

**SUB-RECIPIENT FUNDING AGREEMENT BETWEEN  
INDEPENDENT SCHOOL DISTRICT 709  
(ADULT BASIC EDUCATION PROGRAM  
& AREA LEARNING CENTER)  
AND  
CITY OF DULUTH  
FOR THE  
STATE OF MINNESOTA  
DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT  
WORKFORCE DEVELOPMENT DIVISION  
ADULT CAREER PATHWAYS**

**THIS AGREEMENT**, effective as of the date of attestation by the City Clerk ("Effective Date"), by and between the CITY OF DULUTH, (the "City"), and INDEPENDENT SCHOOL DISTRICT 709 on behalf of its Adult Basic Education Program & Area Learning Center, (the "Grantee").

**WHEREAS**, the City has entered into a Master Grant Agreement PY10-004 (the "Master Grant Agreement") with the State of Minnesota, acting by and through its Department of Employment and Economic Development, Workforce Development Division ("DEED") to apply for and receive funds to provide employment and training services offered through the City's Workforce Development Center. A copy of the Master Grant is attach to this Agreement as **Exhibit A**; and

**WHEREAS**, under the Master Grant Agreement, in cooperation with Grantee, the City applied to and received approval for funds in the amount of Forty-Two Thousand Seven Hundred Fifty Dollars and no/100 (\$42,750.00) from DEED under its Adult Career Pathway Program FastTRAC (the "Program Grant") for the Duluth FastTRAC project; and

**WHEREAS**, the City desires to award a portion of the Program Grant (the "Subgrant") to Grantee, and Grantee agrees to accept and utilize such proceeds for the Duluth FastTRAC project, Pathway to Health Care Careers program (the "Program").

**NOW, THEREFORE**, the parties agree to the following terms:

1. **AWARD**. The City awards a Subgrant to Grantee in the amount of Four Thousand Seven Hundred Fifty Dollars and no/100<sup>th</sup> (\$4,750.00) for Grantee's performance of its obligations under the Program Grant including but not limited to (i) planning and development of integrated curriculum instruction, (ii) recruitment of participants, (iii) development of foundational skill building required for successful completion of the Program, and (iv) providing college prep and work readiness skills for Program participants basic skill acquisition and support for continuation of career pathway training; all outlined in more detail in the Program Grant Notice of Grant Action and Workplan and budget issued by DEED to the City and attached to this Agreement as **Exhibit B** (collectively the "Notice of Grant Action"). The Subgrant must be used exclusively to pay or reimburse only expenses authorized under the Master Grant and/ or Notice of Grant Action. Administration costs incurred by the Grantee are not eligible for reimbursement via this Agreement. Notwithstanding anything to the contrary, the Grantee understands and agrees that any reduction or termination of the Program Grant may result in a like reduction or termination

of the Subgrant, and that any material change in the timeline or scope of the Program in the Notice of Grant Action must be approved in writing by the City and DEED.

**2. PERFORMANCE.** The Grantee must comply with all requirements applicable to the City in the Master Grant Agreement and/or Notice of Grant Action. Grantee's default under the Master Grant Agreement and/or Notice of Grant Action will constitute noncompliance with this Agreement. If the City finds that there has been a failure to comply with the provisions of this Agreement or that reasonable progress on the Program has not been or will not be made, the City may take action to protect its interests, including refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed. If action to correct substandard performance is not taken by the Grantee within 60 calendar days (or such longer period specified by the City) after written notice by the City, the City may terminate this Agreement.

**3. TIME OF PERFORMANCE.** Grantee may start the Program on March 1, 2012; provided that no payments shall be made to Grantee until the Effective Date. Grantee acknowledges and agrees that it must complete the Program on or before March 31, 2013. The City is not obligated to pay for any Program costs incurred after that date or any earlier termination, whichever occurs first.

**4. CONDITIONS PRECEDENT TO DISBURSEMENT.** The following requirements are conditions precedent to the City's disbursement of any of the Subgrant proceeds.

A. The Grantee must have provided the City with evidence of compliance with the insurance requirements of Section 7(E) herein.

B. The Grantee must have provided to the City such evidence of compliance with all of the provisions of this Agreement as the City may reasonably request.

**5. DISBURSEMENT.** It is expressly agreed and understood that the total amount to be paid by the City under this Agreement will not exceed \$4,750.00. The City will make disbursements only upon receipt of a written disbursement request in the form provided by DEED (the "Disbursement Request") from Grantee acceptable to the City and DEED. Payment requests may be made no more than once per month and must be accompanied by supporting documentation that relate to Program costs/fees. The City will, upon its approval of the Disbursement Request, forward the Disbursement Request to DEED for approval. Upon DEED approval of the Disbursement Request and disbursement of the approved amounts of the Notice of Grant Action funds, the City will disburse the approved amount of Subgrant funds in accordance with the information provided in the Disbursement Request.

**6. NOTICES.** Communication and details concerning this Agreement must be directed to the following Agreement representatives:

**City:** City of Duluth  
Manager, Workforce Development  
332 City Hall  
411 W. 1<sup>st</sup> Street  
Duluth, MN 55802  
Attn: Donald Hoag

**Grantee:** Independent School District 709  
Attn:

215 N. 1<sup>st</sup> Ave. E.  
Third Street Entrance  
Duluth, MN 55082

## 7. GENERAL CONDITIONS.

**A. General Compliance.** The Grantee agrees to comply with all applicable federal, state and local laws and regulations governing the project and funds provided under this Agreement.

**B. Civil Rights Assurances.** Grantee and City, and their respective officers, agents, servants and employees, as part of the consideration under this Agreement, do hereby covenant and agree that:

1. No person on the grounds of race, color, creed, religion, national origin, ancestry, age, marital status, status with respect to public assistance, sexual orientation and/or disability shall be excluded from any participation in, denied any benefits of or otherwise subjected to discrimination with regard to the services provided under this Agreement.
2. That all activities to be conducted pursuant to this Agreement shall be conducted in accordance with the Minnesota Human Rights Act of 1974, as amended (Chapter 363), Title 7 of the U.S. Code and any regulations and executive orders which may be affected with regard thereto.

**C. Independent Contractor.** Nothing contained in this Agreement is intended to, or may be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee will at all times remain an independent contractor with respect to the services to be performed under this Agreement. The City is exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers' compensation insurance because the Grantee is an independent contractor.

