students to earn both high school and college credit for classes offered through a high school and taught by a high school teacher.

Eligibility:

- Seniors must rank in the top half of their class.
- Juniors must rank in the top third of their high school class or have a 3.0 cumulative G.P.A;
- Sophomores may enroll in specific Career and Technical Education (CTE) courses if they have taken the 8th grade MCA reading test in the 8th grade and have met the composite proficiency level of meets or exceeds.
- Students must also meet the pre-requisites of individual courses as determined by the Accuplacer or ACT test or prior college coursework.
- For more information please see: <http://www.mnscu.edu/admissions/pseo.html>

INSTRUCTOR QUALIFICATIONS

High School instructors who teach college courses in high school are expected to meet the same minimum qualifications as set by the Minnesota State College Faculty Association and the Minnesota State Colleges and Universities. Please refer to the following link: <http://www.cfc.mnscu.edu/fields/Code/credentials.php>

COLLABORATION REQUIREMENTS

Lake Superior College High School Connections Staff

- Ensures that all CITS registrations are entered for each CITS class.
- Ensures that each CITS class is created in ISRS.
- Maintains records for all completed CITS classes.
- Maintains records for all Waiver Requests.
- Makes appropriate record adjustments for student in accordance with add/drop and withdrawal policies.
- Provides each high school with course outlines for each CITS class.
- Provides information that informs CITS students about academic and student support services available to all students at the college.
- Provides necessary registration, withdrawal, and add/drop policy tools and information.
- Provides transcript request information to all students.
- Sends class lists to high school as soon as the registrations are complete. Works with each high school to ensure that CITS class lists are correct.
- Works with each high school to ensure all grades are submitted and recorded in ISRS.

Lake Superior College Faculty Mentor:

- Arranges to guest lecture if requested by the high school instructor.
- Collaborates with the high school CITS instructor to clarify approved college course outline and outcomes and to create a syllabus with the CITS instructor; assures that assessment meets college criteria.
- Extends to the high school CITS instructors, invitations to participate in appropriate campus-based faculty development activities.
- Meets regularly (face-to-face, email, telephone) with high school CITS instructor and monitors assignments, exams, projects, and instructional effectiveness to ensure that the course meets the learning outcomes contained in the LSC course outline. Faculty mentors will make at least one visit to the high school per course.
- Provides current college text information and/or exam copies of the text, course outlines, sample syllabi, sample exams, assignments, and exercises for the high school CITS teacher's use.
- Provides instructors who have taught the course previously with copies of new course outlines, new calendars, schedules or other information as courses change.
- Submits to the CITS coordinator a copy of the site visit forms at the end of the semester or year of interchanges with high school instructors for each CITS course.
- Supports CITS instructors, giving additional time and attention to instructors new to the program.

High School Instructors, Administrators & Staff:

- Agrees to terms of the LSC policy for add/drop processes and withdrawals.
- Assigns final, whole letter grades to each student on the class lists provided by LSC's CITS staff.
- Collaborates with LSC staff to administer Accuplacer test to potential CITS students and/or provide ACT scores to assure compliance with PSEO eligibility requirements.
- Contacts the LSC CITS program for withdrawals in accordance with LSC policy.
- Ensures completion of LSC registration forms and sends forms to the High School Connections Office.
- High schools will notify parents/students of CITS course offerings.

- Meets regularly (face-to-face, email, telephone) with LSC faculty mentor and provides sample assignments, exams, projects, to ensure that the course meets the learning outcomes contained in the LSC course outline. LSC Faculty mentors will make at least one visit to the high school per course.
- Provides LSC with a course syllabus for each CITS course.
- Signs CITS contract and returns it to LSC by April 30, 2015. Amendments to the contract will be accepted until August 1, 2015 for the 2015-16 academic year.
- The completed grade sheet is to be signed and sent the LSC staff within two days of the last day of the CITS class.
- To the extent possible, provides counseling services to students and their parents or guardian before students enroll in CITS courses. This ensures that the students and their parents or guardians are fully aware of the risks and possible consequences of enrolling in CITS courses.

