



### Regular Meeting Agenda

Diamondhead Education Center  
200 W. Burnsville Parkway  
Burnsville, MN 55337  
April 4, 2013  
6:30 PM

I. Call to Order

- A. Welcome
- B. Pledge of Allegiance
- C. Public Recognition
  - 1. Nordic Ski Team
  - 2. Cheerleading Team
  - 3. Cast from BHS production of "Beauty and the Beast"

II. Business Meeting

- A. Approval of Agenda
- B. Consent Agenda

**Description:** Although Board action is required, it is generally unnecessary to hold discussion on these items. In the event a Board member wishes to discuss an item, that item will be moved for separate consideration.

- 1. Minutes from March 14, April 1, April 2, and April 3, 2013 Board Meetings 3
- 2. Human Resources 9
- 3. Donations 11
- 4. Approve Temporary Recoding of Dual-coded Policies: ABB/GBB, ABC/JFB, ACA/JBA, ACB/JBB, AFCA/GCNA and AFCB/GCNB. 12
- 5. Approve Cancellation of Special Board Meeting on April 11, 2013, at 7:45 p.m. at the Administrative Services Center 28

III. New Business

- A. Approve 2013-14 Calendar for Early Childhood Special Education Program (5 minutes) (Corbey) 29
- B. Adopt Resolution Granting a Property Tax Abatement for Certain Property in the City of Shakopee, Minnesota. 31

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District 191 welcomes members of the public to attend Board of Education meetings, work sessions and other public gatherings. However, public participation is allowed only during listening sessions, which are held before regular board meetings. Community members who wish to share their thoughts and opinions on meeting topics should contact the Superintendent's office at 952-707-2005 to schedule a meeting with the Superintendent or member of her leadership team.

C. Approve a Contract for Private Development, Including a Business Subsidy Agreement for Rosemount, Inc.	53
D. Approve on a First Reading Basis, Board Policy 412: <i>Expense Reimbursement for Travel</i> (5 Minutes) (Clegg)	113
E. Approve on a First Reading Basis, Board Policy 423: <i>Employee - Student Relationships</i> (5 minutes) (Clegg)	121
F. Approve Collective Bargaining Agreement with the District-wide Administrators (5 minutes) (Clegg)	126
IV. Reports	
A. Student Advisor	
B. Superintendent	
C. Board Members	
1. Legislative Committee Report	
V. Adjourn	

School Board Minutes  
 INDEPENDENT SCHOOL DISTRICT 191  
 March 14, 2013

The meeting of the Board of Education was called to order by Chair Sweep at 6:30 p.m. at the Diamondhead Education Center.

Call to Order

Members present: Directors Currier, Schmid, Teiken, Hill, Luth, VandenBoom and Chair Sweep. Others in attendance were Superintendent Clegg, administrators and staff.

Attendance

Chair Sweep welcomed the audience and asked Director VandenBoom to lead the Pledge of Allegiance.

Pledge of Allegiance

Public recognition was given to Tarissa Jackson who is the recipient of the Minnesota Aspirations for Women in Computing Award, and Burnsville Winter Sports were recognized for their successes.

Public Recognition

A special thank you to Director Teiken for her service as a board member.

Moved by Director Hill, seconded by Director Luth, to approve the agenda. Motion carried (7, 0).

Agenda

Moved by Director Schmid, seconded by Director Teiken, to approve the consent agenda.

Consent Agenda

- Minutes of the March 7, 2013 board meeting.
- Personnel changes for K. Reagan, S. Andrews, J. Wallace, and J. Bethel.
- Donations: R. Machelski donated \$100.00 to Sioux Trail for the media center; J. and J. Sorlie gave \$100.00 and Blue Cross/Blue Shield donated \$39.00 to Gideon Pond for student learning; Scott County donated \$7,429.47 for the recycling program at Eagle Ridge, Harriet Bishop, Hidden Valley, and MW Savage; Gus/Jen Fundraiser donated \$4,215.00 for scholarships; and M. and T. Carman donated \$125.00 to Metcalf for scholarships for drama students.
- Approve February payroll checks, and direct deposit notices, in the net amount of \$3,539,367.54. February and March claims to date and wire transfers and adjustments totaling \$5,717,555.65. Approve receipts of \$10,021,970.58 and investments for the General Fund, 2011 Alt. Facilities, 2012A Alt Facilities, and OPEB of \$62,508,532.75 as of February 28, 2013.
- Accept the Budget Analysis for the month ending February 28, 2013.

Minutes  
 HR Report

Donations

Payroll, Claims  
 and Receipts

Budget Analysis

- Schedule a special board workshop on April 1, 2013, at 6:00 p.m., at the Administrative Services Center (100 River Ridge Ct., Burnsville).
- Schedule special board meetings on April 2 and 3, 2013, at 5:30 p.m., at the Administrative Services Center (100 River Ridge Ct., Burnsville).
- Schedule special board meetings on April 9, 10, and 11, at 7:45 p.m., at the Administrative Services Center (100 River Ridge Ct., Burnsville) for interviewing superintendent candidate finalists.
- Appoint Director VandenBoom to the Board Agenda Committee and Chair Sweep as the Foundation 191 liaison until the Board of Education conducts its reorganization meeting in January, 2014.

Schedule Board Workshops and Special Meetings

Appoint Board Committees

Chair Sweep made special mention of retirements and generous donations. Motion carried (7, 0).

Moved by Director Currier, seconded by Director VandenBoom, to approve, on a second reading basis, minor revisions to *Board Policy 208: Development, Adoption and Implementation of Policies*. Motion carried (7, 0).

Policy 208

Moved by Director Schmid, seconded by Director Luth, to approve on a second reading basis, Policy 602: *Organization of School Calendar and School Day*. Motion carried (7, 0).

Policy 602

Moved by Director VandenBoom, seconded by Director Hill, to approve on a second reading basis, Policy 705.1: *Post Issuance Debt Compliance Policy*. Motion carried (7, 0).

Policy 705.1

Moved by Director VandenBoom, seconded by Director Schmid, to adopt a resolution establishing the procedure to fill a school board director vacancy by appointment and schedule a public work session on May 2, 2013 to interview applicants.

Resolution to Fill Vacated Board Seat

**WHEREAS**, a vacancy exists on the Board of Education due to the resignation of Paula Teiken;  
and

**WHEREAS**, a vacancy exists, in the office of school board director, with a term expiring the first Monday of January, 2015, and,

**WHEREAS**, the vacancy occurs before the first day to file affidavits of candidacy for the next school district general election; and

**WHEREAS**, less than two years remain in the unexpired term.

**NOW THEREFORE, BE IT RESOLVED** by the Board of Education of Independent School District No. 191, State of Minnesota, as follows:

1. The Board will appoint an individual to serve in the vacant director's position until a successor is qualified at the next general election.
2. The Superintendent is hereby authorized to issue a public statement announcing a vacancy exists on the Board of Education and persons interested in being considered for the vacant director's position may make application.
3. The Board of Education authorizes the Superintendent to accept applications from individuals interested in filling the vacant director's position beginning on April 1, 2013, at 8:00 a.m. and ending on April 30, 2013, at 1:00 p.m.
4. The Board of Education, at a public work session to be held on May 2, 2013, will interview all eligible individuals whom have submitted a complete application for the vacant director's position.
5. The Board of Education, during a regular business meeting of the Board to be held May 16, 2013, will determine by a simple majority vote of the quorum an appointee to fill the vacant director's position.
6. The appointment will be evidenced by a resolution adopted by the Board of Education and entered into the School Board minutes and will continue until an election is held under Minnesota Statutes Section 123B.09, Subd. 5.
7. The appointee will be sworn in as a director of the Independent School District No. 191 Board of Directors during a regular business meeting of the Board to be held on June 6, 2013.

Motion carried (7, 0).

Moved by Director Hill, seconded by Director Luth, to approve the release for bid the specifications for Cedar 917 modifications.

Motion carried (7, 0).

Moved by Director Teiken, seconded by Director VandenBoom to adjourn to a workshop on concurrent enrollment at 7:00 p.m. Motion carried (7, 0).

Adjourn to  
workshop

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Bob VandenBoom, Clerk

**Special Session Minutes**  
**INDEPENDENT SCHOOL DISTRICT 191**  
**April 1, 2013**

The School Board Special Session was called to order by Chair Sweep at 5:30 p.m. at the Administrative Services Center.

Call to Order

Members present: Directors Currier, Hill, Schmid, VandenBoom, Luth and Chair Sweep. Others in attendance were search firm representatives, members of the public, administrators, and staff.

Attendance

Chair Sweep welcomed the audience and asked Director VandenBoom to lead the Pledge of Allegiance.

Pledge of Allegiance

The following item(s) were discussed:

Interviews

- Superintendent candidate semi-finalists were presented by School Exec Connect.

Moved by Director Luth, seconded by Director Schmid, to approve the field of candidates. Motion carried (6, 0).

Moved by Director VandenBoom, seconded by Director Currier to adjourn at 7:30 p.m. Motion carried (6, 0).

Adjourn

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Bob VandenBoom, Clerk

**Special Session Minutes  
INDEPENDENT SCHOOL DISTRICT 191  
April 2, 2013**

The School Board Special Session was called to order by Chair Sweep at 5:30 p.m. at the Administrative Services Center.

Call to Order

Members present: Directors Currier, Hill, Schmid, VandenBoom, Luth and Chair Sweep. Others in attendance were search firm representatives, superintendent candidates, members of the public, administrators, and staff.

Attendance

Chair Sweep welcomed the audience and asked Director Hill to lead the Pledge of Allegiance.

Pledge of Allegiance

The following item(s) were discussed:

Interviews

- Superintendent candidate semi-finalists were interviewed by the ISD 191 Board of Education.

Moved by Director Schmid, seconded by Director VandenBoom to adjourn at 9:05 p.m. Motion carried (6, 0).

Adjourn

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Bob VandenBoom, Clerk

**Special Session Minutes  
INDEPENDENT SCHOOL DISTRICT 191  
April 3, 2013**

The School Board Special Session was called to order by Chair Sweep at 5:30 p.m. at the Administrative Services Center.

Call to Order

Members present: Directors Currier, Hill, Schmid, VandenBoom, Luth and Chair Sweep. Others in attendance were search firm representatives, superintendent candidates, members of the public, administrators, and staff.

Attendance

Chair Sweep welcomed the audience and asked Director Currier to lead the Pledge of Allegiance.

Pledge of Allegiance

The following item(s) were discussed:

Interviews

- Superintendent candidate semi-finalists were interviewed by the ISD 191 Board of Education.

Moved by Director Luth, seconded by Director Hill to adopt a resolution to move forward to the second round of interviews with Mr. Joseph Gothard and Mr. Darren Kermes for the superintendent position. Motion carried (6, 0).

Resolution

Moved by Director Currier, seconded by Director Schmid to adjourn at 8:10 p.m. Motion carried (6, 0).

Adjourn

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Bob VandenBoom, Clerk

**Burnsville-Eagan-Savage Public Schools  
Independent School District 191  
Human Resources**

TO: Members, Board of Education  
Randall Clegg, Superintendent

FROM: Stacey Sovine, Director of Labor Relations

DATE: April 4, 2013

RE: Recommended Personnel Changes

**Administrative  
Appointment**

Jeff Nepsund \*Replacement-Principal, MWS, 12 months per year,  
effective 7/1/13

Brad Robb \*Replacement-Principal, VV, 12 months per year,  
effective 7/1/13

**Certified  
Appointment**

David Crowley -Replacement-Long term substitute, Math, 1.0 FTE,  
NJH, effective 3/15/13-6/6/13

Kelsey Filipi \*New-Teacher, ECSE, (3-5 year old), .5 FTE, effective  
4/3/13

Julie Isakson -Replacement-Long term substitute, Grade 5, 1.0 FTE,  
Byrne, effective 3/12/13-6/7/13

Benjamin Stock -Replacement-Long term substitute, Science, 1.0 FTE,  
MJH, effective 3/15/13 - 5/17/13

Andrew Tofte -Replacement-Long term substitute, Intervention, 1.0  
FTE, Byrne, effective 1/28/13-5/21/13

**Leave of Absence**

Anna Abbe -Teacher, MJH, requests a 1.0 FTE parental leave of  
absence, effective 4/24/13 through 5/17/13

Kristen Anderson -Teacher, Byrne, requests a 1.0 FTE parental leave of  
absence, effective 5/8/13 - 5/21/13

Carrie Brett -Guidance Counselor, (currently on leave), requests a  
1.0 FTE parental leave of absence, effective for the  
2013/14 school year

Laurie Coddington -Teacher, (currently on leave), requests to extend her 1.0  
FTE parental leave of absence through the end of the  
2012/13 school year and for the 2013/14 school year

**Classified**  
**Appointment**

Maryan Ali

\*New-EA, 6.5 hrs/day, Districtwide, effective 4/11/13

10

Maria Beltran

\*New-EA, 6.5 hrs/day, Districtwide, effective 4/11/13

Lori Miller

-Replacement-2nd Cook, 3.25 hrs/day, ERJH, effective 3/19/13

Eric Wendorf

-Replacement-B Shift Custodian, 4 hrs/day, ST and 4 hrs/day BAHS, effective 3/13/13

**Change in Assignment**

Joelle Larson

-Assignment changes to 2nd Cook, 3.75 hrs/day, GP, effective 4/1/13

**Resignation**

Janelle Dokken

\*2nd Cook (currently on leave), effective 4/26/13






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Superintendent of Schools

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**TO:** Members, Board of Education Agenda Item III.B.4

**FROM:** Randy Clegg, Superintendent

**DATE:** April 4, 2013

**RE:** Board Policy Temporary Recoding

**Recommendation:** That the Board of Education approve the temporary recoding of Policy ABB/GBB: *Administrative Operations - Meet and Confer* to ABB; Policy ABC/JFB: *Student Involvement in Decision Making* to ABC; Policy ACA/JBA: *Violence - Harassment* to ACA; Policy ACB/JBB: *Respectful Behavior* to ACB; Policy AFCA/GCNA *Evaluation of Professional Staff - Administrative* to AFCA; and Policy AFCB/GCNB: *Evaluation of Professional Staff - Non Administrative* to AFCB.