**D. Liability.** Each party hereto agrees that it will be solely liable for any liability arising out of any acts or omissions of itself or its officers, agents, servants, employees or subcontractors in the performance of its respective obligations under this Agreement.

Nothing herein shall be deemed to create any liability on behalf of either party not otherwise existing as to such party under the provision of the Minnesota Municipality Limitation of Liability Statute, Minnesota Statute Section 466 *et. seq.*, or to extend the amount of liability of either party to amounts in excess of that specified in said Chapter.

**E. Workers' Compensation.** The Grantee must provide workers' compensation insurance coverage for all employees involved in the performance of this Agreement.

## 8. ADMINISTRATIVE REQUIREMENTS.

**A. Accounting Standards.** The Grantee agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under this Agreement.

**B. Records.**

1. *Retention.* The Grantee must retain all records pertinent to expenditures incurred under this Agreement until conclusion of the latest of (a) six years after the Grantee has completed the Program; (b) six years after the Grantee has expended all proceeds of the Subgrant; or (c) six years after the resolution of all audit findings. Records for nonexpendable property acquired with funds under this Agreement must be retained for six years after final disposition of such property. Records for any displaced person must be kept for six years after he/she has received final payment.

2. *Inspections.* All Grantee records with respect to any matters covered by this Agreement must be made available to the City, DEED or their designees at any time during normal business hours, as often as the City or DEED deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

3. *Audits.* If requested by the City, the Grantee must have an annual financial compliance audit conducted in accordance with the City's requirements. The Grantee must submit two copies of such audit report to the City. Any deficiencies noted in such an audit report or an audit/monitoring report issued by the City or its designees must be fully resolved by the Grantee within a reasonable time period after a written request from the City. Failure of the Grantee to comply with the provisions of this paragraph will constitute a violation of this Agreement and may result in the withholding of future payments or the requirement for Grantee to return all or part of the funds already disbursed.

4. *Data Practices Act* The Grantee must comply with the Minnesota Government Data Practices Act, Chapter 13.

5. *Close-Outs.* The Grantee's obligation to the City does not end until all closeout requirements are completed. Activities during this close-out period include: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), determining the custodianship of records and resolving audit findings.

**C. Payments.** The City will pay to the Grantee funds available under this Agreement based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. Payments may be adjusted at the option of the City in accordance with advance funds and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Grantee.

**D. Procurement.** The Grantee must maintain an inventory record of all nonexpendable personal property procured with funds provided under this Agreement. All unexpended program income must revert to the City upon termination of this Agreement.

**9. MISCELLANEOUS.**

**A. Assignability.** The Grantee may not assign or transfer any interest in this Agreement (whether by assignment or novation) without the prior written consent of the City; provided, however, that claims for money due or to become due to the Grantee from the City under this Agreement may be assigned to a bank, trust company, or other financial

institution without such approval. Notice of any such assignment or transfer must be furnished promptly to the City.

B. **Waiver.** The waiver by the parties of any breach of any term, covenant, or condition herein contained, shall not be deemed a waiver of any subsequent breach of same or any other term, covenant, or condition contained herein.

C. **Severability.** In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

D. **Copyright.** If this Agreement results in any copyrightable material, the author is free to copyright the work, but the City and/or DEED reserves the right to royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for government purposes.

E. **Relationship of the Parties.** It is agreed that nothing herein contained in intended or should be construed in any manner as creating or establishing the relationship of co-partners, joint venturers, or joint enterprise between the parties hereto or an constituting either party as an agent, representative or employee of the other for any purpose or in any manner whatsoever.

F. **Governing Law.** This Agreement will be governed by, and construed in accordance with, the laws of the State of Minnesota.

G. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all of which taken together constitute one and the same agreement.

H. **Entire Agreement.** It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendments to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

**CITY OF DULUTH**

**INDEPENDENT SCHOOL DISTRICT 709**

By \_\_\_\_\_  
Mayor

By [Signature]

Attest:

Its: Adult Basic Education 5/1/02

\_\_\_\_\_  
City Clerk  
Date Attested: \_\_\_\_\_

By: [Signature]  
Its: Superintendent *WCH*

Countersigned:

\_\_\_\_\_  
City Auditor

As to form:

\_\_\_\_\_  
City Attorney



**EXHIBIT A**

**Master Grant Agreement**

**Exhibit B**

**Notice of Grant Action**

**SUB-RECIPIENT FUNDING AGREEMENT BETWEEN  
INDEPENDENT SCHOOL DISTRICT 709  
(ADULT BASIC EDUCATION PROGRAM  
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**ADULT CAREER PATHWAYS**

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**WHEREAS**, the City has entered into a Master Grant Agreement PY10-004 (the "Master Grant Agreement") with the State of Minnesota, acting by and through its Department of Employment and Economic Development, Workforce Development Division ("DEED") to apply for and receive funds to provide employment and training services offered through the City's Workforce Development Center. A copy of the Master Grant is attach to this Agreement as **Exhibit A**; and

**WHEREAS**, under the Master Grant Agreement, in cooperation with Grantee, the City applied to and received approval for funds in the amount of Eighteen Thousand Seven Hundred Fifty Dollars and no/100 (\$18,750.00) from DEED under its Adult Career Pathway Program (the "Program Grant") for the Duluth FastTRAC project; and

**WHEREAS**, the City desires to award a portion of the Program Grant (the "Subgrant") to Grantee, and Grantee agrees to accept and utilize such proceeds for the Duluth FastTRAC project, Pathway to Health Care Careers program (the "Program").

**NOW, THEREFORE**, the parties agree to the following terms:

1. **AWARD**. The City awards a Subgrant to Grantee in the amount of Four Thousand Two Hundred Fifty Dollars and no/100<sup>th</sup> (\$4,250.00) for Grantee's performance of its obligations under the Program Grant including but not limited to (i) planning and development of integrated curriculum instruction, (ii) recruitment of participants, (iii) development of foundational skill building required for successful completion of the Program, and (iv) providing college prep and work readiness skills for Program participants basic skill acquisition and support for continuation of career pathway training; all outlined in more detail in the Program Grant Notice of Grant Action and Workplan and budget issued by DEED to the City and attached to this Agreement as **Exhibit B** (collectively the "Notice of Grant Action"). The Subgrant must be used exclusively to pay or reimburse only expenses authorized under the Master Grant and/ or Notice of Grant Action. Administration costs incurred by the Grantee are not eligible for reimbursement via this Agreement. Notwithstanding anything to the contrary, the Grantee understands and agrees that any reduction or termination of the Program Grant may result in a like reduction or termination



of the Subgrant, and that any material change in the timeline or scope of the Program in the Notice of Grant Action must be approved in writing by the City and DEED.