This is for Denfeld

COURSES

The following courses will be covered under this Concurrent Enrollment agreement:

Course	Title	Credits	HS Instructor	LSC Faculty	Indicate Offerings (x)		
					Fall (Sept-Jan.)	Spring (Jan-June)	All Year (Sept-June)
ALTH 1400	Intro to Allied Health	2	Kim Olson (Denfeld and East)	TBA			
ALTH 1410	Medical Terminology	1	Kim Olson (Denfeld and East)	TBA			
BIOL 1005	Intro to Cell Biology	1	(East 2 sections)	TBA			
BIOL 1140	Human Anatomy and Phys	4	(East 2 sections)	TBA			
MATH 1150	Pre-Calculus	5	<i>Ed Lewis</i> (Denfeld 2 sections)	TBA			
MATH 1150	Pre-Calculus	5	(East 2 sections)	TBA			
MATH 1150	Pre-Calculus	5	Brenda Ploresano (East 1 section)	TBA			
MATH 1150	Pre-Calculus	5	Bill Garnett (East 1 section)	TBA			
MATH 1150	Pre-Calculus	5	Peter Graves (East 3 sections)	TBA			
NUNA 1420	Nursing Assst/Home Health Aid	4	Kim Olson (Denfeld and East)	TBA			
BIOL 1150	Intro to Cell Biology	4	Alison Wood (Denfeld 2 sections)	TBA			
BIOL 1150	Intro to Cell Biology	4	Alison Wood (Denfeld 2 sections)	TBA			

For multiple terms for a course, please indicate both terms with (x).

*Proposed courses, pending approval. Once approved cost will be reflected above.

Duluth Public Schools

Thomas Starnell
High School Guidance Director or Designee

Michelle Leno
Principal

Michelle Leno
Superintendent or Assistant Superintendent

Lake Superior College

Molly Milroy, High School Connections

Melissa Leno, Director of Admissions

Michael Seymour, VP Academic & Student Affairs

Date _____ Dir. of Carr.

Michelle Leno

*Note: Contract not valid until all signatures are obtained.

Date _____

Please pay close attention to designated terms of course offerings as LSC faculty mentor assignments must be made prior to start of terms.

This is for East

COURSES

The following courses will be covered under this Concurrent Enrollment agreement:

Course	Title	Credits	HS Instructor	LSC Faculty	Indicate Offerings (X)		
					Fall (Sept-Jan.)	Spring (Jan-June)	All Year (Sept-June)
ALTH 1400	Intro to Allied Health	2	Kim Olson (Denfeld and East)	TBA			
ALTH 1410	Medical Terminology	1	Kim Olson (Denfeld and East)	TBA			
BIOL 1005	Intro to Cell Biology	1	(East 1 sections)	TBA			
BIOL 1140	Human Anatomy and Phys	4	(East 1 sections)	TBA			
MATH 1150	Pre-Calculus	5	Tim White (Denfeld 2 sections)	TBA			
MATH 1150	Pre-Calculus	5	(East 2 sections)	TBA			
MATH 1150	Pre-Calculus	5	Brenda Florstano (East 2 section)	TBA			
MATH 1150	Pre-Calculus	5	Bill Garnett (East 2 section)	TBA			
MATH 1150	Pre-Calculus	5	Peter Graves (East 2 sections)	TBA			
NUNA 1420	Nursing Assst/Home Health Aid	4	Kim Olson (Denfeld and East)	TBA			
BOB 1400	RENTALS OF MACHINERY	3	PEGGY EBERLE	TBA			

For multiple terms for a course, please indicate both terms with (X).
*Proposed course, pending approval. Once approved cost will be reflected above.

Duluth Public Schools

Lake Superior College

Donna BSR
High School Guidance Counselor or Designer

Wendy Milroy, High School Connections

Melissa Leno
Principal

Melissa Leno, Director of Admissions

Michael Seymour
Superintendent or Assistant Superintendent

Michael Seymour, VP Academic & Student Affairs

Date

Michael Seymour

Date

*Note: Contract not valid until all signatures are obtained.

Please pay close attention to designated terms of course offerings as LSC faculty mentor assignments must be made prior to start of terms.