As part of the ongoing work to update the Board of Education's governance policies, the Board Policy Committee has identified several policies with dual coding. This action will simplify the process of locating and/or updating policies in the Board Policy Manual.

Descriptor Term: **Administrative Operations – Meet and Confer**

Descriptor Code: **ABB/GBB**

Issued Date: **1/90**

Reviewed Date:

Revised Date: **7/01**

Rescinds: **ABB-R/GBB-R**

The purpose of this policy is to outline the district's obligations under M.S. 179A.07 to meet and confer with professional employees to discuss policies and other matters relating to their employment which are not terms and conditions of employment.

#### Principals' Meet and Confer Committee (Formerly Principals' Policy Consultants)

The Board, mindful of its statutory obligations to meet and confer with professional employees, provides for a Principals' Meet and Confer Committee.

The Board shall receive and consider all reports, analyses, and recommendations of the Principals' Meet and Confer Committee but expressly reserves the right to adopt, amend, or reject all or any part of any report, analysis or recommendation

#### Teacher Meet and Confer Committees (Formerly Professional Advisory Committee)

The Board, mindful of its statutory obligations to meet and confer with professional employees, provides for a Teachers' Meet and Confer Committee.

The Board shall receive and consider all reports, analyses, and recommendations of the Teachers' Meet and Confer Committee, but expressly reserves the right to adopt, amend or reject all or any part of any report analysis or recommendation.

#### Meet and Confer Committees

The Meet and Confer Committees will be composed of two separate committees, an employer committee and an employee committee.

The employer committee shall be composed of the following members, Executive Director of Human Resources, Director of Curriculum, Assistant Superintendent for Instruction, one senior high school principal, one junior high principal, and one elementary school principal (six (6) members).

The (teacher) employee committee composition shall be determined by the organization of the teacher professional employees, not to exceed sixteen (16) in number.

The (principal) employee committee composition shall be determined by the organization of the principals' professional employees not exceeding six (6) in number.

Such committee (s) shall meet on a regular basis, at least once every four (4) months, with the purpose of assisting the Board in the development of policies.

The joint meetings of the Meet and Confer Committees shall be co-chaired by an employer and employee representative designated by each party.

The joint meetings of the Meet and Confer Committees shall have their agendas determined by the co-chairs based on input from their committees and constituents.

Employer and employee agenda items shall be rotated on the agenda so as to have equal time for each side on discussion issues.

The discussion and mutual exchange of ideas in the committees shall consider all matters subject to the restrictions of Public Employment Labor Relations Act.

At the conclusion of each meeting, the committees shall jointly submit a complete report of the deliberations to the Superintendent.

The Superintendent shall submit the report with an attachment of an analysis and recommendations, if any, to the Board by the second Board meeting following receipt of report.

The Board, as a matter of regular practice, adopts policies or changes in policy after two hearings to allow input from all parties concerned.

A teacher representative to the Meet and Confer Committee who is responsible for seeking teacher input and reporting policy changes, may be designated for each annual policy review committee.

In the event of individual policy review, the Meet and Confer Committee teacher co-chairperson will receive a copy of revisions before the Board's first hearing.

The Board, mindful of its statutory obligations and duties, shall receive and consider the reports, analyses and recommendations, if any, but expressly reserves the right to adopt, amend, or reject all or any part of any report, analysis or recommendation.

**Legal References:**

Minn. Stat. § 179 A .06 et al

Minn. Stat. § 179 A .07 et al

Descriptor Term: **Student Involvement in Decision Making**

Descriptor Code: **ABC/JFB**

Issued Date: **7/85**

Reviewed Date:

Revised Date:

Rescinds:

A student advisor shall be selected from the student body of the Burnsville Senior High School to serve on the School Board. This student representative will provide student views and suggestions in regard to the development of educational policies and programs.

Descriptor Term: **Student Involvement in Decision Making**

Descriptor Code: **ABC-R & JFB-R**

Issued Date: **7/85**

Reviewed Date:

Revised Date:

Rescinds:

#### Selection

A senior high school student shall be selected as a student advisor to the Board.

#### Eligibility

The person selected from the student body shall be a member of the junior class during the selection period.

#### Term

The student advisor shall serve for one fiscal year.

#### Election

The high school administration and Student Council shall establish the date and method for selection within the guidelines of this regulation and submit the name of the appointee to the Board.

#### Duties

The student advisor shall attend all Board meetings and provide perspective, from the point of view, to Board deliberations.

If the selected student advisor is unable to attend a meeting, the Senior High School Student Council president shall serve as a temporary substitute.

The student advisor will prepare for Board meetings by becoming familiar with agenda items and attached materials received prior to each Board meeting.

The student advisor shall participate in the regular Board orientation and any other in-servicing activities deemed appropriate by the Superintendent.

#### Limitations

The student advisor shall not vote on issues before the Board.

The student advisor shall not be furnished material pertaining to;

- a) personnel matters
- b) negotiation materials
- c) land acquisition information,
- d) legal action strategy
- e) student discipline materials.

#### Legal Reference:

Minn. Stat. § 123. 744

Descriptor Term: **Violence - Harassment**

Descriptor Code: **ACA/JBA**

Issued Date: **6/93**

Reviewed Date: **3/94**

Revised Date: **3/94**

Rescinds:

It is the policy of Independent School District 191 to maintain a learning and working environment free of harassment and violence. The School District prohibits any form of harassment or violence.

It shall be a violation of this policy for any student or employee of the School District to be violent to a student or to an employee as defined by this policy.

Violence or harassment on the part of or directed against vendors, volunteers and other visitors to the School District is also a violation of this policy. References to "persons" in this policy include students, employees, parents, vendors, volunteers and other visitors to the School District. This policy applies to conduct in school, on school grounds, or at a school-sponsored activity.

The School District will investigate all complaints, either formal or informal, verbal or written, of actions or statements which may constitute violence or harassment and will take appropriate action toward any student or employee who is violent toward or harasses any individual (s) in school, on school grounds, or at a school-sponsored activity.

Descriptor Term: **Violence - Harassment**  
 Descriptor Code: **ACA/JBA-R**  
 Issued Date: **6/93**  
 Reviewed Date: **3/94**  
 Revised Date: **3/94**  
 Rescinds:

#### VIOLENCE DEFINED

Violence is a physical or verbal act of aggression towards individuals or property.

Violence may include, but is not limited to:

- a. combat in which one or the other party (ies) contributed to the situation by verbal and/or physical action;
- b. inflicting, attempting to inflict, or threatening to inflict bodily harm upon another person;
- c. acting with intent to cause fear in another person of bodily harm or death;
- d. committing an assault upon another person with or without a weapon;
- e. destroying and/or stealing property.

Sexual violence is a physical act of aggression that includes a sexual act or sexual purpose.

Sexual violence may include, but is not limited to:

- a. nonconsensual sexual intercourse or sexual contact with another person;
- b. touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- c. intentional removal or attempted removal of clothing covering a person's intimate parts or clothing covering a person's undergarments.

#### HARASSMENT DEFINED

Harassment is participating in or conspiring for others to engage in intentional conduct in a manner that would cause a reasonable person under the circumstances to feel oppressed, persecuted, or intimidated; and causes this reaction on the part of the victim. Harassment includes, but is not limited to, words, spoken or written, or actions that negatively impact an individual or group as defined below:

- a. race
- b. color
- c. sex
- d. disability
- e. religion
- f. creed
- g. national origin or culture
- h. age
- i. marital status
- j. sexual orientation
- k. socio-economic status

- l. veteran's status
- m. physical or mental attributes

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
- b. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
- c. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or education environment.

Any sexual harassment as defined when perpetrated on any student or employee by any student or employee will be treated as sexual harassment under this policy.

Sexual harassment may include, but is not limited to:

- a. verbal harassment or abuse;
- b. subtle pressure for sexual activity;
- c. inappropriate patting or pinching;
- d. intentional brushing against a student's or employee's body;
- e. demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
- f. demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or
- g. any sexually motivated unwelcome touching.

#### REPORT PROCEDURES:

Any person who believes he or she has been the victim of violence or harassment by a student or an employee of the School District, or any third person with knowledge of belief of conduct which may constitute harassment or violence should report the alleged acts immediately to a trusted adult.

Any employee who receives such a report must then report the alleged acts immediately to a School District official as designated by this policy.

The School District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the District Office of Human Resources.

#### IN EACH SCHOOL BUILDING:

The building principal, with input from the site council, shall designate one male and/or one female to receive oral or written reports of violence or harassment at the building level. These individuals are hereafter identified as resolution managers. If the complaint involves the resolution manager, the complaint shall be filed directly with the building principal or with the District Human Rights Officer, the Assistant Superintendent for Human Resources.

By authority of the School District, the building principal or resolution manager, upon receipt of a report or complaint alleging violence or harassment, shall immediately conduct an investigation or shall immediately notify the Human Rights Officer without screening or investigating the report. An investigation may be conducted by the School District officials or by a third party designated by the Human Rights Officer, as authorized by the School District.

The investigating party shall provide a written report of the status of the investigation within 5 working days to the building principal or to the Human Rights Officer. Failure to forward any violence or harassment report or complaint as provided herein may result in disciplinary action against the investigating party.

#### DISTRICT WIDE:

The School Board hereby designates the Assistant Superintendent for Human Resources as the Human Rights Officer to receive reports or complaints of violence and harassment from any individual, employee or victim of violence or harassment and also from the building principals and resolution managers as outlined above. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the Superintendent.

The School District shall conspicuously post the name of the Human Rights Officer, including a mailing address and telephone number. Each building shall additionally post the names of its resolution managers.

Submission of a complaint or report of violence or harassment will not affect the complainant's future employment, grades or work assignments. Use of formal reporting forms are not mandatory.

The School District will respect the confidentiality of the complainant and the individual (s) against whom the complaint is filed as much as possible, consistent with the School District's legal obligations and the necessity to investigate allegations of violence or harassment and take disciplinary action when the conduct has occurred.

#### INVESTIGATION AND RECOMMENDATION

By authority of the School District, the building principal, resolution manager or the Human Rights Officer, upon receipt of a report or complaint alleging or violence or harassment must immediately begin an investigation. The investigation may be conducted by the School District officials or by a third party designated by the School District. The investigating party shall provide a written report of the status of the investigation within 5 working days to the building principal and to the Human Rights Officer.

Whether a particular action or incident constitutes violence or harassment requires a determination based on all facts and surrounding circumstances.

The investigation may consist of personal interviews with the complainant, the individual (s) against whom the complaint is filed, and others who may have knowledge of the alleged incident (s) or circumstances giving rise to complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator, excluding any mandated meeting of the complainant and alleged harasser. In addition, the School District may take immediate steps, at its discretion, to protect the complainant, the individual (s) against whom the complaint is filed, students and employees pending completion of an investigation of alleged violence or harassment.

The Human Rights Officer shall maintain summary records of all complaints of violence and harassment.

**REPRISAL**

The school District will discipline any individual who retaliates against any person who testifies, assists or participates in any manner in an investigation, proceeding or hearing relating to a violence or harassment complaint.

Reprisal includes, but is not limited to, any form of intimidation, retaliation, or harassment.

The School District will discipline any individual who retaliates against any person who reports alleged violence or harassment.

**APPROPRIATE ACTION**

The School District will take action it deems necessary and appropriate in cases in which employees, students, vendors, volunteers or other visitors to the School District are determined (1) to have engaged in violence or harassment towards others on School District property or at School District functions, or (2) to have retaliated against a complainant.

In the case of students, such action may include, but is not limited to, any or all of the following to punish violence and harassment and prevent its recurrence:

- assignments designed to increase awareness and sensitivity to the issue of harassment;
- administrative (administrator or designee) conference with student or parent and student
- referral to outside agency;
- referral to law enforcement officials;
- assignment to an alternative educational program;
- detention, removal from class, dismissal, suspension, expulsion;
- compliance with penalties recommended by the Minnesota State High School League.

In the case of employees, such action may include, but is not limited to, any or all of the following to punish violence and harassment and prevent its recurrence:

- oral reprimand;
- written reprimand;
- suspension without pay;
- termination.

Descriptor Term: **Respectful Behavior**  
 Descriptor Code: **ACB/JBB**  
 Issued Date: **1/93**  
 Reviewed Date: **6/07**  
 Revised Date: **6/07**  
 Rescinds:

## RESPECTFUL BEHAVIOR

The Board of Education of Independent School District 191 recognizes the contributions of all individuals in achieving its mission of providing an exceptional education for every student. District staff, parents, students and community members have unique perspectives that are critical to attaining this goal.

The Board of Education will encourage the exchange of perspectives in an atmosphere of mutual respect. Staff, parents, students and community members should be treated in a manner, which enhances self-esteem and supports the dignity of the individual.

The Board of Education also believes that creating a positive climate for students, staff, and community is critical to the achievement of the District's mission. To create this positive climate, every individual must act with respect.

For purposes of this policy, "respect" means to value one's self and to act out of consideration for others.

Examples of respectful behavior toward others include but are not limited to:

- treating others as you would like them to treat you
- valuing the perspectives of others
- listening to the views of others
- demonstrating courtesy toward others
- recognizing the feelings of others
- acknowledging the efforts of others
- appreciating the contributions of others
- honoring the property rights of others
- responding to questions and concerns in a thoughtful, professional manner
- expressing differing views in a considerate manner
- offering suggestions for improvement in a positive manner
- communicating verbally or in writing in a considerate manner and appropriate tone

Descriptor Term: **Respectful Behavior**

Descriptor Code: **ACB/JBB**

Issued Date: **1/93**

Reviewed Date: **6/07**

Revised Date: **6/07**

Rescinds:

Examples of disrespectful behavior toward others include but are not limited to:

- using intimidation to frighten, demoralize, or coerce others
- using terms, or symbols which demean individuals or groups
- telling stories or jokes which degrade individuals or groups
- swearing or using vulgar language
- showing irreverence to the sincere beliefs of others
- ridiculing the efforts of others
- employing destructive criticism
- defacing or destroying the property of others
- humiliating others through personal attacks
- imitating others in a way that ridicules or stereotypes a person or a group
- communicating to others verbally in an unprofessional or inappropriate tone, such as yelling or screaming

#### CONSEQUENCES FOR DISRESPECTFUL BEHAVIOR

##### Students

Offenses may result in any or several of the following consequences depending upon all of the circumstances, including the pupil's prior disciplinary offences:

Verbal conference with student, verbal conference with student and parent, written warning of non-compliance to student and/or parent, removal from class, restriction of privileges, detention, in-school suspension, and/or out-of-school suspension.