**2. PERFORMANCE.** The Grantee must comply with all requirements applicable to the City in the Master Grant Agreement and/or Notice of Grant Action. Grantee's default under the Master Grant Agreement and/or Notice of Grant Action will constitute noncompliance with this Agreement. If the City finds that there has been a failure to comply with the provisions of this Agreement or that reasonable progress on the Program has not been or will not be made, the City may take action to protect its interests, including refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed. If action to correct substandard performance is not taken by the Grantee within 60 calendar days (or such longer period specified by the City) after written notice by the City, the City may terminate this Agreement.

**3. TIME OF PERFORMANCE.** Grantee may start the Program on March 1, 2012; provided that no payments shall be made to Grantee until the Effective Date. Grantee acknowledges and agrees that it must complete the Program on or before May 31, 2012. The City is not obligated to pay for any Program costs incurred after that date or any earlier termination, whichever occurs first.

**4. CONDITIONS PRECEDENT TO DISBURSEMENT.** The following requirements are conditions precedent to the City's disbursement of any of the Subgrant proceeds.

A. The Grantee must have provided the City with evidence of compliance with the insurance requirements of Section 7(E) herein.

B. The Grantee must have provided to the City such evidence of compliance with all of the provisions of this Agreement as the City may reasonably request.

**5. DISBURSEMENT.** It is expressly agreed and understood that the total amount to be paid by the City under this Agreement will not exceed \$4,250.00. The City will make disbursements only upon receipt of a written disbursement request in the form provided by DEED (the "Disbursement Request") from Grantee acceptable to the City and DEED. Payment requests may be made no more than once per month and must be accompanied by supporting documentation that relate to Program costs/fees. The City will, upon its approval of the Disbursement Request, forward the Disbursement Request to DEED for approval. Upon DEED approval of the Disbursement Request and disbursement of the approved amounts of the Notice of Grant Action funds, the City will disburse the approved amount of Subgrant funds in accordance with the information provided in the Disbursement Request.

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Attn:

215 N. 1<sup>st</sup> Ave. E.  
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Duluth, MN 55082

## 7. GENERAL CONDITIONS.

**A. General Compliance.** The Grantee agrees to comply with all applicable federal, state and local laws and regulations governing the project and funds provided under this Agreement.

**B. Civil Rights Assurances.** Grantee and City, and their respective officers, agents, servants and employees, as part of the consideration under this Agreement, do hereby covenant and agree that:

1. No person on the grounds of race, color, creed, religion, national origin, ancestry, age, marital status, status with respect to public assistance, sexual orientation and/or disability shall be excluded from any participation in, denied any benefits of or otherwise subjected to discrimination with regard to the services provided under this Agreement.
2. That all activities to be conducted pursuant to this Agreement shall be conducted in accordance with the Minnesota Human Rights Act of 1974, as amended (Chapter 363), Title 7 of the U.S. Code and any regulations and executive orders which may be affected with regard thereto.

**C. Independent Contractor.** Nothing contained in this Agreement is intended to, or may be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee will at all times remain an independent contractor with respect to the services to be performed under this Agreement. The City is exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers' compensation insurance because the Grantee is an independent contractor.

**D. Liability.** Each party hereto agrees that it will be solely liable for any liability arising out of any acts or omissions of itself or its officers, agents, servants, employees or subcontractors in the performance of its respective obligations under this Agreement.

Nothing herein shall be deemed to create any liability on behalf of either party not otherwise existing as to such party under the provision of the Minnesota Municipality Limitation of Liability Statute, Minnesota Statute Section 466 *et. seq.*, or to extend the amount of liability of either party to amounts in excess of that specified in said Chapter.

**E. Workers' Compensation.** The Grantee must provide workers' compensation insurance coverage for all employees involved in the performance of this Agreement.

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2. *Inspections.* All Grantee records with respect to any matters covered by this Agreement must be made available to the City, DEED or their designees at any time during normal business hours, as often as the City or DEED deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

3. *Audits.* If requested by the City, the Grantee must have an annual financial compliance audit conducted in accordance with the City's requirements. The Grantee must submit two copies of such audit report to the City. Any deficiencies noted in such an audit report or an audit/monitoring report issued by the City or its designees must be fully resolved by the Grantee within a reasonable time period after a written request from the City. Failure of the Grantee to comply with the provisions of this paragraph will constitute a violation of this Agreement and may result in the withholding of future payments or the requirement for Grantee to return all or part of the funds already disbursed.

4. *Data Practices Act* The Grantee must comply with the Minnesota Government Data Practices Act, Chapter 13.

5. *Close-Outs.* The Grantee's obligation to the City does not end until all closeout requirements are completed. Activities during this close-out period include: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), determining the custodianship of records and resolving audit findings.

**C. Payments.** The City will pay to the Grantee funds available under this Agreement based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. Payments may be adjusted at the option of the City in accordance with advance funds and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Grantee.

**D. Procurement.** The Grantee must maintain an inventory record of all nonexpendable personal property procured with funds provided under this Agreement. All unexpended program income must revert to the City upon termination of this Agreement.

**9. MISCELLANEOUS.**

**A. Assignability.** The Grantee may not assign or transfer any interest in this Agreement (whether by assignment or novation) without the prior written consent of the City; provided, however, that claims for money due or to become due to the Grantee from the City under this Agreement may be assigned to a bank, trust company, or other financial

institution without such approval. Notice of any such assignment or transfer must be furnished promptly to the City.

B. **Waiver.** The waiver by the parties of any breach of any term, covenant, or condition herein contained, shall not be deemed a waiver of any subsequent breach of same or any other term, covenant, or condition contained herein.

C. **Severability.** In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

D. **Copyright.** If this Agreement results in any copyrightable material, the author is free to copyright the work, but the City and/or DEED reserves the right to royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for government purposes.

E. **Relationship of the Parties.** It is agreed that nothing herein contained in intended or should be construed in any manner as creating or establishing the relationship of co-partners, joint venturers, or joint enterprise between the parties hereto or an constituting either party as an agent, representative or employee of the other for any purpose or in any manner whatsoever.

F. **Governing Law.** This Agreement will be governed by, and construed in accordance with, the laws of the State of Minnesota.

G. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all of which taken together constitute one and the same agreement.

H. **Entire Agreement.** It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendments to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

**CITY OF DULUTH**

**INDEPENDENT SCHOOL DISTRICT 709**

By \_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk  
Date Attested: \_\_\_\_\_

Countersigned:

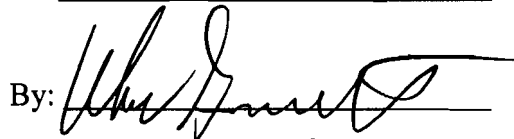
\_\_\_\_\_  
City Auditor

As to form:

\_\_\_\_\_  
City Attorney

By 

Its: Adult Basic Education 5/1/12

By: 

Its: Superintendent 



**EXHIBIT A**

**Master Grant Agreement**

**Exhibit B**

**Notice of Grant Action**

**School Nutrition Programs  
Renewal of Contract for Vended Meals  
School Year 2012-13**

A contract for vended meals may be renewed for an additional term upon mutual agreement of the SFA and Vendor if the original contract allowed renewals and specified an economic index for adjusting contract prices. This template for Renewal of Contract for Vended Meals must be used for renewal, without change or removal of any provisions except for inserting required information.

**1. Definitions**

“SFA” refers to the school food authority that is contracting for the meals and will claim the meals for reimbursement through School Nutrition Programs.

SFA: Harbor City International School

SFA’s Sponsor ID Number (CLiCS) 1000005760

“Vendor” refers to the company, school or other organization providing meals to the SFA.

Vendor: Duluth Public Schools/ISD #709

**2. Renewal of Contract**

SFA and Vendor mutually agree to renew the original Contract for Vended Meals dated 5/15/2012 for the term indicated below.

Start Date for Renewed Contract for Vended Meals: 08/31/2012

End Date for Renewed Contract for Vended Meals: 06/07/2013.

This is the 1st time that the Contract for Vended Meals has been renewed.

A public school SFA may renew a contract for up to two years in compliance with state law; an SFA that is not a public school may renew a contract for up to four years in compliance with program regulations.

**3. Contract Terms; Price Adjustments**

SFA and Vendor agree to the terms of the original Contract for Vended Meals, as adjusted here, for the term of the renewed contract. SFA will pay the fixed meal price specified in the original

contract, as adjusted here. Vendor will not charge any fees, or request reimbursement of costs, in addition to the adjusted fixed meal prices.

**a. Financial Terms**

	<p><b>Meal services</b></p> <p><b>Lunch</b>                      2012-13 \$3.00</p>

**b. Non-Financial Terms**

Minor adjustments to non-financial terms of the original contract may be made. Major changes to contractual responsibilities may not be made without rebidding.

Describe any adjustments to non-financial terms here:

Lunch will be served in bulk to be distributed by the staff at Harbor City International School. Harbor City Staff will dispense the meals according to USDA regulations as has been done in the past.

**4. USDA Foods**

Vendor will credit SFA for the cash value of USDA Foods received for use. Any costs to Vendor of receiving and using USDA Foods are included in the fixed meal charges; Vendor will not charge any fees, or request reimbursement of any costs, related to USDA Foods.

**5. Vendor Certification Statements (check one)**

The renewed contract is expected to be less than \$25,000. No additional certification statements from Vendor are required to be attached.



The renewed contract is expected to meet or exceed \$25,000 but not to exceed \$100,000. Vendor has completed and attached a signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower-tier Covered Transactions form.

The renewed contract is expected to exceed \$100,000. Vendor has completed and attached: (1) the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower-tier Covered Transactions form; (2) the Certification Regarding Lobbying form; and, (3) if applicable as described on the Certification Regarding Lobbying form, the Disclosure of Lobbying Activities form.

**Signatures**

SFA Name: Harbor City International School

Authorized Representative: Emma Rusten

Title: Student Nutrition Coordinator


Signature of Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_

Vendor Name: Duluth School District/ISD #709

Authorized Representative: William Hanson

Title: Director of Business Services

Signature of Authorized Representative: 

Date: May 10, 2012

Final Rule Nutrition Standards in the National School Lunch and School Breakfast Programs – Jan. 2012

	Breakfast Meal Pattern			Lunch Meal Pattern		
	Grades K-5 <sup>a</sup>	Grades 6-8 <sup>a</sup>	Grades 9-12 <sup>a</sup>	Grades K-5	Grades 6-8	Grades 9-12
<b>Meal Pattern</b>	<b>Amount of Food<sup>b</sup> Per Week (Minimum Per Day)</b>					
Fruits (cups) <sup>c,d</sup>	5 (1) <sup>e</sup>	5 (1) <sup>e</sup>	5 (1) <sup>e</sup>	2½ (½)	2½ (½)	5 (1)
Vegetables (cups) <sup>c,d</sup>	0	0	0	¾ (¾)	¾ (¾)	5 (1)
Dark green <sup>f</sup>	0	0	0	½	½	½
Red/Orange <sup>f</sup>	0	0	0	¾	¾	1¼
Beans/Peas (Legumes) <sup>f</sup>	0	0	0	½	½	½
Starchy <sup>f</sup>	0	0	0	½	½	½
Other <sup>f,g</sup>	0	0	0	½	½	¾
Additional Veg to Reach Total <sup>h</sup>	0	0	0	1	1	1½
Grains (oz eq) <sup>i</sup>	7-10 (1) <sup>j</sup>	8-10 (1) <sup>j</sup>	9-10 (1) <sup>j</sup>	8-9 (1)	8-10 (1)	10-12 (2)
Meats/Meat Alternates (oz eq)	0 <sup>k</sup>	0 <sup>k</sup>	0 <sup>k</sup>	8-10 (1)	9-10 (1)	10-12 (2)
Fluid milk (cups) <sup>l</sup>	5 (1)	5 (1)	5 (1)	5 (1)	5 (1)	5 (1)
<b>Other Specifications: Daily Amount Based on the Average for a 5-Day Week</b>						
Min-max calories (kcal) <sup>m,n,o</sup>	350-500	400-550	450-600	550-650	600-700	750-850
Saturated fat (% of total calories) <sup>n,o</sup>	< 10	< 10	< 10	< 10	< 10	< 10
Sodium (mg) <sup>n,p</sup>	≤ 430	≤ 470	≤ 500	≤ 640	≤ 710	≤ 740
Trans fat <sup>n,o</sup>	Nutrition label or manufacturer specifications must indicate zero grams of trans fat per serving.					