Courses

The following courses will be covered under this Concurrent Enrollment agreement

Courses	LSC Titles	LSC Credit	HS Instructor	LSC Faculty	Indicate Offerings
ALTH 1400	Intro to Allied Health	2	Olson (Denfeld and East)	TBA	One semester first semester
ALTH 1410	Medical Terminology	1	Olson (Denfeld and East)	TBA	
NUNA 1420	Nursing Assst/Home Health Aid	4	Olson (Denfeld and East)	TBA	2nd Semester
BIOL 1005	Intro to Cell Biology	1	Kyes East 1 Section	TBA	Entire year
BIOL 1150	Human Anatomy	4	Kyes-East 1 Section	TBA	
BIOL 1005	Intro to Cell Biology	1	Wood-Denfeld	TBA	Entire year
BIOL 1150	Human Anatomy	4	Wood-Denfeld	TBA	
MATH 1150	Pre-Calculus	5	Lewis-Denfeld	TBA	Entire year
MATH 1150	Pre-Calculus	5	Florestano (East 2 Sections)	TBA	Entire year
MATH 1150	Pre-Calculus	5	Garnett (East 2 Sections)	TBA	Entire year
MATH 1150	Pre-Calculus	5	Graves (East 2 Sections)	TBA	Entire year
MKTG 1421	Principles of Marketing	3	Ehlerf (East 1 Section)	TBA	Entire year

Total Courses

9 Courses X 1500 = \$13,5000

High School Course Name	HS Course Number
CITS Medical Occupations (2 Hour Block of time)	151221
CITS Intro to Nursing	151322
CITS Human Anatomy and Physiology	222401-222402
CITS Human Anatomy and Physiology	222401-222402
CITS Pre-Calculus	181701-181702
CITS Pre-Calculus	181701-181702
CITS Pre-Calculus	181701-181702
CITS Pre-Calculus	181701-181702
CITS Marketing II	111701-111702

- Meets regularly (face-to-face, email, telephone) with LSC faculty mentor and provides sample assignments, exams, projects, to ensure that the course meets the learning outcomes contained in the LSC course outline. LSC Faculty mentors will make at least one visit to the high school per course.
- Provides LSC with a course syllabus for each CITS course.
- Signs CITS contract and returns it to LSC by April 30, 2015. Amendments to the contract will be accepted until August 1, 2015 for the 2015-16 academic year.
- The completed grade sheet is to be signed and sent the LSC staff within two days of the last day of the CITS class.
- To the extent possible, provides counseling services to students and their parents or guardian before students enroll in CITS courses. This ensures that the students and their parents or guardians are fully aware of the risks and possible consequences of enrolling in CITS courses.

- The record keeping regarding the Accuplacer has been a night mare. We do not have the staff to take care of all of the required documentation.

AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of July, 2015, by and between Independent School District #709, a public corporation, hereinafter called District, and Mary Lou Tarvers, an independent contractor, hereinafter called Contractor.

THE PURPOSE OF THE AGREEMENT is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

The terms and conditions of this Agreement are as follows:

1. **Dates of Service.** This Agreement shall be deemed to be effective as of July 1, 2015, and shall remain in effect until June 30, 2016, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.**

Create and coordinate a teacher mentor program for all new teachers entering ISD 709. Recruit and orient the pre-existing pool of trained mentors within ISD 709. Assign trained mentors to new teachers within ISD 709. Orient new teachers to the program and introduce them to their mentor. Coordinate the delivery of monthly meetings to cover professional development topics pertinent to new teachers with the purpose of improving classroom practice. Coordinate and train new mentors following the 2015-16 school year.

The Contractor shall work collaboratively with ISD 709 staff, when needed, to obtain information necessary to complete the above listed tasks.

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 at a rate of \$21.03 up to a sum not to exceed \$5000 (Five Thousand and 00/100 Dollars). The District also agrees to reimburse the contractor for mileage incurred as a direct result of the items listed under section 2 of this contract at the current IRS mileage reimbursement rate, not to exceed a total of \$200 (Two Hundred and 00/100 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 care of the Director of Curriculum and Instruction, ISD 709, Duluth Public Schools, 215 North 1st 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 Mary Lou Tarvers, 306 W Rainbow St., Duluth, MN 55811.

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.

Mary L. Jarvers 476-60-0301 7/1/15
Contractor Signature SSN/ Tax Identification Number Date

Program Director _____
Date
Phil Perry 7/1/15

Director of Curriculum and Instruction _____
Date
W. C. Hanson 7/1/15

Director of Business Service / Superintendent of Schools _____
Date

**CONTRACT FOR "IN SCHOOL" NURSING SERVICES
PERTAINING TO RICHARD M.**

This AGREEMENT is made and entered into this 29th day of July, 2015, by BAYADA Home Health Care, Inc., with a service office located at 10400 Yellow Circle Drive, Suite 401, Minnetonka, MN 55343 (hereinafter referred to as BAYADA) and Duluth School District, located at 215 N 1st Avenue E, Duluth, MN 55802 (hereinafter referred to as SCHOOL).