##### Staff

Offenses may result in any or several of the following consequences depending upon all of the circumstances, including the employee's prior disciplinary offences:

Verbal conference, memo of advice, formal letter of reprimand, and/or suspension without pay.

##### Community

Offenses may result in any or several of the following consequences depending upon all of the circumstances:

Discontinuation of communication, verbal notification, written notification, and/or restriction of privileges.

If the disrespectful behavior is determined to be harassment, policy and regulation ACA/JBA will be followed. This policy will be included in parent, student and staff handbooks.

Descriptor Term: **Evaluation of Professional Staff - Administrative**

Descriptor Code: **AFCA/GCNA**

Issued Date: **6/82**

Reviewed Date:

Revised Date:

Rescinds:

#### Administrative Appraisal

There shall be performance guidelines or standards which staff members may use in self-evaluation and which evaluators may employ as they counsel and assist those whom they are evaluating.

Descriptor Term: **Evaluation of Professional Staff – Non Administrative**

Descriptor Code: **AFCB/GCNB**

Issued Date: **4/87**

Reviewed Date:

Revised Date:

Rescinds:

Evaluation is a summative description of an employee's performance in all areas of his/her responsibility. It is a system to identify competencies/deficiencies relative to an employee's job description and leads to determination of continuation, remediation-continuation, or termination. Evaluation addresses values and judgments about the criteria considered.

An employee's strengths and weaknesses shall be described as they support or diminish the mission of the school district.

An evaluation shall be written, as prescribed by the district, and placed in the employee's personnel file.

Evaluation shall lead to continuing employment, a plan for the remediation of deficiencies, or termination.

Frequency of evaluation shall be determined by the school board.

Self -evaluation shall be encouraged as an aid in the identification of performance strengths and weaknesses.

Administration shall be provided training to maintain and improve competencies related to evaluation procedures.

The school district has responsibility to maintain a fair staff evaluation program that fosters trust and professional growth.

Descriptor Term: **Evaluation of Professional Staff – Non Administrative**

Descriptor Code: **AFCB/GCNB-R**

Issued Date: **4/87**

Reviewed Date:

Revised Date:

Rescinds:

Tenured licensed staff members shall have one written evaluation each year and non-tenured licensed staff members shall have three written evaluations each year.

The written evaluation shall be based on at least one formal observation.

Principals shall submit written evaluations of those licensed personnel under their supervision to the Personnel Office by the end of the school year.

Director of Special Education Services will assist in evaluating staff members in the Special Education Services Division.

#### Method of Evaluation

Written documentation must be submitted to the staff member so that oral or written reaction is possible.

The employee's signature is required on all performance documents indicating that the document has been received; however the signature does not necessarily indicate agreement.

Failure to adjust to the documented criticisms may result in the non-renewal of the contract.

Non-tenure teachers shall have the protection of M. S. 125. 12

#### Procedures for Termination of Services

##### Tenure Teachers

The staff member to be recommended for termination of contract shall be so informed prior to March 1.

Such a communication shall include a listing of the reasons for such actions based on prior documentation of administrative evaluation.

The staff member shall have an opportunity to submit a formal response for inclusion in the legal records of the District.

A Board hearing shall be held under the provision of M. S. 125. 12. 9, when a tenure teacher is involved, if the teacher requests a hearing.

Descriptor Term: **Evaluation of Professional Staff – Non Administrative**

Descriptor Code: **AFCB/GCNB**

Issued Date: **4/87**

Reviewed Date:

Revised Date:

Rescinds:

#### Non-Tenure Teachers

The staff member to be recommended for non-renewal of contract shall be so informed prior to June 1.

If the teacher request reasons for non-renewal of contract, reasons shall be given by the Board within ten (10) days of receiving such request.

Both notification and reason shall be delivered to the teacher involved.





# Independent School District 191

## Burnsville/Eagan/Savage

### Birth-3 ECSE Program

### 2013-2014 Calendar

- School in Session
- Holidays/Breaks
- Teacher Workdays (Without Students)

July 2013						
S	M	T	W	T	F	S
	<del>1</del>	<del>2</del>	<del>3</del>	<del>4</del>	<del>5</del>	6
7	8	9	10	11	12	13
14	15	16	17	18	<del>19</del>	20
21	22	23	24	25	<del>26</del>	27
28	29	30	31			

August 2013						
S	M	T	W	T	F	S
				1	2	3
4	<del>5</del>	<del>6</del>	<del>7</del>	<del>8</del>	<del>9</del>	10
11	<del>12</del>	<del>13</del>	<del>14</del>	<del>15</del>	<del>16</del>	17
18	<del>19</del>	<del>20</del>	<del>21</del>	<del>22</del>	<del>23</del>	24
25	26	27	28	29	<del>30</del>	31

September 2013						
S	M	T	W	T	F	S
1	<del>2</del>	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

October 2013						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	<del>15</del>	<del>16</del>	<del>17</del>	<del>18</del>	19
20	<del>21</del>	22	23	24	25	26
27	28	29	30	31		

November 2013						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	<del>25</del>	<del>26</del>	<del>27</del>	<del>28</del>	<del>29</del>	30

December 2013						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	<del>23</del>	<del>24</del>	<del>25</del>	<del>26</del>	<del>27</del>	28
29	<del>30</del>	<del>31</del>				

January 2014						
S	M	T	W	T	F	S
			<del>1</del>	<del>2</del>	<del>3</del>	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February 2014						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	<del>10</del>	<del>11</del>	<del>12</del>	<del>13</del>	<del>14</del>	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

March 2014						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	<del>24</del>	<del>25</del>	<del>26</del>	<del>27</del>	<del>28</del>	29
30	<del>31</del>					

April 2014						
S	M	T	W	T	F	S
		<del>1</del>	<del>2</del>	<del>3</del>	<del>4</del>	5
6	7	8	9	10	11	12
13	14	15	16	17	<del>18</del>	19
20	21	22	23	24	25	26
27	28	29	30			

May 2014						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	<del>19</del>	<del>20</del>	<del>21</del>	<del>22</del>	<del>23</del>	24
25	<del>26</del>	27	28	29	30	31

June 2014						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	<del>16</del>	<del>17</del>	<del>18</del>	<del>19</del>	<del>20</del>	21
22	<del>23</del>	<del>24</del>	<del>25</del>	<del>26</del>	<del>27</del>	28
29	<del>30</del>					

**CITY OF SHAKOPEE**  
*Memorandum*

TO: School Board, ISD 191  
Dr. Randall Clegg, Superintendent

FROM: Mark McNeill, Shakopee City Administrator

SUBJECT: Emerson Process Management/Rosemount, Inc. Questions; Requested Action

DATE: March 27, 2013

**Introduction:**

The purpose of this memorandum is to provide written answers to questions which were raised at the ISD 191 public hearing on March 7<sup>th</sup> to consider economic development incentives for Emerson Process Management/Rosemount, Inc.

The Board is also asked to approve actions which would provide for the requested property tax abatement and entering into a Development Agreement with the company.

**Background:**

In February, the School Board heard information regarding a request of Emerson Process Management (Rosemount, Inc.) for School District economic development participation by means of the abatement of property taxes for a project that is proposed to be located in Shakopee, and that is within District 191's boundaries. The School Board held a public hearing was called on March 7<sup>th</sup>

Several questions were raised at the public hearing. Several of those were answered at the hearing by City and Rosemount representatives who were in attendance, but other questions were not. As a result, we have been asked to provide written answers for those questions which appear to not have been answered at that meeting. The questions and answers are as follows:

1. *How was the amount of the abatement calculated?*

*Answer:* Please see attachment from Springsted, Inc. Springsted is the City's financial analyst, and has provided project information to Scott County as well as the City.

2. *What benefits does the School District obtain by participating in the abatement program?*

*Answer:* The existing ADC 2 building has been vacant since construction was abandoned in 2000. As a result, the property has been declining in taxable value since then. If the Rosemount project becomes a reality, the valuation will increase from the current \$8.85

million, to \$21 million upon completion. After the abatement period expires, ISD 191 will share in the newly created tax base.

There would be a regional job creation between 500 to 1,200 jobs, which will result in increased demand for housing, which will lead to increased property values, meaning a higher tax base for local units of government, including ISD 191. Of the current 2,000 current Rosemount employees who work in Chanhassen and Eden Prairie, 150 of those live in Burnsville, Eagan, or Savage. Rosemount expects that a proportionate number of the new jobs which are created in Shakopee would live in ISD 191. This would result in an increased student enrollment for the district.

With annual ISD 191 abatement amounts projected to range from \$38,713 in the first year, to 44,960 in year nine, adding between 7.5 and 8.6 students (at today's per pupil aid of \$5224 annually) from new Rosemount families will potentially offset the amount of abatement.

As stated at the March 7th meeting, Rosemount will partner with the School District for educational opportunities. Rosemount is pleased that the District's requested contract language will memorialize Rosemount's commitment to that partnership with the School District. It looks forward to including employee engagement opportunities, support at career fairs, and field trips as described in the language. Rosemount is also very interested in working with the School District to provide sponsorship of technology-related initiatives.

Rosemount has had a long history of hiring engineering graduates from the University of Minnesota in its internship program. Rosemount would welcome the opportunity to work with ISD 191 to explore ways to extend the STEM partnership at all levels of the student population.

Finally, Rosemount notes that it has a very large and active United Way program, which benefits the greater Twin Cities area. Increased employment at the Rosemount plant in Shakopee will lead to continued growth in that program as well.

3. *Why is the number of jobs specified now at 400, when earlier discussion had the new jobs to be created at 500?*

*Answer:* There has been no change in the overall plan for the facility or for the intended job creation for this project—that is still estimated to be 500 jobs. However, based on input from the State of Minnesota and their approach to these types of agreements, their recommendation is that the compliance agreement be based on a more conservative job target (400) to avoid minor deviations resulting from job timing in the future. Rosemount prefers to have one set of headcount targets for compliance reporting, and so has requested that the state and local agreements follow a consistent approach. We believe the overall benefits of the project would still be realized with the lower target.

We hope that this answers the questions which were raised at the public hearing. Representatives of the City, its financial and legal advisors, and Rosemount personnel will be in attendance at the School Board meeting of April 4<sup>th</sup> to address these issues in more detail, should the need arise.

**Action Requested:**

The School Board is asked to adopt the Resolution granting a property tax abatement for the property to be acquired by Emerson Process Management/Rosemount, Inc., and approving a Contract for Private Development.



Mark McNeill  
Mark McNeill  
Shakopee City Administrator

MM:en

cc: Shakopee Mayor and Council  
Rosemount, Inc.



Springsted Incorporated  
 380 Jackson Street, Suite 300  
 Saint Paul, MN 55101-2887  
 Tel: 651-223-3000  
 Fax: 651-223-3002  
 www.springsted.com

## MEMORANDUM

TO: Mark McNeill, City Administrator  
 Julie Linnihan, Finance Director

FROM: Mikaela Huot, Vice President/Consultant  
 Paul Steinman, Vice President/Client Representative

DATE: March 27, 2013

SUBJECT: School District Share of Tax Abatement Revenues for proposed Emerson Project

The City has been approached by Emerson for tax abatement assistance related to the proposed renovation of an existing commercial facility within the City of Shakopee. Following renovation, Emerson would immediately occupy approximately 300,000 of an available 500,000 square feet facility (former vacant ADC building) with plans to retrofit and move into the remaining space at a future date.

Emerson has also asked for assistance from both Scott County and ISD 191, with participation subject to any policy discussions and approval by the respective boards. Based on meetings representatives from the City of Shakopee and Emerson have had with the ISD 191 School Board members, it is our understanding some questions have been raised regarding the projected amounts by taxing entity within the proposed tax abatement area. The purpose of this memo is to outline the assumptions used to project the tax abatement revenues for the City, County and ISD 191.

### **Tax Abatement Assumptions**

The tax abatement revenue projections are based on the incremental value increase associated with Emerson's proposed investment in the existing facility. This has been estimated to be \$12.15M, creating a total estimated market value of \$21.0M (current land and building value is \$8.85M). Commercial-industrial class rates are applied to the estimated taxable market values, pursuant to the Minnesota property tax law system, and the fiscal disparities contribution attributable to the new commercial-industrial tax abatement market value has been applied. This calculation provides the 'net' captured tax capacity of the proposed project based on Emerson's anticipated investment. Each jurisdiction's local tax capacity rate, excluding the market value referendum rate, is multiplied by the 'net' captured tax capacity to generate the projected tax abatement revenues. The calculation for each entity is based on the following local tax capacity rates (proposed payable 2013 rates):

- o City of Shakopee: 42.053%
- o Scott County: 40.637%
- o ISD 191 26.131%

The estimated tax abatement amounts for each participating taxing entity will be a separate levy, in addition to the existing levies. Each year of the abatement term, the participating entities would add the abatement amount to their individual existing levies. For School Districts, this will be an additional non-voter approved levy and should not impact their existing voter-approved levies as they are separate. The tax abatement revenue calculations illustrated in the table below are based on the incremental new growth of the proposed project. Assuming all other variables remain constant, each taxing entity should see an increase in the taxable market value and tax capacity resulting from the new project that would offset the additional abatement levy.

	<b>City</b>	<b>County</b>	<b>School</b>	<b>Combined</b>
Term	9 Years	9 Years	9 Years	9 Years
<b>Proposed Payable 2013 Local Tax Capacity Rate</b>	<b>42.053%</b>	<b>40.637%</b>	<b>26.131%</b>	
<b>Estimated Total Revenues</b>	<b>\$590,496</b>	<b>\$570,608</b>	<b>\$366,925</b>	<b>\$1,528,029</b>
Estimated Present Value with 4% discount rate and 6/1/13 date	\$448,777	\$433,662	\$278,863	\$1,161,302

Additional assumptions and terms of the proposed abatement project are outlined further below.