<sup>a</sup>In the SBP, the above age-grade groups are required beginning July 1, 2013 (SY 2013-14). In SY 2012-2013 only, schools may continue to use the meal pattern for grades K-12 (see § 220.23).

<sup>b</sup> Food items included in each food group and subgroup and amount equivalents. Minimum creditable serving is ¼ cup.

<sup>c</sup>One quarter-cup of dried fruit counts as ½ cup of fruit; 1 cup of leafy greens counts as ½ cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

<sup>d</sup>For breakfast, vegetables may be substituted for fruits, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans and peas (legumes) or “Other vegetables” subgroups as defined in §210.10(c)(2)(iii).

<sup>e</sup>The fruit quantity requirement for the SBP (5 cups/week and a minimum of 1 cup/day) is effective July 1, 2014 (SY 2014-2015).

<sup>f</sup>Larger amounts of these vegetables may be served.

<sup>g</sup> This category consists of “Other vegetables” as defined in §210.10(c)(2)(iii)(E). For the purposes of the NSLP, “Other vegetables” requirement may be met with any additional amounts from the dark green, red/orange, and beans/peas (legumes) vegetable subgroups as defined in §210.10(c)(2)(iii).

<sup>h</sup>Any vegetable subgroup may be offered to meet the total weekly vegetable requirement.

<sup>i</sup>At least half of the grains offered must be whole grain-rich in the NSLP beginning July 1, 2012 (SY 2012-2013), and in the SBP beginning July 1, 2013 (SY 2013-2014). All grains must be whole grain-rich in both the NSLP and the SBP beginning July 1, 2014 (SY 2014-15).

<sup>j</sup>In the SBP, the grain ranges must be offered beginning July 1, 2013 (SY 2013-2014).

<sup>k</sup>There is no separate meat/meat alternate component in the SBP. Beginning July 1, 2013 (SY 2013-2014), schools may substitute 1 oz. eq. of meat/meat alternate for 1 oz. eq. of grains after the minimum daily grains requirement is met.

<sup>l</sup>Fluid milk must be low-fat (1 percent milk fat or less, unflavored) or fat-free (unflavored or flavored).

<sup>m</sup>The average daily amount of calories for a 5-day school week must be within the range (at least the minimum and no more than the maximum values).

<sup>n</sup>Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, trans fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent milk fat are not allowed.

<sup>o</sup>In the SBP, calories and trans fat specifications take effect beginning July 1, 2013 (SY 2013-2014).

<sup>p</sup>Final sodium specifications are to be reached by SY 2022-2023 or July 1, 2022. Intermediate sodium specifications are established for SY 2014-2015 and 2017-2018. See required intermediate specifications in § 210.10(f)(3) for lunches and § 220.8(f)(3) for breakfast

**STATE OF MINNESOTA  
PROFESSIONAL AND TECHNICAL SERVICES CONTRACT**

This contract is between the State of Minnesota, acting through its Commissioner of the **Minnesota Department of Education**, 1500 Highway 36 West, Roseville, MN 55113-4266 ("State") and **Duluth Public School, ISD 709**, 215 North First Avenue East, Duluth, MN 55802-2069 ("Contractor").

**Recitals**

1. Under Minnesota Statute §15.061 the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of assistance with regard to federal requirements for districts with disproportionate representation in special education programs.
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this contract to the satisfaction of the State.

**Contract**

**1 Term of Contract**

- 1.1 **Effective date:** **May 14, 2012**, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.  
**The Contractor must not begin work under this contract until this contract is fully executed and the Contractor has been notified by the State's Authorized Representative to begin the work.**
- 1.2 **Expiration date:** **August 31, 2012**, or until all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms.** The following clauses survive the expiration or cancellation of this contract: 8. Indemnification; 9. State Audits; 10. Government Data Practices and Intellectual Property; 14. Publicity and Endorsement; 15. Governing Law, Jurisdiction, and Venue; and 16. Data Disclosure.

**2 Contractor's Duties**

The Contractor, who is not a state employee, will provide the following services:

The Special Education Policy Division of the Minnesota Department of Education is required to identify districts that have racial disproportionality. The Division must gather information from these districts that is incorporated into the Annual Performance Report (APR) and submitted to the Office for Special Education Programs (OSEP) at the USDE. The Duluth Public School District has been identified as having disproportionate representation of American Indian students and to have inappropriate practices. The district will carry out the following tasks:

- Gather information regarding the underlying causes of overrepresentation of American Indian students in special education programs in the Duluth Public Schools.
- Review district policies, procedures and practices related to the special education referral and identification of American Indian students.
- Identify areas for correction of noncompliance and/or areas of program improvement.
- Provide MDE with a summary of the information gathered as well as an action plan to address the causes of disproportionate representation.

This information will be provided to MDE in written form for use in the APR. The Special Education Policy Division will also use this information in order to improve its own initiatives to reduce disproportionate representation of American Indian students in districts across the state.

**3 Time**

The Contractor must comply with all the time requirements described in this contract. In the performance of this contract, time is of the essence.

**4 Consideration and Payment**

4.1 **Consideration.** The State will pay for all services performed by the Contractor under this contract as follows:

- (A) **Compensation.** The Contractor will be paid **\$5,000.00** for the services it provides to the State.
- (B) **Travel Expenses.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of this contract will not exceed **\$0.00**; provided that the Contractor will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations, which is incorporated in to this contract by reference. The Contractor will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.
- (C) **Total Obligation.** The total obligation of the State for all compensation and reimbursements to the Contractor under this contract will not exceed **\$5,000.00**

4.2. **Payment.**

- (A) **Invoices.** The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely and according to the following schedule:

Submit invoices to:  
MN Department of Education  
Accounts Payable Section  
1500 Highway 36 West  
Roseville, MN 55113-4266

- (B) **Retainage.** Under Minnesota Statutes Section 16C.08, subdivision 5(b), no more than 90% of the amount due under this contract may be paid until the final product of this contract has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of this contract.
- (C) **Federal funds.** (Where applicable, if blank this section does not apply) Payments under this contract will be made from federal funds obtained by the State through Part B 611 Grants to States CFDA number 84.027A of the Individuals with Disabilities Act of 2004. The Contractor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements.

Federal grant recipients, sub-recipients and their grant personnel are prohibited from text messaging while driving a government owned vehicle, or while driving their own privately owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email when driving. Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", October 1, 2009.