BAYADA is a home health care agency, engaged in the business of providing nursing services and SCHOOL has identified a need for in-school nursing care of its student, RICHARD M, (hereinafter referred to as STUDENT).

WHEREAS, it is the desire of both parties to make provision for on-side daily nursing care for STUDENT, in accordance with the terms of this Agreement.

THEREFORE, in consideration for the mutual covenants expressed herein, BAYADA and SCHOOL agree to the terms and conditions outlined herein:

I. RESPONSIBILITIES OF BAYADA

- A. Qualifications of Personnel. The Nurse supplied by BAYADA will be a Registered Nurse (RN) who will hold a current license, registration or certification to practice in the State of Minnesota, and will provide services pursuant to the applicable state laws.

- B. Personal Records Inspection. BAYADA will make available for inspection, upon the request of SCHOOL, the personnel files of its nurses who are caring for STUDENT. The contents of such file may include:
 - 1. Verification of current licensure or certification as applicable; and
 - 2. Completed application for employment or resume; and
 - 3. Verified references; and
 - 4. Evidence of annual performance evaluation; and
 - 5. A criminal record check, conducted upon hire, if required by state law; and
 - 6. Evidence of at least one annual in-service education or training in accordance with applicable state regulations.

- C. Service. BAYADA will provide RN to care for STUDENT each day that said student attends school. Nursing services will be provided subject to the availability of a qualified nurse. The services to be provided may include escorting STUDENT to and from school on the school bus, providing care to STUDENT during the school day, and providing care for other students in the classroom, as needed. Upon execution of this Agreement, SCHOOL will provide BAYADA with a schedule of the calendar including scheduled days off.

- D. Place of Performance. BAYADA will provide services primarily at schools located within SCHOOL's district or other specified location where STUDENT will be during the school day. SCHOOL acknowledges and understands that BAYADA cannot guarantee services. All services will be provided subject to the availability of a qualified nurse.
- E. Insurance.
1. BAYADA will maintain general liability and professional liability coverage for any negligent acts or omissions of BAYADA employees, which may give rise to liability under this Agreement.
 2. BAYADA will maintain Workers' Compensation insurance for its employees providing services to STUDENT.
- F. Indemnification. BAYADA agrees to indemnify and hold harmless SCHOOL from all bodily injury and/or property damage claims arising out of the sole negligence of BAYADA, acting through its directors, agents, and employees.
- G. Payment of Personnel. BAYADA, as an employer, will remain responsible for the payment of wages and other compensation, reimbursement of expenses and compliance with Federal, State and local tax withholdings, Workers' Compensation, Social Security, employment and other insurance requirements for its personnel.
- H. Policies and Procedures. BAYADA will follow the SCHOOL's policies and procedures while providing care in the SCHOOL setting.

II. RESPONSIBILITIES OF SCHOOL

- A. Payment for Services. SCHOOL will remain responsible to compensate BAYADA for services rendered pursuant to this Agreement. Section III hereunder will govern billing terms and compensation.
- B. Insurance.
1. SCHOOL will maintain at its sole expense valid policies of general liability insurance, covering the negligent acts or omissions of SCHOOL acting through its directors, agents, employees or other personnel, which may give rise to liability under this Agreement.
 2. SCHOOL will maintain, at its sole expense, workers' Compensation insurance for its employees.
- C. Indemnification. SCHOOL agrees to indemnify and hold harmless BAYADA from all bodily injury and/or property damage claims arising from any act or omission of SCHOOL, acting through its directors, agents, employees or other personnel.