- Current land and building value (payable 2012): \$8.85M
  - Parcel ID: 27-903-004-0
  - Parcel ID: 27-910-002-0
  - Parcel ID: 27-055-009-1
- Incremental value increase due to improvements: \$12.15M
  - Estimated by County assessor
- Total estimated market value of \$21M upon completion (Phase 1)
- Estimated term
  - Scenario 1: 9 years with City, County and School District participation
- Abatement of incremental new value only
- Construction is complete in 2013
  - 100% assessed in January of 2014 for taxes payable in 2015
- 2013 class rates remain constant through abatement term
- Fiscal Disparities proposed 2013 contribution rate of 39.0329%
  - Fiscal disparities contribution from incremental value growth of abatement area
- 4% present value (discount) rate
- 6/1/13 present value (discount) date
- Annual market value inflator
  - Years 1-3: 0%
  - Years 4-6: 1%
  - Years 7+: 2%

Thank you for the opportunity to be of assistance to the City of Shakopee. Please let us know how we can best assist you as this project moves forward and should you have any questions please feel free to contact us.

City of Shakopee, Minnesota  
 Proposed Tax Abatement Project  
 March 15, 2013  
 Page 3

*Tax Abatement Revenue Projections*

**Projected Tax Abatement Report**  
 City of Shakopee, Minnesota  
 Proposed Tax Abatement Project - Emerson  
 City, County and SD Abatement Participation of Incremental Bldg Value of \$12.15M  
 with 9 year term, FD Cont properties within and incremental MV Inflation

Annual Period Ending (1)	Total Market Value (2)	Total Net Tax Capacity (3)	Less: Non-Abated Net Tax Capacity (4)	Fiscal Disp. @ 39.0329% (5)	Retained Captured Net Tax Capacity (6)	Times: Tax Capacity Rate ** (7)	Annual Incremental Local Taxes (8)	City Abatement Revenues (9)		County Abatement Revenues (10)		School District Abatement Revenues (11)		Total Tax Abatement (12)		PV Total Abatement Revenues (13)		PV City Abatement Revenues (14)		PV County Abatement Revenues (15)		PV SD Abatement Revenues (16)	
								42.05%	40.64%	26.13%	0	0	0	0	0	0	0	0	0	0	0	0	0
12/31/12	8,850,000	176,250	176,250	0	0	114.516%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12/31/13	8,850,000	176,250	176,250	0	0	114.516%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12/31/14	8,850,000	176,250	176,250	0	0	114.516%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12/31/15	21,000,000	419,250	176,250	94,850	148,150	114.516%	169,655	62,301	60,203	38,713	161,217	143,322	55,386	53,520	34,416	137,809	53,255	51,462	49,482	31,819	31,819	31,819	31,819
12/31/16	21,000,000	419,250	176,250	94,850	148,150	114.516%	169,655	62,301	60,203	38,713	161,217	132,509	51,207	49,482	31,819	137,809	53,255	51,462	49,482	31,819	31,819	31,819	31,819
12/31/17	21,000,000	419,250	176,250	94,850	148,150	114.516%	169,655	62,301	60,203	38,713	161,217	132,509	51,207	49,482	31,819	137,809	53,255	51,462	49,482	31,819	31,819	31,819	31,819
12/31/18	21,210,000	423,450	176,250	96,489	150,711	114.516%	172,588	63,378	61,244	39,382	164,004	129,615	50,089	48,402	31,124	129,615	50,089	48,402	31,124	31,124	31,124	31,124	31,124
12/31/19	21,422,100	427,692	176,250	98,145	153,297	114.516%	175,549	64,466	62,294	40,058	166,818	126,768	48,989	47,339	30,441	126,768	48,989	47,339	30,441	30,441	30,441	30,441	30,441
12/31/20	21,636,321	431,976	176,250	99,817	155,909	114.516%	178,540	65,564	63,356	40,741	169,660	123,969	47,907	46,293	29,769	123,969	47,907	46,293	29,769	29,769	29,769	29,769	29,769
12/31/21	22,069,047	440,631	176,250	103,196	161,185	114.516%	184,583	67,783	65,500	42,119	175,402	123,235	47,623	46,020	29,593	123,235	47,623	46,020	29,593	29,593	29,593	29,593	29,593
12/31/22	22,510,428	449,459	176,250	106,641	166,568	114.516%	190,746	70,046	67,687	43,526	181,259	122,452	47,321	45,727	29,404	122,452	47,321	45,727	29,404	29,404	29,404	29,404	29,404
12/31/23	22,960,637	458,463	176,250	110,156	172,057	114.516%	197,033	72,355	69,918	44,960	187,233	121,623	47,000	45,417	29,205	121,623	47,000	45,417	29,205	29,205	29,205	29,205	29,205
							\$1,608,004	\$590,496	\$570,608	\$366,925	\$1,528,029	\$1,161,302	\$448,777	\$433,662	\$278,663	\$1,161,302	\$448,777	\$433,662	\$278,663	\$278,663	\$278,663	\$278,663	\$278,663

\* Fiscal disparities contribution from incremental building growth  
 \*\* Estimated proposed payable 2013 tax rate based on information provided by County

**INDEPENDENT SCHOOL DISTRICT NO. 191  
(BURNSVILLE—EAGAN—SAVAGE)**

**RESOLUTION GRANTING A PROPERTY TAX ABATEMENT  
FOR CERTAIN PROPERTY IN THE CITY OF SHAKOPEE,  
MINNESOTA AND APPROVING A CONTRACT FOR PRIVATE  
DEVELOPMENT FOR ROSEMOUNT, INC.**

BE IT RESOLVED by the Board of Education (the “Board”) of Independent School District No. 191 (Burnsville—Eagan—Savage) (the “School District”) as follows:

Section 1. Recitals.

1.01. Rosemount Inc., a Minnesota corporation, or any of its affiliates (the “Developer”), has proposed to acquire, construct, and equip improvements (the “Minimum Improvements”) to real property (the “Property”) located in the City of Shakopee, Minnesota (the “City”).

1.02. Pursuant to Minnesota Statutes, Sections 469.1812 through 469.1815 (the “Abatement Act”), the School District has determined a need to grant a property tax abatement on the Property (the “Abatement”) to the Developer in order to finance a portion of the costs of the acquisition, construction, and equipping of the Minimum Improvements.

1.03. On February 12, 2013, the City conducted a duly noticed public hearing on property tax abatement proposed to be provided by the City and also approved granting the Developer a property tax abatement on the Property.

1.04. On February 19, 2013, Scott County, Minnesota (the “County”) conducted a duly noticed public hearing on property tax abatements proposed to be provided by the County and also approved granting the Developer a property tax abatement on the Property.

1.05. This Board has reviewed information concerning the above-referenced Minimum Improvements including a Contract for Private Development (the “Development Agreement”) proposed to be entered into by the City, the Economic Development Authority of the City of Shakopee (the “EDA”), the County, the School District, and the Developer. The Development Agreement is incorporated herein by reference.

1.06. On March 7, 2013, the Board conducted a duly noticed public hearing on the Abatement proposed to be granted by the School District. The views of all interested persons were heard and considered at the public hearing.

Section 2. Findings.

2.01. The recitals set forth above are incorporated into this Resolution.

2.02. It is hereby found and determined that the benefits to the School District from the Abatement will be at least equal to the costs to the School District of the Abatement, because (a) the School District believes that the development to be facilitated is not reasonably likely to occur absent the Abatement, (b) the Abatement will help finance the completion and utilization of an abandoned development, which will help prevent blight, and (c) the long-term taxes collected from the Property after termination of the Abatement will exceed the amount of the Abatement returned to the Developer.

2.03. It is hereby found and determined that the Abatement is in the public interest because such action will increase the School District's tax base, provide additional employment opportunities in the School District, and provide a partnership between the Developer and School District for educational programs.

2.04. It is further specifically found and determined that the Abatement is expected to result in the following public benefits:

- (a) Creation of an estimated \$12,150,000 increase in market value for property tax purposes, which will be available to all taxing jurisdictions after expiration of Minimum Improvements Tax Abatement (commencing in 2024); and
- (b) Provision of an estimated 400 to 500 new jobs in the School District.

### Section 3. Actions Ratified; Abatement Approved

3.01. The Board hereby ratifies all actions of the School District's staff and consultants in arranging for approval of this Resolution in accordance with the Abatement Act.

3.02. Subject to the provisions of the Abatement Act, the Abatement is hereby approved and adopted subject to the following terms and conditions:

- (a) The term "Abatement" means the real property taxes generated in any tax-payable year by extending the School District's total tax rate for that year against the tax capacity of the Minimum Improvements constructed on the Property, excluding the tax capacity of the land (as established each year during the Abatement) and the tax capacity of the existing building (as established for tax-payable year 2013), and excluding the portion of the tax capacity attributable to the areawide tax under Minnesota Statutes, Chapter 473F, all as of January 2 in the prior year.
- (b) The Abatement will be paid by the City at the direction of the School District to the Developer on the dates and in accordance with all the terms and conditions of the Contract for Private Development.
- (c) In accordance with Section 469.1813, subdivision 8 of the Abatement Act, in no year shall the Abatement, together with all other abatements approved by the School District under the Abatement Act and paid in that year exceed the greater of 10% of the net tax capacity of the School District for that year or \$200,000 (the "Abatement Cap"). The School District may grant any other abatements permitted under the Abatement Act after the date of this Resolution, provided that to the extent the total abatements in any year exceed the Abatement Cap, the allocation of Abatement Cap to such other abatements is subordinate to the Abatement granted pursuant to this Resolution.
- (d) The Abatement will have a maximum term of nine years and shall be collected in the years 2015 through 2023.
- (e) In no event shall the total payments of Abatement to the Developer exceed \$366,925 or continue to be paid for more than nine years.
- (f) The Abatement is subject to modification in accordance with the Abatement Act, subject to the terms of the Contract for Private Development.

(g) In accordance with Section 469.1815 of the Abatement Act, the School District will add to its levy in each year during the term of the Abatement the total estimated amount of current year Abatement granted under this Resolution.

(h) The School District makes no warranties or representations regarding the amount or availability of the Abatement.

(i) The Abatement shall be provided to the Developer pursuant to the terms and conditions of the Contract for Private Development, as approved by the Board.

Section 4. Development Agreement Approved. The Development Agreement is hereby in all respects authorized, approved and confirmed and the Chair and School District Clerk are hereby authorized and directed to execute and deliver the Development Agreement for and on behalf of the School District in substantially the form now on file with the School District but with such modifications as shall be deemed necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all modifications therein.

Section 5. Implementation. The Chair and the School District Clerk are authorized and directed to execute and deliver any additional agreements, certificates or other documents that the School District determines are necessary to implement this Resolution.

Section 6. Effective Date. This Resolution is effective upon execution in full of the Contract for Private Development.

Approved by the Board of Education of Independent School District No. 191 (Burnsville—Eagan—Savage) this 4<sup>th</sup> day of April, 2013.

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
School District Clerk

**EXHIBIT A TO ABATEMENT RESOLUTION****PROPERTY**

The Property consists of approximately 60 acres in Sections 3 and 10 of Township 115, Range 22, lying South of County State Aid Highway 101, and lying East of Valley Park Drive, in the City of Shakopee, with the following property identification numbers:

279030040  
p/o 279030020



# ***ISD 191 Information for Rosemount, Inc.***





# Emerson Site

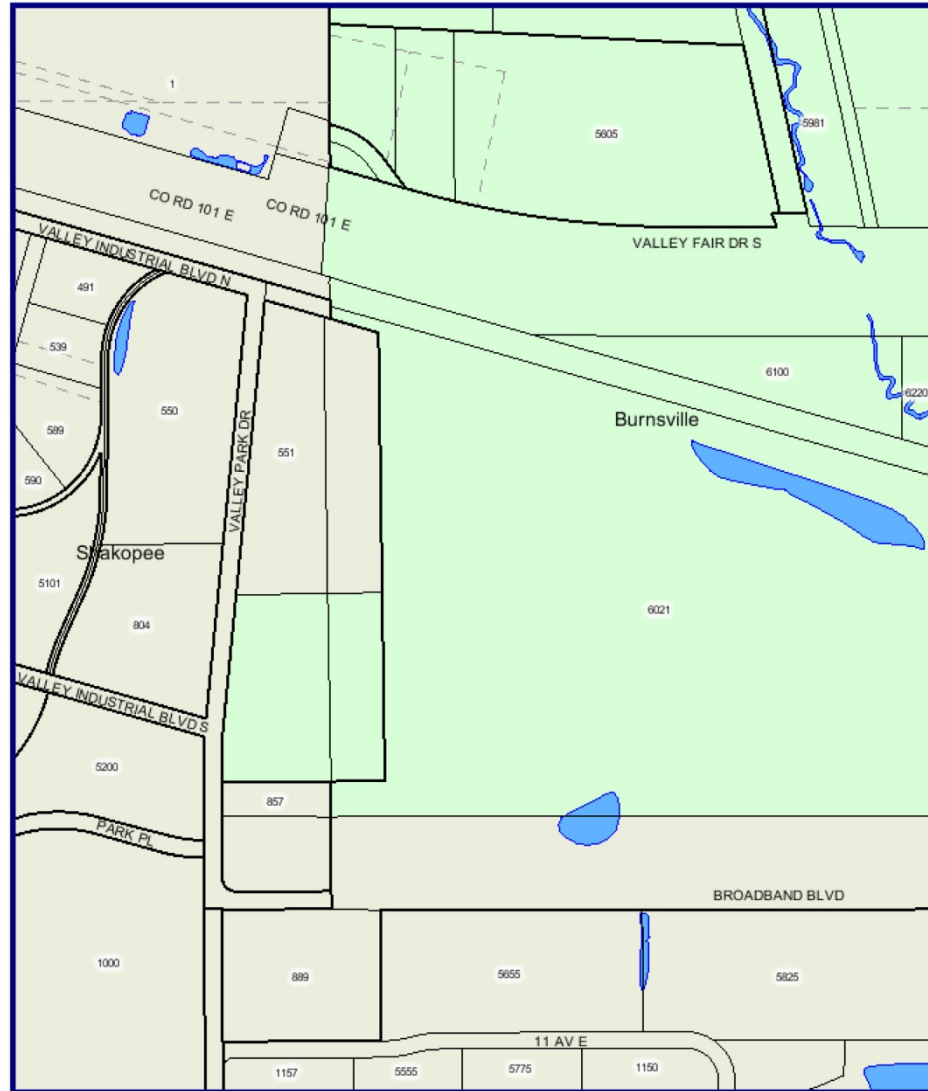
- Site
- Fiber Optic 42
- HICKORY TECH
- SCOTT COUNTY
- Scott County Conduit



Valley Park Dr

101  
SHAKOPEE

# Scott County, MN



This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. Scott County is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact the Scott County Surveyors Office.