**5 Conditions of Payment**

All services provided by the Contractor under this contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the Office of the Secretary of State. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

**6 Authorized Representatives**

The State's Authorized Representative is **Elizabeth Watkins, 1500 Highway 36 West, Roseville, MN 55113, 651-582-8678**, or his/her successor, and has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Contractor's Authorized Representative is **Laura Fredrickson, Duluth Public School, ISD 709, 215N. First Avenue East, Duluth, MN 55802, (218) 336-8741 [laura.fredrickson@duluth.k12.mn.us](mailto:laura.fredrickson@duluth.k12.mn.us)** or his/her successor. If the Contractor's Authorized Representative changes at any time during this contract, the Contractor must immediately notify the State.

**7 Assignment, Amendments, Waiver, and Contract Complete**

- 7.1 **Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this contract without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this contract, or their successors in office.
- 7.2 **Amendments.** Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.
- 7.3 **Waiver.** If the State fails to enforce any provision of this contract, that failure does not waive the provision or its right to enforce it.
- 7.4 **Contract Complete.** This contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

**8 Indemnification**

In the performance of this contract by Contractor, or Contractor's agents or employees, the contractor must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the state, to the extent caused by Contractor's:

- 1) Intentional, willful, or negligent acts or omissions; or
- 2) Actions that give rise to strict liability; or
- 3) Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the State's failure to fulfill its obligation under this contract.

**9 State Audits**

Under Minnesota Statute § 16C.05, subdivision 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this contract.

**10 Government Data Practices and Intellectual Property**

**10.1. *Government Data Practices.*** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minnesota Statute Ch. 13, (or, if the State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State under this contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this contract. The civil remedies of Minnesota Statute § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statute Ch. 13, by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this Clause, the Contractor must immediately notify the State, and consult with the agency as to how the Contractor should respond to the request. The Contractor's response to the request shall comply with applicable law.

**10.2. *Intellectual Property Rights.***

(A) *Intellectual Property Rights.* The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents *created and paid for under this contract*. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this contract. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of this contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

**(B) *Obligations***

- (1) *Notification.* Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.
- (2) *Representation.* The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor

will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

**11 Workers' Compensation and Other Insurance**

A. Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

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

1. **Workers' Compensation Insurance:** Except as provided below, Contractor must provide Workers' 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. Insurance **minimum** limits are as follows:

\$100,000 – Bodily Injury by Disease per employee  
\$500,000 – Bodily Injury by Disease aggregate  
\$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance.

2. **Commercial General Liability Insurance:** 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 from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence  
\$2,000,000 – annual aggregate  
\$2,000,000 – annual aggregate – Products/Completed Operations

The following coverage shall be included:

Premises and Operations Bodily Injury and Property Damage  
Personal and Advertising Injury  
Blanket Contractual Liability  
Products and Completed Operations Liability  
State of Minnesota named as an Additional Insured



3. **Commercial Automobile Liability Insurance:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverage should be included:

Owned, Hired, and Non-owned Automobile

C. Additional Insurance Conditions:

- Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of Contractor's performance under this contract;
- Contractor's policy(ies) and Certificate(s) of Insurance shall contain a provision that coverage afforded under the policy(ies) shall not be cancelled without at least thirty (30) days advanced written notice to the State of Minnesota;
- Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- Contractor's policy(ies) shall include legal defense fees in addition to its liability policy limits;
- Contractor shall obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
- An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.

D. The State reserves the right to immediately terminate the contract if the contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's authorized representative upon written request.

E. The contractor is required to submit Certificates of Insurance acceptable to the State of MN as evidence of insurance coverage requirements prior to commencing work under the contract.

Further, the Contractor certifies that it is in compliance with Minnesota Statute § 176.181, subdivision 2, pertaining to workers' compensation insurance coverage. The Contractor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the State's obligation or responsibility.

**12 Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions**

Contractor certifies that neither it nor its principles is presently debarred or suspended by the State, or any of its departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the contract award was based. Contractor shall provide immediate written notice to the State's authorized representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

**13 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion**

Federal money will be used or may potentially be used to pay for all or part of the work under this contract, therefore Contractor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion as required by the regulations implementing Executive Order 12549. Contractor's certification is a material representation upon which this contract is based.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions**

Instructions for Certification – by signing this contract, the lower tier participant is providing the certification set out below.

- (A) The certification in this clause is a material representation of fact upon which reliance is placed as entering into this contract. If it is later determined that the lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- (B) The lower tier participant shall provide immediate written notice to the State's authorized representative if at any time the lower tier participant learns that its certification was erroneous at the time of execution of the contract or becomes erroneous by reason of changed circumstances.
- (C) The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the State's authorized representative for assistance in obtaining a copy of those regulations.
- (D) The lower tier participant agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this contract, unless authorized by the State's authorized representative for this contract.
- (E) The lower tier participant further agrees by entering into this contract that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (F) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs
- (G) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- (H) Except for transactions authorized under paragraph D of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction/contract originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

The lower tier participant certifies, by executing this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

**14 Publicity and Endorsement**

14.1 **Publicity.** Any publicity regarding the subject matter of this contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this contract.

14.2 **Endorsement.** The Contractor must not claim that the State endorses its products or services.

**15 Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this contract. Venue for all legal proceedings out of this contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**16 Data Disclosure**

Under Minnesota Statute § 270C.65, Subdivision 3 and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

**17 Payment to Subcontractors**

(If applicable) As required by Minnesota Statute § 16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

**18 Termination**

18.1 **Termination by the State.** The State or commissioner of Administration may cancel this contract at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

18.2 **Termination for Insufficient Funding.** The State may immediately terminate this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Contractor. The State is not obligated to pay for any services that are provided after

notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.

**19 Minnesota Statute § 181.59**

The vendor will comply with the provisions of Minnesota Statute § 181.59 which require:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

**20 21 E-Verify Certification (In accordance with Minn. Stat. §16C.075)**

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

**21. 325I.05 VIDEO CAPTIONING.**

Subdivision 1. **Requirement.** A person may not in the ordinary course of business distribute a prerecorded videocassette tape or similar audio-visual material to a videotape seller or videotape service provider unless it is open-captioned or closed-captioned for the deaf and hard of hearing. For purposes of this section, "videotape seller" and "videotape service provider" have the meanings given them in section 325I.01.