- D. Employment Status. SCHOOL understands and agrees that the RN is an employee of BAYADA and SCHOOL will not attempt to solicit the RN to work privately for SCHOOL, without written authorization from BAYADA, during the term of this Agreement and for one (1) year following its termination or expiration. SCHOOL recognizes the recruiting, training and retention expenses that BAYADA encounters as an employer and acknowledges that BAYADA is not a placement or referral service. Should SCHOOL desire to hire one of BAYADA's employees, SCHOOL agrees to provide BAYADA with written notice and pay a liquidated damages fee equal to four (4) months of the specific employee's annual gross salary or \$5,000.00, whichever is greater. This fee will apply to any BAYADA employee SCHOOL wishes to hire.
- E. Compliance Program. BAYADA values honesty and confidentiality in all business interactions. In order to assure adherence to these values, BAYADA maintains a corporate compliance program, designed to detect and prevent illegal and unethical activities, including breaches of confidentiality. SCHOOL agrees to abide by this program, and understands its obligation to report questionable activities involving BAYADA's employees to the local office Director named below or to the Compliance Hotline at 1-866-665-4295.

III. BILLING AND COMPENSATION

- A. SCHOOL agrees to compensate BAYADA at a rate of \$60.00/hour for Complex RN services provided under this Agreement. SCHOOL will also pay for all time the BAYADA employee spends on the bus or otherwise transporting the client to and from SCHOOL.
- B. BAYADA will forward to SCHOOL an itemized bill on a weekly basis. Each weekly bill will itemize the name of the BAYADA employee providing care, the date of service, the type and length of service provided.
- C. SCHOOL agrees to pay submitted bills within thirty (30) days of receipt. Any bill not paid within the thirty (30) day period will be considered delinquent. BAYADA may charge interest, at a rate of 1 ¼% each month (15% per year) on all delinquent accounts. BAYADA will also pursue collection remedies in an attempt to resolve a delinquent account SCHOOL agrees to reimburse BAYADA for all collection costs, including attorney's fees and expenses.

IV. TERM AND TERMINATION

- A. This Agreement will come into effect beginning on July 31, 2015 and will remain in effect through August 14, 2015.
- B. Either party may terminate this Agreement for cause due to the occurrence of one of the following events.
1. Dissolution or bankruptcy of either BAYADA or SCHOOL

2. Failure of either BAYADA or SCHOOL to maintain the insurance coverages required hereunder.
3. Breach by BAYADA or SCHOOL of any of the material provisions in this Agreement.

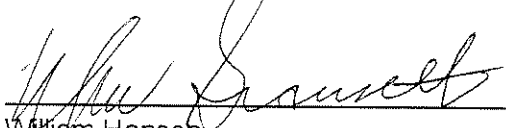
V. ADDITIONAL TERMS

- A. Governing Law. This Agreement will be construed and governed in all respects according to the laws of the State of New Jersey.
- B. Relationship to Parties. The parties enter into this Agreement as independent contractors. Nothing contained in this Agreement will be construed to create a partnership, joint venture, agency or employment relationship between the parties.
- C. Assignment. This agreement may not be assigned by either party, in whole or in part.
- D. Modification of Terms. No amendments or modifications to the terms of this Agreement will be binding unless evidenced in writing and signed by an authorized representative of each party hereto.
- E. Notices. Any Notice given in connection with this Agreement will be given in writing and will be delivered either by hand or by certified mail, return receipt requested, to the other party, at the party's address listed above. Any party may change its address as stated herein by giving Notice of the change of address in accordance with this Paragraph.
- F. Confidentiality. Except for acknowledging the existence of this Agreement, the parties understand and agree that the terms of this Agreement, including all payment terms, shall be kept confidential unless disclosure is required by law or the parties agree, in writing, to such disclosure. All methods and mode of conduct of business for SCHOOL and BAYADA are to be kept confidential by SCHOOL and BAYADA and not disclosed to any other party or used in part or whole without the permission of SCHOOL and/or BAYADA.
- G. Entire Agreement. This writing evidences the entire Agreement between BAYADA and SCHOOL; there are no prior written or oral promises or representations incorporated herein. Each Attachment, Fee Schedule, Exhibit or other documents referenced herein and/or attached to this Agreement are incorporated herein as if the same was set out in full in the text of the Agreement. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or electronic (e-mail) transmission shall be effective as delivery of a manually executed counterpart hereof.

Date _____

Date 7/30/15

Erica Kjenstad
Director
Signing with authority for
BAYADA Home Health Care Inc.



William Hanson
Business Manager
Signing with authority for
ISD 709

Memorandum

To: **Bill Hanson**

From: **Kerry M. Leider**



Date: **July 13, 2015**

Re: **Preventive Maintenance Services for the Bleachers at East High School and Lincoln Park Middle School – Haldeman-Homme, Inc.**

Attached are two (2) copies of the Agreement between Independent School District #709 and Haldeman-Homme, Inc. to perform preventive maintenance on the bleachers at East High School and Lincoln Park Middle School. The total estimated cost of this service is \$1,800.00.