**Map Scale**  
1 inch = 490 feet

**Map Date**  
2/6/2013



# ***Rosemount, Inc.***

## **Request for Property Tax Abatement Shakopee Site—ISD 191**

<b>Recommended Term:</b>	<b>9 years</b>
<b>Estimated Total Revenues:</b>	<b>\$366,925</b>
<b>(Net Present Value)</b>	<b>\$278,863</b>

*Tax Abatement Revenue Projections – Scenario 3*

**Projected Tax Abatement Report**

City of Shakopee, Minnesota

Proposed Tax Abatement Project - Emerson

School District Abatement Participation of Incremental Bldg Value of \$12.15M

with 9 year term, FD Cont properties within and incremental MV Inflatior

Annual Period Ending (1)	Total Market Value (2)	Total Net Tax Capacity (3)	Less: Abated Net Tax Capacity (4)	Less: Fiscal Disp. @ * 39.0329% (5)	Retained Captured Net Tax Capacity (6)	Times: Tax Capacity Rate ** (7)	Annual Incremental Local Taxes (8)	School District Abatement Revenues 26.13% (9)	Total Tax Abatement (10)	PV Total Abatement Revenues 06/01/13 4.00%
12/31/12	8,850,000	176,250	176,250	0	0	114.516%	0	0	0	0
12/31/13	8,850,000	176,250	176,250	0	0	114.516%	0	0	0	0
12/31/14	8,850,000	176,250	176,250	0	0	114.516%	0	0	0	0
12/31/15	21,000,000	419,250	176,250	94,850	148,150	114.516%	169,655	38,713	38,713	34,416
12/31/16	21,000,000	419,250	176,250	94,850	148,150	114.516%	169,655	38,713	38,713	33,092
12/31/17	21,000,000	419,250	176,250	94,850	148,150	114.516%	169,655	38,713	38,713	31,819
12/31/18	21,210,000	423,450	176,250	96,489	150,711	114.516%	172,588	39,382	39,382	31,124
12/31/19	21,422,100	427,692	176,250	98,145	153,297	114.516%	175,549	40,058	40,058	30,441
12/31/20	21,636,321	431,976	176,250	99,817	155,909	114.516%	178,540	40,741	40,741	29,769
12/31/21	22,069,047	440,631	176,250	103,196	161,185	114.516%	184,583	42,119	42,119	29,593
12/31/22	22,510,428	449,459	176,250	106,641	166,568	114.516%	190,746	43,526	43,526	29,404
12/31/23	22,960,637	458,463	176,250	110,156	172,057	114.516%	197,033	44,960	44,960	29,205
							<b>\$1,608,004</b>	<b>\$366,925</b>	<b>\$366,925</b>	<b>\$278,863</b>

\* Fiscal disparities contribution from incremental building growth

\*\* Estimated proposed payable 2013 tax rate based on information provided by County

## ***Questions from the March 7 Hearing:***

*How were the calculations for the requested School District abatement determined?*

## Questions....

*Why is the number of jobs to be created now stated to be 400, when earlier information had 500?*

## Questions...

*What is the advantage to the School District to participate in the tax abatement program?*

# ***Advantages to District: Tax Base***

- *Tax Base Growth on Property*
  - Current: \$8 Million
  - Projected: \$20.15 Million
- *Regional job growth creates housing demand & real estate appreciation*

# Advantages to District: Job Growth

- *Job Creation at Emerson*

Within 2 years                      154 jobs

3 years/occupancy                75

4 years/occupancy                93

5 years/occupancy                78

TOTAL                                400

# *Advantages to District: Job Growth*

51

*Wages:*

Minimum \$14.50 EOB

*Five year plan:*

60% average at least \$30/hr

40% average at least \$18/hr

# ***Advantages to District: Educational Involvement***

52

## ***Rosemount/ Schools Partnership***

- Youth Mentoring Program
- BestPrep Partnership
- Employee Engagement
  - Career Fairs, Field Trips
  - Technology Initiatives

**Draft**  
**Thursday, March 28, 2013**

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**CONTRACT**  
**FOR**  
**PRIVATE DEVELOPMENT**  
**between**  
**CITY OF SHAKOPEE, MINNESOTA,**  
**ECONOMIC DEVELOPMENT AUTHORITY**  
**FOR THE CITY OF SHAKOPEE, MINNESOTA,**  
**SCOTT COUNTY, MINNESOTA,**  
**INDEPENDENT SCHOOL DISTRICT NO. 191**  
**(BURNSVILLE—EAGAN—SAVAGE),**  
**and**  
**ROSEMOUNT INC.**

**Dated as of: \_\_\_\_\_, 2013**

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This document was drafted by:

KENNEDY & GRAVEN, Chartered (JAE)  
470 U.S. Bank Plaza  
200 South Sixth Street  
Minneapolis, Minnesota 55402  
Telephone: 337-9300

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## CONTRACT FOR PRIVATE DEVELOPMENT

THIS CONTRACT FOR PRIVATE DEVELOPMENT (the “Agreement”) is made as of \_\_\_\_\_, 2013, by and between the CITY OF SHAKOPEE, MINNESOTA, a Minnesota municipal corporation (the “City”), the ECONOMIC DEVELOPMENT AUTHORITY FOR THE CITY OF SHAKOPEE, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), SCOTT COUNTY, MINNESOTA, a political subdivision of the State of Minnesota (the “County”), INDEPENDENT SCHOOL DISTRICT NO. 191 (BURNSVILLE—EAGAN—SAVAGE), a duly organized and existing school district in the State of Minnesota (the “School District”), and ROSEMOUNT INC., a Minnesota corporation (the “Developer”).

### RECITALS

WHEREAS, pursuant to Minnesota Statutes, Sections 469.1812 to 469.1815 (the “Abatement Act”), the City, the County, and the School District are authorized to abate property taxes in order to increase or preserve tax base and provide employment opportunities; and

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.090 to 469.1081, as amended (the “EDA Act”) and was authorized to transact business and exercise its powers by a resolution of the City Council of the City; and

WHEREAS, pursuant to Minnesota Statutes, Sections 116J.993 through 116J.995, as amended (the “Business Subsidy Act”), the City, the Authority, and the County are authorized to grant business subsidies to facilitate development in the City, the County, and the State of Minnesota (the “State”); and

WHEREAS, Rosemount Inc., a Minnesota corporation, or any of its affiliates (the “Developer”), has proposed to acquire real property located in the City and described in Schedule A (the “Development Property”) and construct and equip improvements to the existing 500,000 square foot building shell over five years to create an approximately 285,000 square foot facility which will include manufacturing, a research and development lab, office space and warehouse space (collectively, the “Minimum Improvements”); and

WHEREAS, pursuant to the Abatement Act, the City Council of the City, the Board of Commissioners of the County, and the Board of Education of the School District have each approved resolutions authorizing abatements of a portion of real property taxes on the Development Property; and

WHEREAS, in order to help finance the Minimum Improvements, the Authority has agreed to provide a forgivable loan to the Developer in the amount of \$350,000 (the “Authority Loan”), provided that the Developer complies with Sections 3.12 and 3.13 hereof; and

WHEREAS, in order to reimburse the Developer for certain costs related to the construction of the Minimum Improvements and make the Project financially feasible, the Developer has requested the following assistance: (i) tax abatement from the City for up to nine years in the maximum amount of \$590,496 pursuant to the Act; (ii) tax abatement from the County for up to nine years in the maximum amount of \$570,608 pursuant to the Act, with an annual maximum of \$64,401; (iii) tax abatement from the School District for up to nine years in the maximum amount of \$366,925 with an annual maximum of \$40,769; (iv) a sewer availability charge (“SAC”) credit from the City in the amount of up to \$304,375; (v) a waiver of SAC access fee from the City in the amount of up to \$39,900; (vi) a waiver of trunk sanitary sewer charge from the City in the amount of up to \$112,000; (vii) the Authority Loan in the amount of \$350,000; and (viii) fiber optic network/broadband access from the County for up to twenty (20) years at a set price and

up to \$150,000 from the County to help pay the costs of extending the County's fiber assets to the Development Property and to the Developer's other three facilities; and

WHEREAS, the County, the School District, and the City have determined that the financial assistance provided to the Developer as contemplated herein and the fulfillment generally of this Agreement are in the best interests of the City, County, and the School District and the health, safety, morals, and welfare of their residents, and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which this Agreement has been undertaken; and

NOW, THEREFORE, in consideration of the mutual obligations contained in this Agreement, the parties agree as follows:

(The remainder of this page is intentionally left blank.)

## **ARTICLE I**

### **Definitions**

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Abatement Capacity” means the maximum amount of property taxes that may be abated in any year by a political subdivision under Section 469.1813, subdivision 8 of the Act, as amended. As of the date of this Agreement, the Abatement Capacity for the City is the greater of 10% of the net tax capacity of the City for the taxes payable year to which the abatement applies or \$200,000. As of the date of this Agreement, the Abatement Capacity for the County is the greater of 10% of the net tax capacity of the County for the taxes payable year to which the abatement applies or \$200,000. As of the date of this Agreement, the Abatement Capacity for the School District is the greater of 10% of the net tax capacity of the School District for the taxes payable year to which the abatement applies or \$200,000.

“Act” means Minnesota Statutes, Sections 469.1812 to 469.1815, as amended.

“Agreement” means this Contract for Private Development, as the same may be from time to time modified, amended, or supplemented.

“Authority” means the Economic Development Authority for the City of Shakopee, Minnesota.

“Authority Loan” means the forgivable loan from the Authority to the Developer in the amount of \$350,000 described in Section 3.8 hereof.

“Authority Loan Security Agreement” is the Security Agreement set forth in Schedule B, which secures the Authority Loan.

“Available Abatement” means the sum of the City Available Abatement, County Available Abatement, and School District Available Abatement.

“Business Day” means any day except a Saturday, Sunday, legal holiday, a day on which the City or County is closed for business, or a day on which banking institutions in the City are authorized by law or executive order to close.

“Business Subsidy Act” means Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

“Certificate of Completion” means the certification provided to the Developer, or the purchaser of any part, parcel or unit of the Development Property, pursuant to Section 4.4 of this Agreement.

“City” means the City of Shakopee, Minnesota.

“City Abatement” means the real property taxes (i) generated in any tax-payable year by extending the City’s local tax rate for that year against the tax capacity of the Minimum Improvements, excluding the tax capacity of the land (as established each year during the Abatement), the tax capacity of the existing building (as established for tax-payable year 2013) and any portion of the tax capacity attributable to the areawide tax under Minnesota Statutes, Chapter 473F as of January 2 in the prior year, and (ii) paid to the City by the County.

“City Abatement Resolution” means the resolution adopted by the City Council of the City on February 12, 2013, regarding abatement of property taxes on the Development Property.

“City Available Abatement” means, on each Payment Date, the City Abatement generated in the preceding six (6) months with respect to the Development Property and remitted to the City by the County, or such lesser amount as shall cause (i) the cumulative principal amount of the City Abatement paid to the Developer during the term of this Agreement to be no more than \$590,496; and (ii) the cumulative principal amount of the City Available Abatement, the County Available Abatement, and the School District Available Abatement paid to the Developer during the term of this Agreement to be no more than \$1,528,029.

“City Development Assistance” means the (i) a sewer availability charge credit from the City to the Developer; (ii) the City’s waiver of sewer availability access fee for the Developer; and (iii) the City’s waiver of the trunk sanitary sewer charge for the Developer, as more fully described in Section 3.7 hereof.

“Compliance Date” means, for purposes of the job and wage creation goals set forth in Sections 3.12 and 3.13 hereof, the date which is two years after the date the Developer occupies the Minimum Improvements.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Developer on the Development Property, including each phase of the Minimum Improvements and the related site improvements, which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City, and (b) shall include at least the following: (1) site plan; (2) foundation plan; (3) basement plans; (4) floor plan for each floor; (5) cross sections of each (length and width); (6) elevations (all sides); (7) landscape plan; and (8) such other plans or supplements to the foregoing plans as the City may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“County” means Scott County, Minnesota.

“County Abatement” means the real property taxes (i) generated in any tax-payable year by extending the County’s local tax rate for that year against the tax capacity of the Minimum Improvements excluding the land (as established each year during the Abatement), the tax capacity of the existing building (as established for tax-payable year 2013) and excluding any portion of the tax capacity attributable to the areawide tax under Minnesota Statutes, Chapter 473F as of January 2 in the prior year, and (ii) paid to the City by the County.

“County Abatement Resolution” means the resolution adopted by the Board of Commissioners of the County on February 19, 2013, regarding abatement of property taxes on the Development Property.

“County Available Abatement” means, on each Payment Date, the County Abatement generated in the preceding six (6) months with respect to the Development Property and transferred to the City by the County, or such lesser amount as shall cause (i) the cumulative principal amount of the County Abatement paid to the Developer during the term of this Agreement to be no more than \$570,608 with an annual payment of no more than \$64,401; and (ii) the cumulative principal amount of the City Available Abatement, the County Available Abatement, and the School District Available Abatement paid to the Developer during the term of this Agreement to be no more than \$1,528,029.

“County Development Assistance” means the provision of: (i) fiber optic network/broadband access to the Developer for up to twenty (20) years at a set price; and (ii) financial assistance to the Developer to help pay the costs of extending the County’s fiber assets to the Development Property and to the

Developer's other three facilities in the amount of up to \$150,000, as more fully described in Section 3.9 hereof.

"Developer" means Rosemount Inc., a Minnesota corporation, or its permitted successors and assigns.

"Development Property" means the real property described in Schedule A of this Agreement.

"EDA Act" means Minnesota Statutes, Sections 469.090 to 469.1081, as amended.

"Event of Default" means an action by the Developer listed in Article IX of this Agreement.

"Holder" means the owner of a Mortgage.