Subd. 2. **Enforcement.** A person who violates this section is subject to the penalties and remedies provided in section 8.31, except subdivision 3a.

Subd. 3. **Application.** This section applies to prerecorded videocassette tapes or similar audio-visual material that:

- (1) is primarily produced for sale to educational institutions, training facilities, state or local government agencies, or medical facilities; and
- (2) is released or rereleased on or after June 1, 1997, and more than 500 copies are produced in the release or rerelease; or
- (3) is produced by a governmental entity for educational purposes.

**History:** 1995 c 143 s 1

**22. Other Provisions:**

**Printed Material**

The following criteria are to be used for all publications or other content created for the Minnesota Department of Education intended for dissemination:

- Use only print-quality department logo. Request a copy from [linda.hildebrant@state.mn.us](mailto:linda.hildebrant@state.mn.us).
- Copy must follow latest edition of the AP (Associated Press) Stylebook.
- Copy must be free of typographical and grammatical errors.
- Font size will be, minimally, 12 pt. Times Roman, 11 pt. Arial, or comparable size.
- Manuals should be created in PDF with bookmarks (preferred) or include a linked Table of Contents if created in Word.
- Presentations must be narrated, part of a recorded presentation, or include notes pages, not be standalone slideshows.

Please direct your questions to the Authorized Representative for this contract.

**Accessibility Standards** *(for contracts involving IT services (and incidental goods) in excess of \$25,000)*

Contractor shall comply with the Minnesota IT Accessibility Standards effective September 1, 2010, which entails, in part, the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 Subparts A-D which can be viewed at: [http://www.mmd.admin.state.mn.us/pdf/accessibility\\_standard.pdf](http://www.mmd.admin.state.mn.us/pdf/accessibility_standard.pdf)

**1. STATE ENCUMBRANCE VERIFICATION**

*Individual certifies that funds have been encumbered as required by Minnesota Statute §§ 16A.15 and 16C.05.*

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**3. STATE AGENCY: Minnesota Department of Education**

By: \_\_\_\_\_  
(with delegated authority)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**2. CONTRACTOR: Duluth Public School, ISD 709**

The Contractor certifies that the appropriate person(s) have executed the contract on behalf of the Contractor as required by applicable articles, by laws, resolutions, or ordinances.

By: W. K. Hanson

Title: CFO

Date: 5/15/12

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**4. COMMISSIONER OF ADMINISTRATION**

**As delegated to Materials Management Division**

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution:  
Agency  
Contractor  
State's Authorized Representative - Photo Copy

Aspire Fund Raising  
 Catalog Agreement  
 3088 E. Commercial Dr  
 Aspire, MI 48642  
 PH 800-969-1255 FX (800) 734-8710

**SCHOOL INFORMATION**

NAME Lincoln Park Middle School-6<sup>th</sup> grade  
 STREET ADDRESS 3215 West 3<sup>rd</sup> St.  
 CITY Duluth ST MN ZIP 55806  
 PHONE ( 218 ) 626-4512  
 FAX ( 218 ) 626-4520  
 PRINCIPAL Denise Clairmont  
 PRINCIPAL EMAIL denise.clairmont@duluth.k12.mn.us  
 SECRETARY Susan Cora  
 MFR CODE m0058725

**CONTACT INFORMATION**

NAME Linda Mooers (Mooers)  
 ADDRESS 3215 West 3<sup>rd</sup> St.  
 CITY Duluth ST MN ZIP 55806  
 PHONE ( 218 ) 626-4512 Ext 157  
 ALT PHONE ( ) work cell  
 EMAIL Linda.mooers@duluth.k12.mn.us  
 ALT CONTACT NAME Nicole Munthe  
 ALT CONTACT PHONE ( 218 ) 626-4572  
 ALT CONT EMAIL Nicole.munthe@duluth.k12.mn.us

SALES MATERIAL		SALES & DATES	
MAIN BROCHURE <u>Holidays Wrapped UP</u>	40 % PROFIT MAG INSERT? <input checked="" type="checkbox"/> KEEP / REMOVE	OPEN HOUSE PRODUCT ASSIGNED YES / <input checked="" type="checkbox"/> NO	OPEN HOUSE LEVEL ASSIGNED <u>N/A</u>
TAG 1 <u>Heavenly Delights</u>	CANDY? <input checked="" type="checkbox"/> KEEP / REMOVE	OPEN HOUSE DATE <u>N/A</u>	SEND TO (CIRCLE ONE) CONTACT / <input checked="" type="checkbox"/> SCHOOL / REP
TAG 2 <u>n/a</u>	PLY RETAIL <u>\$9727.50</u>		
PRIZE BROCHURE <u>Custom</u>	PRIZE BROCHURE SAMPLES YES / <input checked="" type="checkbox"/> NO		
TEACHER APPRECIATION <input checked="" type="checkbox"/> REDEMPTION FLYER / NONE	# OF GRADES <u>1</u>	FUND RAISER START DATE (KICKOFF) - KICKOFF MATERIALS SENT 2 WEEKS PRIOR <u>October 8<sup>th</sup>, 2012</u>	
ENROLLMENT <u>300</u>	# OF CLASSROOMS <u>11</u>	KICKOFF ASSEMBLY DATE & TIME <u>October 8<sup>th</sup>, 2012</u>	
# OF VOLUNTEER GIFTS <u>8</u>	# OF TEACHERS <u>11</u>	KICKOFF VIDEO <input checked="" type="checkbox"/> YES / NO	
MISC		STUDENT ORDER TURN IN DATE <u>October 22<sup>nd</sup>, 2012</u>	
		ORDER MAIL IN DATE <u>October 29<sup>th</sup>, 2012</u>	
		MONEY DUE DATE OR NUMBER OF DAYS FROM DELIVERY IF POST PAY <u>30 days</u>	
DELIVERY INFO. & DATES			
FOR OFFICE USE ONLY <input checked="" type="checkbox"/> UPS / CUSTOM		PAYMENT METHOD - CIRCLE ONE <input checked="" type="checkbox"/> PREPAY / POSTPAY / PAY-AT-DELIVERY	
DELIVER NO LATER THAN <u>12-1-12</u>		CHECKS PAYABLE TO <u>Lincoln Park Middle School</u>	
PREFERRED DELIVERY WINDOW (2 hour window on custom deliveries) <u>N/A</u>		MISC. NOTES -	
MULTI SCHOOL YES / <input checked="" type="checkbox"/> NO	Separate Invoices <u>n/a</u> YES / NO		
PLEASE NOTE ALL RETURNS WILL BE PROCESSED FOR REPLACEMENT OR CREDIT UP TO 30 DAYS FROM DELIVERY DATE			
MISC. NOTES - * IF MULTI SCHOOL AGREEMENT, LIST SCHOOL NAMES HERE			