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

Attachments



HALDEMAN – HOMME, INC.



ACADEMIC SPECIALTIES,
INC.

SERVING EDUCATION, HEALTH CARE, AND INDUSTRY SINCE 1924

PROPOSAL Service P.M.

SERVICES

- Layout & Design
- Project Management
- Construction
- Consulting / Training

PRODUCTS

- Laboratory Furniture
- School Equipment
- Education Curriculum
- Athletic & Wood Flooring
- Storage Systems
- Library & File Systems
- Auditorium Seating
- Bleachers

OFFICES

430 Industrial Blvd.
Minneapolis, MN
55413

Tel: 612-331-4880
Fax: 612-378-2236

78 Eisenhower Lane N
Lombard, IL 60148

Tel: 630-812-0020
Fax: 630-812-0018

6200 S Syracuse Way
Suite 120
Greenwood Village,
CO 80111

Tel: 303-237-1333
Fax: 303-237-0518

16540 Air Center Blvd
Houston, TX 77032

Tel: 800-795-0696
Fax: 612-378-2236

600 N Hwy 148
P.O. Box 337
Anita, IA 50020

Tel: 608-630-4329
Fax: 612-378-2236

TO: David J. Spooner, C.P.E.
730 East Central Entrance, Duluth, MN 55811
Office 218.336.8700 X-3232 Cell: 218.343.0275

Bid Date:

We propose the following:

At East

Inspect understructure to see how its running, check and tighten bracing, check drive rollers chains and intermediate wheels/axles, grease the guide rods on the rolling frames, check seats and guard rails, note any discrepancy\$500.00

Add to apply grease to metal to metal contact areas\$800.00

At Lincoln

inspect understructure to see how its running, check and tighten bracing, check drive rollers chains and intermediate wheels/axles, grease the guide rods on the rolling frames check seats and guard rails, note any discrepancy \$200

Add to apply grease to metal to metal contact areas\$300.00

Excluding

1. Additional parts billed at list price, freight billed as actual.
2. Lift fees. If no lift is provided, a fee of \$200.00 per location shall be charged for use of H-H genie lift or scaffolding.
3. Mileage billed at \$1.00 per mile
4. This proposal is based on completing the work during normal business hours. Overtime, evening and weekend work is available at additional charge.
5. State Sales & Use Taxes. Purchaser by acceptance of this quotation agrees to furnish Tax Exemption Certificates when requested on non-taxable materials.

TERMS: Net 30 Days

ACCEPTED: Company ISP #709

Name WJ Spooner

Date 7/16/15

RESPECTFULLY,

HALDEMAN-HOMME, INC.

By _____

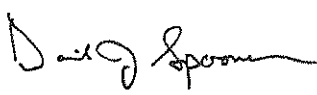
Scott Bombard
Service manager

Note: This quotation is offered for acceptance within 30 days and is subject to revision beyond that time.



Memorandum

To: Kerry Leider
Bill Hanson

From: Dave Spooner 

Date: June 30, 2015

Re: P2000 Software Subscription

Please find attached an agreement with JCI to provide a 3 year renewal subscription / agreement for our P2000 Access Control Door Management Software.

This subscription will keep us up to date with patches, security, and upgrades. Agreements of this type are standard with software packages of this nature.

With that, I am recommending we enter into agreement for this 3 year software subscription.

Please contact me with questions if needed.

Thank you.



Proposal

JOHNSON CONTROLS DULUTH MN CB -
ON51
4627 AIRPARK BLVD
DULUTH MN 55811-5750
PH: (866) 211 3536
FAX: (218) 727 7945

TO: INDEPENDENT SCHOOL DISTRICT
709
215 N 1ST AVE E

DULUTH, MN 55802

Date: 6/4/2015

Quote Ref: 1-A0AJR6D
Project Name: DULUTH SCHOOLS THREE YEAR SS P2K
RENEWAL

Site: INDEPENDENT SCHOOL DISTRICT 709
215 N 1ST AVE E
DULUTH, MN 55802-2058

ATTN: Corey Karren

We propose to furnish the materials and/or perform the work below for the net price of: \$9,249.18

For the above price this proposal includes:

Johnson Controls proposes to provide three years of a P2K software subscription (July 1, 2015--June 30, 2018) for the sum of \$9,249.18. This sum includes service packs, patches, software revisions, access to technical support, new user interface, and mobile applications. Shipping is also included. Labor installation is not included; if required time will be billed in accordance with the State contract.