"Indemnified Parties" means the City, the Authority, the County, the School District and the governing body members, officers, agents, servants, invitees, directors, partners, members, managers and/or employees thereof.

"Minimum Improvements" means the construction and equipping of improvements consisting of an approximately 285,000 square feet build out of an existing 500,000 square feet building shell on the Development Property in three phases, which shall include approximately 72,000 square feet of manufacturing space, 26,000 square feet of research and development space, 145,000 square feet of office space, and 42,000 square feet of warehouse space.

"Mortgage" means any mortgage made by the Developer which is secured, in whole or in part, with the Development Property and which is a permitted encumbrance pursuant to the provisions of Article VIII of this Agreement.

"Payment Date" means each February 1 and August 1, commencing August 1, 2015; provided that if any such Payment Date is not a Business Day, the Payment Date shall be the next succeeding Business Day.

"Phase" or "Phases" means one or more of the Phase One of the Minimum Improvements, Phase Two of the Minimum Improvements, and Phase Three of the Minimum Improvements.

"Phase One of the Minimum Improvements" means the acquisition of the Development Property by the Developer, the completion of approximately 186,600 square feet of build out of an existing 500,000 square feet building shell on the Development Property and the completion of infrastructure for receiving, shipping, warehouse and manufacturing utilities.

"Phase Two of the Minimum Improvements" means the completion of an additional approximately 67,000 square feet of build out of an existing 500,000 square feet building shell on the Development Property, the completion of assembly lines for the main product lines to fulfill two to three year capacity needs, and completion of space for the manufacturing support groups and technology labs.

"Phase Three of the Minimum Improvements" means the completion of an additional approximately 31,400 square feet of build out of an existing 500,000 square feet building shell on the Development Property and the completion of assembly lines for the all product lines to fulfill five year capacity needs.

"Project" means the Development Property as improved with the Minimum Improvements.

“School District” means Independent School District No. 191 (Burnsville—Eagan—Savage), a duly organized and existing school district in the State.

“School District Abatement” means the real property taxes (i) generated in any tax-payable year by extending the School District’s local tax rate for that year against the tax capacity of the Minimum Improvements, excluding the tax capacity of the land (as established each year during the Abatement), the tax capacity of the existing building (as established for tax-payable year 2013) and any portion of the tax capacity attributable to the areawide tax under Minnesota Statutes, Chapter 473F as of January 2 in the prior year, and (ii) paid to the City by the County as directed by the School District.

“School District Abatement Resolution” means the resolution approved by the Board of Education of the School District on April 4, 2013, regarding abatement of property taxes on the Development Property.

“School District Available Abatement” means, on each Payment Date, the School District Abatement generated in the preceding six (6) months with respect to the Development Property and transferred to the City by the School District, or such lesser amount as shall cause (i) the cumulative principal amount of the School District Abatement paid to the Developer during the term of this Agreement to be no more than \$366,925 with an annual payment of no more than \$40,769; and (ii) the cumulative principal amount of the City Available Abatement, the County Available Abatement, and the School District Available Abatement paid to the Developer during the term of this Agreement to be no more than \$1,528,029.

“State” means the State of Minnesota.

“Tax Abatements” means collectively the City Abatement, the County Abatement, and the School District Abatement.

“Tax Official” means any County assessor, County auditor, County or State board of equalization, the commissioner of revenue of the State, or any State or federal district court, the tax court of the State, or the State Supreme Court.

“Transfer” has the meaning set forth in Section 8.2(a) hereof.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of strikes, other labor troubles, prolonged adverse weather or acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the City in exercising their rights under this Agreement) which directly result in delays. Unavoidable Delays shall not include delays in the Developer’s obtaining of permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under Section 4.3 of this Agreement, so long as the Construction Plans have been approved in accordance with Section 4.2 hereof.

(The remainder of this page is intentionally left blank.)

## ARTICLE II

### Representations and Warranties

Section 2.1. Representations by the City. The City makes the following representations and warranties as the basis for its covenants herein:

(a) The City is a statutory city duly organized and existing under the laws of the State. Under the provisions of the Act, the City has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The City proposes to the City Development Assistance and grant abatement of taxes on the Development Property and the Minimum Improvements thereon, to assist in financing the Minimum Improvements, which will increase the tax base and create significant employment opportunities within the City.

Section 2.2. Representations by the County. The County makes the following representations and warranties as the basis for its covenants herein:

(a) The County is a political subdivision of the State, duly organized and existing under the laws of the State. Under the provisions of the Act, the County has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The County proposes to grant abatement of taxes on the Development Property and the Minimum Improvements thereon, for the purposes of increasing the tax base and creating employment opportunities within the County.

Section 2.3. Representations by the School District. The School District makes the following representations and warranties as the basis for its covenants herein:

(a) The School District is a political subdivision of the State, duly organized and existing under the laws of the State. Under the provisions of the Act, the School District has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The School District proposes to grant abatement of taxes on the Development Property and the Minimum Improvements thereon, for the purposes of increasing the tax base, creating employment opportunities within the School District, and establishing a partnership between the School District and the Developer for educational programs for the students of the School District.

Section 2.4. Representations by the Authority. The Authority makes the following representations and warranties as the basis for its covenants herein:

(a) The Authority is an economic development authority duly organized and existing under the laws of the State. Under the provisions of the EDA Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The Authority proposes to provide financial assistance to the Developer through the Authority Loan to aid in the cost of constructing the Minimum Improvements for the purpose of

increasing tax base, creating employment opportunities, and encouraging economic opportunities within the City.

Section 2.5. Representations and Warranties by the Developer. The Developer makes the following representations and warranties as the basis for its covenants herein:

(a) The Developer is a corporation, duly organized and in good standing under the laws of the State of Minnesota, is not in violation of any provisions of its articles of incorporation or its bylaws, is duly authorized to transact business within the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its officers.

(b) The Developer will construct the Minimum Improvements and cause the Minimum Improvements to be operated and maintained in accordance with the terms of this Agreement and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(c) The Developer has received no notice or communication from any local, state or federal official that the activities of the Developer with respect to the Minimum Improvements may be or will be in violation of any environmental law or regulation (other than those notices or communications of which the City is aware). The Developer is aware of no facts the existence of which would cause it to be in violation of or give any person a valid claim under any local, state or federal environmental law, regulation or review procedure with respect to the Minimum Improvements.

(d) The Developer will construct the Minimum Improvements in accordance with all local, state or federal energy-conservation laws or regulations.

(e) The Developer will obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

(f) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any corporate restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing, which default or breach might prevent the Developer from performing its obligations under this Agreement.

(g) The Developer shall promptly advise the City, the County, and the School District in writing of all litigation or claims affecting any part of the Minimum Improvements and all written complaints and charges made by any governmental authority materially affecting the Minimum Improvements or materially affecting the Developer or its business which may delay or require changes in construction of the Minimum Improvements.

(h) The Developer is not in default under any business subsidy agreement pursuant to Section 116J.994 of the Business Subsidy Act.

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## ARTICLE III

### Property Tax Abatement

Section 3.1. Status of Development Property. As of the date of this Agreement, the Developer has entered into a purchase agreement to acquire the Development Property. The City, Authority, County, and School District shall have no obligation to acquire the Development Property or any portion thereof.

#### Section 3.2. Environmental Conditions.

(a) The Developer acknowledges that the City, Authority, County, and School District make no representations or warranties as to the condition of the soils on the Development Property or the fitness of the Development Property for construction of the Minimum Improvements or any other purpose for which the Developer may make use of such property, and that the assistance provided to the Developer under this Agreement neither implies any responsibility by the City, Authority, County, or School District for any contamination of the Development Property nor imposes any obligation on such parties to participate in any cleanup of the Development Property.

(b) Without limiting its obligations under Section 8.3 of this Agreement, the Developer further agrees that it will indemnify, defend, and hold harmless the Indemnified Parties from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants existing on or in the Development Property, unless and to the extent that such hazardous wastes or pollutants are present as a result of the actions or omissions of the Indemnified Parties. Nothing in this section will be construed to limit or affect any limitations on liability of the City or County under State or federal law, including without limitation Minnesota Statutes, Sections 466.04 and 604.02.

Section 3.3. Minimum Improvements. The Developer hereby covenants to construct the Minimum Improvements on the Development Property pursuant to the terms and conditions of this Agreement. The Minimum Improvements consist of the construction and equipping of improvements of an approximately 285,000 square feet build out of an existing 500,000 square feet building shell on the Development Property in three phases, which shall include approximately 72,000 square feet of manufacturing space, 26,000 square feet of research and development space, 145,000 square feet of office space, and 42,000 square feet of warehouse space. Phase One of the Minimum Improvements is expected to be constructed during calendar years 2013 and 2014. Phase Two of the Minimum Improvements is expected to be constructed during calendar years 2014 through 2016. Construction of Phase Three of the Minimum Improvements is expected to commence during calendar year 2017. The Developer anticipates growing its business and eventually utilizing the remaining 215,000 square feet of the existing building.

#### Section 3.4. City Property Tax Abatement.

(a) Generally. In order to make the Project economically feasible, the City will grant the City Abatement to the Developer commencing August 1, 2015 and continuing through February 1, 2024. In no event shall the City Abatement exceed a cumulative total of \$590,496 over the term of the City Abatement. In no event shall the City Abatement, the County Abatement and the School District Abatement provided to Developer from August 1, 2015 through February 1, 2024, exceed \$1,528,029. The City Abatement will reimburse the Developer for a portion of the costs of completing the Project. Subject to the City Abatement Volume Cap described in Section 3.4(b), the City shall pay the Developer the City Available Abatement each February 1 and August 1 (each a "Payment Date"), commencing August 1, 2015, and terminating on February 1, 2024.

(b) Limitations. The pledge of City Available Abatement is subject to all the terms and conditions of the City Abatement Resolution. The City Available Abatement is payable solely from and to the extent of the City Abatement, and nothing herein shall be construed to obligate the City to make payments from any other funds. The City makes no warranties or representations as to the amount of the City Available Abatement. Any estimates of City Available Abatement amounts prepared by the City's financial consultants are for the benefit of the City only, and the Developer is not entitled to rely on such estimates.

The Developer further acknowledges that the total property tax abatements payable by the City in any year may not exceed the greater of \$200,000 or ten percent (10%) of the net tax capacity of the City for the taxes payable year to which the abatement applies (the "City Abatement Volume Cap"), all pursuant to Section 469.1813, subdivision 8 of the Act. The City does not warrant or represent that the City Abatement in the amounts pledged under this Agreement will be within the City's Abatement Volume Cap. The City represents that it has previously granted one other abatement under the Abatement Act that is ongoing as of the date of this agreement and which shall be paid prior to the City Abatement hereunder. The City has not granted any other abatement under the Act as of the date of this Agreement, and agrees that if the City grants any additional abatements under the Act during the term of this Agreement, the City's Abatement Volume Cap will be allocated first to the abatements granted prior to the date of this Agreement and to the City Abatement pledged pursuant to this Agreement.

### Section 3.5. County Property Tax Abatement.

(a) Generally. In order to make the Project economically feasible, the County will grant the County Abatement to the Developer commencing August 1, 2015 and continuing through February 1, 2024. In no event shall the County Abatement exceed \$64,401 in any year or a cumulative total of \$570,608 over the term of the County Abatement. Further, in no event shall the cumulative City Abatement, County Abatement and School District Abatement paid to the Developer during the term of this Agreement exceed an amount of \$1,528,029. The County Abatement will reimburse the Developer for a portion of the costs of the Project. Subject to the County Abatement Volume Cap described in Section 3.5(b), the County shall pay the City the County Available Abatement on or before the business day prior to each Payment Date, commencing the business day prior to August 1, 2015, and continuing through the business day prior to February 1, 2024. The transfer by the County of the County Available Abatement to the City will be accompanied by electronic communication to the City's Finance Director providing the amount of the County Available Abatement transferred. The City shall disburse the County Available Abatement received pursuant to this Section to the Developer on each Payment Date.

(b) Limitations. The pledge of County Available Abatement is subject to all the terms and conditions of the County Abatement Resolution. The County Available Abatement is payable solely from and to the extent of the County Abatement, and nothing herein shall be construed to obligate the County to make payments from any other funds. The County makes no warranties or representations as to the amount of the County Available Abatement. Any estimates of County Available Abatement amounts prepared by the County's financial consultants are for the benefit of the County only, and the Developer is not entitled to rely on such estimates.

The Developer further acknowledges that the total property tax abatements payable by the County in any year may not exceed the greater of \$200,000 or ten percent (10%) of the net tax capacity of the County for the taxes payable year to which the abatement applies (the "County Abatement Volume Cap"), all pursuant to Section 469.1813, subdivision 8 of the Act. The County does not warrant or represent that the County Abatement in the amounts pledged under this Agreement will be within the County's Abatement Volume Cap. The County represents that it has previously granted three other abatement under the Abatement Act that are ongoing as of the date of this agreement and which shall be paid prior to the City

Abatement hereunder. The County has not granted any other abatement under the Act as of the date of this Agreement, and agrees that if the County grants any additional abatements under the Act during the term of this Agreement, the County's Abatement Volume Cap will be allocated first to the abatements granted prior to the date of this Agreement and to the County Abatement pledged pursuant to this Agreement.

Section 3.6. School District Property Tax Abatement.

(a) Generally. In order to make the Project economically feasible, the School District will grant the School District Abatement to the Developer commencing August 1, 2015 and continuing through February 1, 2024. In no event shall the School District Abatement exceed \$40,769 in any year or a cumulative total of \$366,925 over the term of the School District Abatement. Further, in no event shall the cumulative City Abatement, County Abatement and School District Abatement paid to the Developer during the term of this Agreement exceed an amount of \$1,528,029. The School District Abatement will reimburse the Developer for a portion of the costs of the Project. Subject to the School District Abatement Volume Cap described in Section 3.6(b), the District shall direct the County to pay the City the School District Available Abatement on or before the business day prior to each Payment Date, commencing the business day prior to August 1, 2015, and continuing through the business day prior to February 1, 2024. The transfer by the County of the School District Available Abatement to the City will be accompanied by electronic communication to the City's Finance Director providing the amount of the School District Available Abatement transferred. The City shall disburse the School District Available Abatement received pursuant to this Section to the Developer on each Payment Date.