CUSTOMER INITIALS: WCH AFR REP INITIALS JLM DATE: 5/29/12 Page 1 of 2 - 3-15-12

ORG NAME, CITY, ST Lincoln Park Middle School - 6<sup>th</sup> grade Duluth, MN

**PROPOSAL SPECIFICS**

YEAR(S) / SEASON(S) BOOKED <u>Fall 2012</u>	TAG PROFIT 1 <u>40%</u>
MAIN PROFIT <u>53%</u> ( <u>5% on retail less than 9K</u> )	TAG PROFIT 2 <u>N/A</u>
SPECIAL OFFERS <small>FALL MAIN PROGRAMS ONLY- INDICATE YEARS &amp; ANY REMAINING BALANCES. OFF INVOICE APPLIES TO MAIN BROCHURE ONLY. MULTIPLE AGREEMENT'S APPLICABLE FOR FALL MAIN PROGRAMS ONLY. MFRC EVENT-MINIMUM \$200 DRIVER / ATTENDANTY FEE APPLIES.</small>	

<b>Interactive Elements</b>	<small>All interactive prize elements are shipped at kickoff. We will do our best to estimate needs for 5 in 5 &amp; 10 in 10. Our estimates are based on your enrollment and estimated retail. If additional prizes are needed, expect 1 to 2 weeks for delivery. Additional Prog Mats &amp; Guitar Hero Games can be purchased for \$10.00 each. For those sales less than \$10000.00, a \$150.00 interactive cost share is required.</small>		
5 in 5 <u>(Yes) / No</u>	10 in 10 <u>(Yes) / No</u>	Text Message Pen <u>(Yes) / No</u>	Peace Frags <u>(Yes) / No</u>
Interactive Event <u>Yes / (No)</u>	Item/Event Chosen <u>N/A</u>	Level <u>N/A</u>	Your raise kit includes 8 mechanical animals, detailed instructions and 2 posters. Additional animals can be purchased at \$5.50 per. <u>Kit Only</u>
Plus 8 Personalized Product <u>Yes / No</u>	Item Chosen _____	Credit _____	You will be charged .75 per personalized piece. You will be credited for the amount listed to the left.
Add School Spirit <u>Yes / No</u>	Item Chosen _____	Credit _____	You will be charged regular price per personalized piece. You will be credited for the amount listed to the left.

INCENTIVE DETAILS	Structure	Product	Q
<u>3% off invoice - level 5</u>			<u>X</u>
<u>Chance drawing 1 of 3 - \$15 iTunes gift Cards - Level 15</u>		<u>X</u>	
<u>"Property of Lincoln Park Middle School" backpacks - Level 18</u>		<u>X</u>	
<u>Chance drawing 1 of 2 \$20 in Movie Money + \$10 pinner - Level 20</u>			<u>X</u>
<u>Chance drawing iPod Shuffle and \$15 iTunes gift Card - Level 25</u>		<u>X</u>	
<u>\$60 Target gift Card - Level 30</u>			<u>X</u>
<u>Kindle Reader - Top Seller</u>		<u>X</u>	
<u>\$50 pre paid Visa - 2nd place Top Seller</u>			<u>X</u>

**MFRC EVENTS AND SERVICES EQUIPMENT REQUEST** EVENTS, DATES, TIMES & EQUIPMENT ARE AVAILABLE ON A FIRST COME FIRST SERVE BASIS. ALL EVENTS AND DELIVERIES (INCLUDING MONEY BOOTH) CARRY A \$200.00 DELIVERY FEE.

**REPRESENTATIVE NOTES (OSC USE ONLY)**

**FOR MICHIGAN CUSTOMERS ONLY (PLS CIRCLE ONE)** I will pay my own sales tax - I want AFR to pay my sales tax

**TERMS:**  
 AFR program is conducted prior to any other fund raiser during the same season unless otherwise agreed upon with your AFR Representative (agreement must be made in writing). If total retail should fall below \$5,000.00, tag profit will be less 5%. If sale falls below \$8,000.00, all profit will be less 5%. For Ultimate party programs, if customer total retail ranges from \$15-\$19999.00, customer will be charged \$400.00 as an investment share. For Ultimate party programs, if customer total retail ranges from \$10-14999.00, customer will be charged \$300.00 as an investment share. For Ultimate party programs, if customer total sales are less than \$10000.00, customer will be charged \$1200.00 as an investment share.  
**PAYMENT DUE UPON RECEIPT OF FINAL INVOICE**  
 I have the authority to contract for the organization named above and accept full responsibility for the care of the product that will be delivered to this organization. Furthermore, Aspire Fund Raising cannot be held responsible for possible fraud or loss to the above group through our sale. An interest charge of 1.5% per month will be added to overdue accounts. This agreement supersedes any previous written or verbal agreements. Involuntary cancellation may result in an adjustment to the signing bonus, profit and/or prize incentive program and may also be subject to any administration fees or charges. In the event of a tie, the organization is responsible for the resolution. If gift cards/prizes are lost or stolen, it is the organization's responsibility to obtain replacements. Any unauthorized change from post-pay to pre pay will result in forfeiture of all, or a portion of, the agreed signing bonus & a charge for 1/2 of all prize costs. For product returns received after original invoice, customer will receive refund check. Customer service, late orders and returns not accepted after 30 days from delivery.  
**STATE OF MICHIGAN SALES TAX**  
 Customer accepts full responsibility for any applicable state tax obligation. Customer agrees to collect, process and submit payment if applicable. If a customer chooses "I want AFR to pay my sales tax", Aspire Fund Raising will facilitate the deposit of the contracted organization's Michigan Sales Tax sales tax obligation, regardless of organization's status or obligation (if any) and profit percentages are based on the pretax retail price of all products sold. If the customer chooses "I will pay my own sales tax" or the choice is not indicated above, the customer accepts responsibility for any applicable sales tax obligation payment and profit percentages are based on retail price of all products. No verbal agreements between parties at any time will be accepted.

\* SIGNATURE: W. Hanson  
 TITLE: CFO

AFR REP: Jessica MacLowski  
 DATE: 5/29/12