This proposal DOES NOT include:

1. Labor or material not specifically described above is excluded from this proposal.
2. Unless otherwise stated, any and all overtime labor is excluded from this proposal.
3. Applicable taxes or special freight charges are excluded from this proposal.

Important: This proposal incorporates by reference the Terms and Conditions attached

This proposal is hereby accepted and Johnson Controls is authorized to proceed with the work, subject to credit approval by Johnson Controls, Inc. Milwaukee, WI.

This proposal is valid through: 7/4/2015

INDEPENDENT SCHOOL DISTRICT 709

Signature: Bill Hanson
Name: Bill Hanson
Title: CFO
Date: 7/6/15
PO: _____

Johnson Controls

Signature: Matt Hoven
Name: Matt Hoven
Title: CSA
Date: 6/4/15

IMPORTANT: This proposal incorporates by reference the terms and conditions which are attached to this document. All work is to be performed Monday through Friday during normal JCI business hours unless otherwise noted. This proposal, or any accepted alternates, are hereby accepted and Johnson Controls is authorized to proceed with the work; subject, however, to credit approval by Johnson Controls, Inc., Milwaukee, Wisconsin

TERMS AND CONDITIONS

By accepting this proposal, Purchaser agrees to be bound by the following terms and conditions:

1. SCOPE OF WORK. This proposal is based upon the use of straight time labor only. Plastering, patching, and painting are excluded. In-line duct and piping devices, including, but not limited to valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Johnson, shall be distributed and installed by others under Johnson's supervision but at no additional cost to Johnson. Purchaser agrees to provide Johnson with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. Johnson agrees to keep the job site clean of debris arising out of its own operations. Purchaser shall not back charge Johnson for any costs or expenses without Johnson's written consent. Unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any language or provision of the agreement elsewhere contained which may authorize or empower the Purchaser to change, modify, or alter the scope of work or services to be performed by JCI shall not operate to compel JCI to perform any work relating to Hazards without JCI's express written consent.

2. INVOICE AND PAYMENTS. Johnson may invoice Purchaser monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Purchaser shall pay Johnson at the time purchaser signs this agreement an advance payment equal to 10% of the contract price, which advance payment shall be credited against the final payment (but not any progress payment) due here in under and purchaser Johnson additional amounts invoiced upon receipt of the invoice. Waivers of lien will agree to pay be furnished upon request, as the work progresses, to the extent payments are received. If Johnson's invoice is not paid within 30 days of its issuance, it is delinquent.

3. MATERIALS. If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of Johnson, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, Johnson shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonably available substitute therefore.

4. EQUIPMENT WARRANTY. Johnson Controls, Inc (JCI) warrants that equipment manufactured or labeled by Johnson Controls, Inc. shall be free from defects in material and workmanship arising from normal usage for a period of one year. Only if JCI installs or furnishes a piece of equipment under this Agreement, and that equipment is covered by a warranty from a manufacturer other than JCI, JCI will transfer the benefits of that manufacturer's warranty to Customer. All transportation charges incurred in connection with the warranty for equipment and/or materials not installed by JCI shall be borne by Customer. These warranties shall not extend to any equipment that has been abused, altered, misused or repaired by Customer or third parties without the supervision of and prior written approval of JCI, or if JCI serial numbers or warranty date decals have been removed or altered. Customer must promptly report any failure of the equipment to JCI in writing.

5. LABOR WARRANTY. Johnson Controls, Inc. (JCI) warrants its workmanship or that of its agents (Technicians) in relation to installation of equipment for a period of ninety (90) days from date of installation. Customer shall bear all labor costs associated with replacement of failed equipment still under JCI's equipment warranty or the original manufacturer's warranty, but outside the terms of this express labor warranty. All warranty labor shall be executed on normal business days during JCI normal business hours. These warranties do not extend to any equipment which has been repaired by others, abused, altered, or misused in any way, or which has not been properly and reasonably maintained. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE. UNDER NO CIRCUMSTANCES SHALL JCI BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATING TO ANY DEFECT IN MATERIAL OR WORKMANSHIP OF EQUIPMENT OR THE PERFORMANCE OF SERVICES.