(b) Limitations. The pledge of School District Available Abatement is subject to all the terms and conditions of the School District Abatement Resolution. The School District Available Abatement is payable solely from and to the extent of the School District Abatement, and nothing herein shall be construed to obligate the School District to make payments from any other funds. The School District makes no warranties or representations as to the amount of the School District Available Abatement. Any estimates of School District Available Abatement amounts prepared by the County's financial consultants are for the benefit of the County only, and the Developer is not entitled to rely on such estimates.

The Developer further acknowledges that the total property tax abatements payable by the School District in any year may not exceed the greater of \$200,000 or ten percent (10%) of the net tax capacity of the School District for the taxes payable year to which the abatement applies (the "School District Abatement Volume Cap"), all pursuant to Section 469.1813, subdivision 8 of the Act. The School District does not warrant or represent that the School District Abatement in the amounts pledged under this Agreement will be within the School District's Abatement Volume Cap. The School District has not granted any other abatement under the Act as of the date of this Agreement, and agrees that if the School District grants any additional abatements under the Act during the term of this Agreement, the School District's Abatement Volume Cap will be allocated first to the abatements granted prior to the date of this Agreement and to the School District Abatement pledged pursuant to this Agreement.

Section 3.7. City Development Assistance. In addition to the City Abatement and in consideration for the Developer's promise to construct the Minimum Improvements and create the jobs set forth in Sections 3.12 and 3.13, the City has agreed to provide the Developer with SAC credits for the Minimum Improvements in the amount of up to \$304,375, a waiver of the SAC access fee for the Minimum Improvements in the amount of up to \$39,900, and a waiver of the trunk sanitary sewer charge for the Minimum Improvements in an amount of up to \$112,000 (the "City Development Assistance"). If the Developer does not complete the Minimum Improvements and does not create the jobs required by Sections 3.12 and 3.13 within two years of the Compliance Date, the Developer must repay all or a portion of

the City Development Assistance as required by Sections 3.12(c) and 3.13(b). Any SAC credits not used by the Developer shall be returned to the City.

Section 3.8. Authority Loan. In order to make the Minimum Improvements economically feasible, and in consideration for the Developer's promise to construct the Minimum Improvements and create the jobs set forth in Sections 3.12 and 3.13, the Authority will provide the Developer with a forgivable loan in the amount of \$350,000 for the purchase of equipment for the Minimum Improvements pursuant to the terms of this Agreement and the Authority Loan Security Agreement set forth Schedule B attached hereto. The Authority will provide the loan of \$350,000 upon receipt from the Developer of an invoice for one or more pieces of equipment in an amount at least equal to \$350,000 and an executed Authority Loan Security Agreement.

The Authority Loan shall be forgiven and the Security Agreement released upon completion of Phase One and Phase Two of the Minimum Improvements and the satisfaction of the requirements of Sections 3.12 and 3.13. If the Developer does not complete Phase One and Phase Two of the Minimum Improvements and does not create the jobs required by Sections 3.12 and 3.13 within two years of the Compliance Date, the Developer must repay all or a portion of the Authority Loan as required by Sections 3.12(c) and 3.13(b).

Section 3.9. County Development Assistance. In addition to the County Abatement and in consideration for the Developer's promise to construct the Minimum Improvements and create the jobs set forth in Sections 3.12 and 3.13, the County has agreed to provide the Developer with network/broadband assistance in the form of use and capacity of the County's fiber network. The County will contribute 50%; to a maximum of \$150,000.00 towards the cost of extending the County's fiber assets from its current location to the Development Property and to the Developer's other three facilities located at: 8200 Market in Chanhassen; 12001 Technology Drive in Eden Prairie; and, 8000 Norman Center Drive in Bloomington. The County will, in partnership with Access Communication, provide the Developer (1) a one gigabit connection between all four of the above noted facilities (local area network) and to the telecommunications hub (511 building) in Minneapolis for a direct connection to the Emerson Global Network at a fixed and constant rate of \$3,500.00 per month; for a minimum period of ten (10) years and up to twenty (20) years provided the Developer's promise to create the jobs set forth in Sections 3.12 and 3.13 is, at a minimum, maintained through this period.

Section 3.10. Payment of Administrative Costs. The Developer will pay to the City all out of pocket costs incurred by the City, the Authority the County, and the School District (including without limitation attorney and fiscal consultant fees) in the negotiation and preparation of this Agreement and other documents and agreements in connection with the development contemplated hereunder (collectively, the "Administrative Costs"). Administrative Costs shall be evidenced by invoices, statements or other reasonable written evidence of the costs incurred by the City, the Authority, the County, or the School District. The Developer shall pay Administrative Costs from time to time within 30 days after receipt of written notice thereof from the City. The City shall transfer to the County and School District any portion of Administrative Costs attributable to the County and School District promptly upon receipt of payment from the Developer.

Section 3.11. Records. The City, the County, the School District and their respective representatives shall have the right at all reasonable times after reasonable notice to inspect, examine and copy all books and records of Developer relating to the Project. The Developer shall also use its best efforts to cause the contractor or contractors, all subcontractors and their agents and lenders to make their books and records relating to the Project available to the City, the County and the School District, upon reasonable notice, for inspection, examination and audit.

Section 3.12. Business Subsidy Agreement. The provisions of this Section constitute the “business subsidy agreement” in connection with the business subsidy provided by the City, the Authority, and the County for the purposes of Minnesota Statutes, Sections 116J.993 to 116J.995 (the “Business Subsidy Act”).

(a) General Terms. The parties agree and represent to each other as follows:

(1) The business subsidy provided to the Developer under this Agreement consists of (i) the City Abatement; (ii) the County Abatement; (iii) the City Development Assistance; and (iv) the Authority Loan. All such payments and grants represent forgivable loans that are repayable by the Developer in accordance with this Section.

(2) The public purposes of the subsidies are to provide employment opportunities, increase the tax base of the City and the County and encourage economic development within the City and the County.

(3) The goals for the subsidies are to secure development of the Minimum Improvements, to maintain Phase One and Phase Two of the Minimum Improvements as a manufacturing facility for at least five years as described in clause (6) below, and to create the jobs and wage levels in accordance with Section 3.12(b) hereof.

(4) If the goals described in clause (3) are not met, the Developer must make the payments to the City described in Section 3.12(c).

(5) The subsidies are needed to induce the Developer to locate its operations in the City, thus enhancing job and tax base growth for the City, the County, and the State as a whole. Absent the subsidy provided in this Agreement, the expansion would likely occur in another city.

(6) The Developer must continue operation of Phase One and Phase Two of the Minimum Improvements as a manufacturing facility for at least five years after the Compliance Date.

(7) The Developer’s parent corporation is Emerson Electric Co.

(8) In addition to the subsidies described in this Section 3.12(a), the Developer expects to receive financial assistance from the following other “grantors” as defined in the Business Subsidy Act, in connection with the Development Property or the Minimum Improvements: an infrastructure grant in the amount of approximately \$550,000, a Minnesota Investment Fund grant in the amount of approximately \$1,434,579, and potential sales tax exemptions in the amount of approximately \$745,493 from the State of Minnesota.

(b) Job and Wage Goals. Within two years after the date the Developer occupies the Minimum Improvements (the “Compliance Date”), the Developer shall cause to be created at least 154 new full-time equivalent jobs on the Development Property and shall cause the wages for all employees on the Development Property to be no less than \$14.50 per hour, exclusive of benefits. It is the intent of the Developer to begin hiring employees for the 154 new jobs to be located in the City prior to the completion of construction of Phase One of the Minimum Improvements and those employees may be trained at the Developer’s other locations within the State of Minnesota. These jobs shall be considered part of the 154 new jobs required to be created in the City pursuant to this Section 3.12 and Section 3.13. Notwithstanding anything to the contrary herein, if the wage and job goals described in this paragraph are met by the Compliance Date, those goals are deemed satisfied despite the Developer’s continuing

obligations under Sections 3.12(a)(6) and 3.12(d). The City, the Authority, and the County may, after public hearings held by the respective governing body and approval by all three bodies, extend the Compliance Date by up to one year, provided that nothing in this section will be construed to limit the City's, Authority's, or County's, or legislative discretion regarding this matter.

(c) Remedies. If the Developer fails to meet the goals described in Section 3.12(a)(3), the City, the Authority, the County, and the School District may independently determine to terminate this Agreement with respect to the financial assistance provided by each, and the Developer shall repay to the City upon written demand from the City a "pro rata share" of the City Abatement, the County Abatement, and the School District Abatement, if any, as well as a pro rata share of the amounts disbursed to Developer with respect to Authority Loan, and the City Development Assistance. The term "pro rata share" means percentages calculated as follows:

(i) if the failure relates to the number of jobs, the jobs required less the jobs created, divided by the jobs required;

(ii) if the failure relates to wages, the number of jobs required less the number of jobs that meet the required wages, divided by the number of jobs required;

(iii) if the failure relates to maintenance of the manufacturing facility in accordance with Section 3.12(a)(6), 60 less the number of months of operation as a manufacturing (where any month in which the facility is in operation for at least 15 days constitutes a month of operation), commencing on the Compliance Date and ending with the date the facility ceases operation as determined by the City, divided by 60; and

(iv) if more than one of clauses (i) through (iii) apply, the sum of the applicable percentages, not to exceed 100%.

Notwithstanding the foregoing, instead of terminating the payment of the City Abatement, the County Abatement, the School District Abatement, the Authority Loan and the City Development Assistance, upon the Developer's failure to meet the goals described in Section 3.12(a)(3), the City, the Authority, the County and the School District may independently determine to continue their respective payments under this Agreement but reduce the amount of such assistance using the pro rata reduction formula set forth above.

Any amounts received under this Section by the City and related to payments of the City Abatement, the County Abatement and the School District Abatement shall be distributed between the City, the County and the School District based on the pro rata amount of Tax Abatements that have been paid by each entity to Developer. Promptly upon receipt of any repayment by the Developer, the City will remit to the County and School District a pro rata amount attributable to the Tax Abatements paid by the County and School District. Nothing in this Section shall be construed to limit the City's, Authority's, County's, or School District's remedies under Article IX hereof. In addition to the remedy described in this Section and any other remedy available to the City, Authority, County, or School District for failure to meet the goals stated in Section 3.12(a)(3), the Developer agrees and understands that it may not receive a business subsidy from the City, the Authority, the County, the School District or any other grantor (as defined in the Business Subsidy Act) for a period of five years from the date of the failure or until the Developer satisfies its repayment obligation under this Section, whichever occurs first.

(d) Reports. The Developer must submit to the City, with a copy to the Authority, the County, and the School District, a written report regarding business subsidy goals and results by no later than March 1 of each year, commencing March 1, 2014, and continuing until the later of (i) the date the

goals stated in Section 3.12(a)(3) are met; (ii) 30 days after expiration of the five-year period described in Section 3.12(a)(6); or (iii) if the goals are not met, the date the subsidy is repaid in accordance with Section 3.12(c). The report must comply with Section 116J.994, subdivision 7 of the Business Subsidy Act. The City will provide information to the Developer regarding the required forms. As part of the annual compliance reporting required by this Section 3.12(d), the Developer will include a summary of the previous year’s activity with the School District in support of the partnership activities between the Developer and the School District described in Section 10.9. If the Developer fails to timely file any report required under this Section, the City will mail the Developer a warning within one week after the required filing date. If, after 14 days of the postmarked date of the warning, the Developer fails to provide a report, the Developer must pay to the City a penalty of \$100 for each subsequent day until the report is filed. The maximum aggregate penalty payable under this Section is \$1,000. The City will file, on behalf of the City, the Authority, the County, and the School District, any reports required to be filed with the State under the Business Subsidy Act.

Section 3.13. Additional Job and Wage Requirements.

(a) Additional Job and Wage Goals. In addition to the job and wage requirements set forth in Section 3.12(b) that comply with the requirements of the Business Subsidy Act, the Developer shall cause to be created at least an additional 246 new full-time equivalent jobs on the Development Property and shall cause the wages for all employees on the Development Property to be no less than \$14.50 per hour, exclusive of benefits. The Developer shall cause the additional jobs to be created on or prior to the dates set forth below:

Date	Number of Additional Jobs Created
Three Years Following Compliance Date	75
Four Years Following Compliance Date	93
Five Years Following Compliance Date	78

Notwithstanding Section 3.12(b) and this Section 3.13(a), it is the intention of the Developer to create a total of 500 full-time equivalent jobs on the Development Property, and the Developer will make every effort to do so.

(b) Remedies. If the Developer fails to meet the goals described in Section 3.13(a), the City, the Authority, the County, and the School District may independently determine to terminate this Agreement with respect to the financial assistance provided by each, and the Developer shall repay to the City upon written demand from the City a “pro rata share” of the City Abatement, the County Abatement, and the School District Abatement, if any, as well as a pro rata share of the amounts disbursed to Developer with respect to Authority Loan and the City Development Assistance. The term “pro rata share” means percentages calculated as follows:

- (i) if the failure relates to the number of jobs, the jobs required less the jobs created, divided by the jobs required;
- (ii) if the failure relates to wages, the number of jobs required less the number of jobs that meet the required wages, divided by the number of jobs required;
- (iii) if more than one of clauses (i) through (ii) apply, the sum of the applicable percentages, not to exceed 100%.

Notwithstanding the foregoing, instead of requiring the Developer to repay payments already made, upon the Developer's failure to meet the goals described in Section 3.13(a), the City, the Authority, the County and the School District may independently determine to continue their respective payments under this Agreement but reduce the amount of such assistance using the pro rata reduction formula set forth above.

Any amounts received under this Section by the City and related to payments of the City Abatement, the County Abatement, and the School District Abatement shall be distributed between the City, the County, and the School District based on the pro rata amount of Tax Abatements that have been paid by each entity to Developer. Promptly upon receipt of any repayment by the Developer, the City will remit to the County and the School District a pro rata amount attributable to the Tax Abatements paid by the County and the School District. Nothing in this Section shall be construed to limit the City's, Authority's, County's, or School District's remedies under Article IX hereof.