6. LIABILITY. Johnson shall not be liable for any special, indirect, or consequential damages arising in any manner from the equipment or material furnished or the work performed pursuant to this agreement.

7. TAXES. The price of this proposal does not include duties, sales, use, excise, or other taxes, unless required by federal, state, or local law. Purchaser shall pay, in addition to the stated price, all taxes not legally required to be paid by Johnson or, alternatively, shall provide Johnson with acceptable tax exemption certificates. Johnson shall provide purchaser with any tax payment certificate upon request and after completion and acceptance of the work.

8. DELAYS. Johnson shall not be liable for any delay in the performance of the work resulting from or attributed to acts of circumstance beyond Johnson's control, including but not limited to; acts of God, fire, riots, labor disputes, conditions of the premises, acts or omissions of the Purchaser, Owner, or other Contractors or delays caused by suppliers or subcontractors of Johnson, etc.

9. COMPLIANCE WITH LAWS. Johnson shall comply with all applicable federal, state, and local laws and regulations, and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits a permanent nature shall be procured and paid for by the Purchaser.



10. DISPUTES. All disputes involving more than \$15,000.00 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. The prevailing party shall recover all legal costs and attorneys fees incurred as a result. Nothing here shall limit any rights under construction lien laws.

11. INSURANCE. Insurance coverage in excess of Johnson's standard limits will be furnished when requested and required. No credit will be given or premium paid by Johnson for insurance afforded by others.

12. INDEMNITY. The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorney's fees which may arise in connection with the execution of the work herein specified and which are caused, by the negligent act or omission of the indemnifying Party.

13. OCCUPATIONAL SAFETY AND HEALTH. The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of the, Occupational Safety and Health Act relating in any way to the project or project site.

14. ENTIRE AGREEMENT. This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings.

15. CHANGES. No change or modification of any of the terms and conditions stated herein shall be binding upon JCI unless accepted by JCI in writing.

Memorandum

To: Bill Hanson

From: Kerry M. Leider

Date: July 14, 2015

Re: Loading Dock Leveler at Ordean East Middle School – Lipe Brothers Construction, Inc.

Attached are two (2) copies of the Agreement between Independent School District #709 and Lipe Brothers Construction, Inc. to furnish and install the loading dock leveler at Ordean East Middle School. The total estimated cost of this service is \$1,729.00.00.

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

Attachments



LIPE BROTHERS CONSTRUCTION, INC.

5116 JEAN DULUTH ROAD

PO BOX 3024

DULUTH, MN 55803

(218) 525-3364 / FAX (218) 525-9400

QUOTATION

To: David Spooner

Date: 7/9/15

“FURNISH AND INSTALL”

: PRICE

QTY	DESCRIPTION		
1	EOD w/bumpers	1127.00	
12	concrete fasteners	50.00	
6	Man hour to install edge of dock and bumpers (2 guys 3 hours)	552.00	
	TOTAL	1729.00	

ALL ELECTRICAL PERFORMED BY OTHERS ON PREPARED OPENINGS.
FLOORS ARE TO BE POURED PRIOR TO INSTALLATION.

ALL MATERIAL AND WORK PERFORMED IS GUARANTEED TO BE AS SPECIFIED IN THE CONTRACT.
ANY ALTERATIONS OR DEVIATIONS FROM ABOVE SPECIFICATIONS, INVOLVING EXTRA COST, WILL BE
EXECUTED ONLY UPON WRITTEN AUTHORIZED ORDERS AND WILL BECOME AN EXTRA CHARGE OVER AND
ABOVE THE ORIGINAL CONTRACT. LIPE BROTHERS CONSTRUCTION TAKES NO RESPONSIBILITY FOR, AND WILL
NOT BE LIABLE FOR, AGREEMENTS, CONTINGENT STRIKES, ACCIDENTS OR DELAYS BEYOND OUR CONTROL.

ALL DOORS ARE CUSTOM ORDERED AND SALES ARE FINAL.
PRICES ARE SUBJECT TO CHANGE AFTER 60 DAYS.

BY: TYLER SIMONSON

PER: LIPE BROTHERS CONST., INC.

ACCEPTED:

DATE:

7/16/15