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## ARTICLE IV

### Construction of Minimum Improvements

Section 4.1. Construction of Improvements. The Developer agrees that it will construct each Phase of the Minimum Improvements on the Development Property in accordance with the approved Construction Plans and at all times during the term of this Agreement will operate, maintain, preserve and keep the Minimum Improvements with the appurtenances and every part and parcel thereof, in good repair and condition. The City, Authority, County, and School District shall have no obligation to operate or maintain the Minimum Improvements.

#### Section 4.2. Construction Plans.

(a) Before commencement of construction of any Phase of the Minimum Improvements, the Developer shall submit to the City the Construction Plans. The Construction Plans shall provide for the construction of the respective Phase of the Minimum Improvements and shall be in conformity with this Agreement, and all applicable State and local laws and regulations. The City will approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations; (iii) the Construction Plans are adequate to provide for construction of the respective Phase of the Minimum Improvements; (iv) the Construction Plans do not provide for expenditures in excess of the funds available to the Developer from all sources for construction of the particular Phase of the Minimum Improvements; and (v) no Event of Default has occurred.

Approval may be based upon a review by the City's Building Official of the Construction Plans. No approval by the City shall relieve the Developer of the obligation to comply with the terms of this Agreement, applicable federal, state and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements in accordance therewith. No approval by the City shall constitute a waiver of an Event of Default. If approval of the Construction Plans is requested by the Developer in writing at the time of submission, such Construction Plans shall be deemed approved unless rejected in writing by the City, in whole or in part within 20 days after the date of their receipt by the City. Such rejections shall set forth in detail the reasons therefore, and shall be made within 20 days after the date of their receipt by the City. If the City rejects any Construction Plans in whole or in part, the Developer shall submit new or corrected Construction Plans within 20 days after its receipt of written notification to the Developer of the rejection. The provisions of this Section relating to approval, rejection and resubmission of corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the City. The City's approval shall not be unreasonably withheld. Said approval shall constitute a conclusive determination that the Construction Plans (and the Minimum Improvements constructed in accordance with said plans) comply to the City's satisfaction with the provisions of this Agreement relating thereto.

(b) If the Developer desires to make any material change in the Construction Plans after their approval by the City, the Developer shall submit the proposed change to the City for its approval. For the purposes of this Section, the term "material" means any change that increases or decreases the total cost of each Phase of the Minimum Improvements by \$500,000 or more. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 of this Agreement with respect to such previously approved Construction Plans, the City shall approve the proposed change and notify the Developer in writing of its approval within 20 days after the date of their receipt by the City. Such change in the Construction Plans shall, in any event, be deemed approved by the City unless rejected, in whole or in part, by written notice by the City to the Developer, setting forth in detail the

reasons therefor. Such rejection shall be made within 20 days after receipt of the notice of such change. The City's approval of any such change in the Construction Plans will not be unreasonably withheld.

(c) The approval of Construction Plans by the City under this Section 4.2 is for the purposes of this Agreement only. The Developer must also obtain any approvals necessitated by the City's planning and zoning requirements. The County has no responsibility with respect to approving Construction Plans or any other requirements of this Section.

Section 4.3. Commencement and Completion of Construction. The Developer shall commence construction of Phase One of the Minimum Improvements on or prior to August 31, 2013. Subject to Unavoidable Delays, the Developer shall complete the construction of Phase One of the Minimum Improvements by December 31, 2014. Subject to Unavoidable Delays, the Developer shall complete Phase Two of the Minimum Improvements by December 31, 2016. The Developer expects to commence Phase Three of the Minimum Improvements by December 31, 2017. All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property shall be in conformity with the Construction Plans as submitted by the Developer and approved by the City.

The Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall promptly begin and diligently prosecute to completion the development of the Development Property through the construction of Phase One and Phase Two of the Minimum Improvements thereon, and that such construction shall in any event be commenced and completed within the period specified in this Section 4.3. After the date of this Agreement and until construction of Phase One and Phase Two of the Minimum Improvements have been completed, the Developer shall make reports, in such detail and at such times as may reasonably be requested by the City, as to the actual progress of the Developer with respect to such construction.

Section 4.4. Certificate of Completion.

(a) Following the completion of both Phase One and Phase Two of the Minimum Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Developer to construct the Minimum Improvements (including the dates for beginning and completion thereof), the City will furnish the Developer with a Certificate of Completion shown as Schedule C and shall forward a copy of such Certificate of Completion to the Authority, the County and the School District. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any Holder of a Mortgage, or any insurer of a Mortgage, securing money loaned to finance the Minimum Improvements, or any part thereof.

(b) If the City shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.4 of this Agreement, the City shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the reasonable opinion of the City, for the Developer to take or perform in order to obtain such certification.

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## ARTICLE V

### Insurance and Condemnation

#### Section 5.1. Insurance.

(a) The Developer will provide and maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the City, on behalf of the City, the Authority, the County, and the School District furnish the City with proof of payment of premiums on policies covering the following:

(i) comprehensive general liability insurance (including operations, with limits against bodily injury and property damage of not less than \$2,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(ii) workers' compensation insurance, with statutory coverage, provided that the Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

(b) Upon completion of construction of the Minimum Improvements and during the term of this Agreement, the Developer shall maintain, or cause to be maintained, at its cost and expense, insurance as follows:

(i) Comprehensive general liability insurance, including personal injury liability (with employee exclusion deleted), against liability for injuries to persons and/or property, in the amount for each occurrence and for each year of \$2,000,000 and \$5,000,000 in the aggregate; and

(ii) Such other insurance, including workers' compensation insurance respecting all employees of the Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that the Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

(c) All insurance required in Article V of this Agreement shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Developer will deposit or cause to be deposited annually with the City a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. In lieu of separate policies, the Developer may maintain or cause to be maintained a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements. Any failure to request such a certificate if not received by the Developer shall not constitute a waiver of the Developer's responsibilities with respect to this Article V.

(d) The Developer will notify the City, the Authority, the County, and the School District promptly in the case of damage exceeding \$1,000,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In such event the Developer will promptly repair, reconstruct and restore the Minimum Improvements to substantially the same or an improved condition or value as it existed prior to the event causing such damage, or with modifications to the Minimum Improvements that are approved by the City, the Authority, the County, and the School District in writing, and, to the extent necessary to accomplish such repair, reconstruction and restoration,

the Developer will apply the net proceeds of any insurance relating to such damage received by the Developer to the payment or reimbursement of the costs thereof. A request to the City, the Authority, the County, and the School District to approve modifications to the Minimum Improvements prior to repair, reconstruction or restoration of the Minimum Improvements shall not be unreasonably withheld.

The Developer shall complete the repair, reconstruction and restoration of the Minimum Improvements, whether or not the net proceeds of insurance received by the Developer for such purposes are sufficient to pay for the same. Any net proceeds remaining after completion of such repairs, construction and restoration shall be the property of the Developer.

A failure to promptly repair, reconstruct and restore the Minimum Improvements as required by this Section 5.1(d) will be considered an Event of Default under this Agreement and the City, Authority, County, and/or School District may suspend payments of Abatement or other financial assistance provided herein or exercise any other remedies provided in Section 9.2 hereof.

(e) All of the insurance provisions set forth in this Article V shall terminate upon the termination of this Agreement.

Section 5.2. Subordination. Notwithstanding anything to the contrary herein, the rights of the City, Authority, County, and School District with respect to the receipt and application of any insurance proceeds shall, in all respects, be subordinate and subject to the rights of any Holder under a Mortgage securing construction or permanent financing for the Minimum Improvements.

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## ARTICLE VI

### Taxes

Section 6.1. Right to Collect Delinquent Taxes. The Developer acknowledges that the City, Authority, County, and School District are providing substantial aid and assistance in furtherance of the Project pursuant to this Agreement. The Developer understands that the City Abatement and County Abatement pledged pursuant to this Agreement are derived from real estate taxes on the Development Property, which taxes must be promptly and timely paid. To that end, the Developer agrees for itself, its successors and assigns, that it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Development Property and the Minimum Improvements. The Developer acknowledges that this obligation creates a contractual right on behalf of the City, the Authority, the County or the School District to sue the Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the County auditor. In any such suit, the City, Authority, the County or the School District shall also be entitled to recover its costs, expenses and reasonable attorney fees.

Section 6.2. Reduction of Taxes. Prior to the termination of this Agreement, the Developer will not (a) cause a reduction in the real property taxes paid in respect of the Development Property through willful destruction of the Minimum Improvements or any part thereof; (b) fail to reconstruct the Minimum Improvements if damaged or destroyed, as required under Section 5.1(d) hereof; or (c) convey or transfer or allow conveyance or transfer of its leasehold interests in the Development Property to any entity that is exempt from payment of real property taxes under State law.

(The remainder of this page is intentionally left blank.)

## ARTICLE VII

### Financing

Section 7.1. Financing. The Developer warrants and represents to the City, Authority, County, and School District that it has or will have available funds sufficient to construct the Minimum Improvements in accordance with the Construction Plans.

Section 7.2. Modification; Subordination. If the Developer requires mortgage financing for the development of the Minimum Improvements, the City, Authority, County, and School District agree to subordinate their rights under this Agreement to the Holder of any Mortgage securing construction or permanent financing and the City, the Authority, the County and the School District agree to consent to such subordination, in accordance with the terms of a subordination agreement substantially in the form attached as Schedule D, or such other form as the City, the Authority, the County, and the School District approve.

(The remainder of this page is intentionally left blank.)

## ARTICLE VIII

### Prohibitions Against Assignment and Transfer; Indemnification

Section 8.1. Representation as to Development. The Developer's purchase of the Development Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the purpose of development of the Development Property and not for speculation in land holding.

Section 8.2. Prohibition Against Developer's Transfer of Property and Assignment of Agreement. Prior to the issuance of a Certificate of Completion for the Minimum Improvements:

(a) Except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Developer or any successor in interest to the Development Property, or any part thereof, to perform its obligations with respect to making the Minimum Improvements under this Agreement, and any other purpose authorized by this Agreement, the Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or its leasehold interests in the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity whether or not related in any way to the Developer (collectively, a "Transfer"), without the prior written approval of the City, the Authority, the County, and the School District unless the Developer remains liable and bound by this Agreement in which event the City, the Authority, the County, and the School District's approval is not required. Any such Transfer shall be subject to the provisions of this Agreement. Notwithstanding anything to the contrary in this Section, the Developer may assign its rights under this Agreement to the Holder of a Mortgage, provided the Mortgage is approved by the City, the Authority, the County, and the School District.

(b) In the event the Developer, upon Transfer of the Development Property or any portion thereof, seeks to be released from its obligations under this Agreement as to the portions of the Development Property that is transferred or assigned, the City, the Authority, the County, and the School District shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such release that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the City, the Authority, the County, and the School District, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer as to the portion of the Development Property to be transferred.

(ii) Any proposed transferee, by instrument in writing satisfactory to the City, the Authority, the County, and the School District and in form recordable in the public land records of the County, shall, for itself and its successors and assigns, and expressly for the benefit of the City, the Authority, the County, and the School District, have expressly assumed all of the obligations of the Developer under this Agreement as to the portion of the Development Property to be transferred and agreed to be subject to all the conditions and restrictions to which the Developer is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the City, the Authority, the County, and the School District) deprive the City, the Authority, the County, and the School District of any rights or remedies or controls with respect to the

Development Property or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City, the Authority, the County, and the School District of or with respect to any rights or remedies on controls provided in or resulting from this Agreement with respect to the Minimum Improvements that the City, the Authority, the County, and the School District would have had, had there been no such transfer or change. In the absence of specific written agreement by the City, the Authority, the County, and the School District to the contrary, no such transfer or approval by the City, the Authority, the County, and the School District thereof shall be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII, shall be in a form reasonably satisfactory to the City, the Authority, the County, and the School District.

In the event the foregoing conditions are satisfied then the Developer shall be released from its obligation under this Agreement, as to the portion of the Development Property that is transferred, assigned or otherwise conveyed. The restrictions under this Section terminate upon issuance of the Certificate of Completion.

### Section 8.3. Release and Indemnification Covenants.

(a) The Indemnified Parties shall not be liable for and the Developer shall indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Development Property or the Minimum Improvements.

(b) Except for any willful misrepresentation or any willful or wanton misconduct or negligence of the Indemnified Parties, and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, maintenance and operation of the Development Property or the Minimum Improvements.

(c) Except for any willful misrepresentation or any willful or wanton misconduct or negligence of the Indemnified Parties, the Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Development Property or Minimum Improvements.

(d) All covenants, stipulations, promises, agreements and obligations of the City, Authority, County, and School District contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of such entities and not of any governing body member, officer, agent, servant or employee of such entities in the individual capacity thereof.

(e) The City, the County, the Authority, and the School District have not, to the best of their knowledge, as of the date of this Agreement, received any notice of violation from any governmental authority with respect to the generation, storage or use of hazardous materials on the Development Property.

(The remainder of this page is intentionally left blank.)

## ARTICLE IX

### Events of Default

Section 9.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events:

- (a) failure by the Developer to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed hereunder;
- (b) commencement by the Holder of any Mortgage on the Development Property or any improvements thereon, or any portion thereof, of foreclosure proceedings as a result of default under the applicable Mortgage documents;
- (c) if the Developer shall
  - (i) file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law; or
  - (ii) make an assignment for benefit of its creditors; or
  - (iii) admit in writing its inability to pay its debts generally as they become due; or
  - (iv) be adjudicated a bankrupt or insolvent.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 of this Agreement occurs, the City, Authority, County, or School District may each exercise any of the following rights under this Section 9.2 after providing thirty days’ written notice to the Developer of the Event of Default, but only if the Event of Default has not been cured within said thirty days or, if the Event of Default is by its nature incurable within thirty days, the Developer does not, within such thirty-day period, provide assurances reasonably satisfactory to the party providing notice of default that the Event of Default will be cured and will be cured as soon as reasonably possible:

- (a) Suspend its performance under the Agreement until it receives reasonably satisfactory assurances that the Developer will cure its default and continue its performance under the Agreement.
- (b) Cancel and rescind or terminate its obligations under the Agreement, provided that:
  - (i) if the City terminates its obligations under the Agreement, it shall have no obligation to make payments of City Abatement;
  - (ii) if the County terminates its obligations under the Agreement, it shall have no further obligations to make payments of County Abatement to the City hereunder, and the City shall have no obligation to make payments of County Abatement to the Developer;
  - (iii) if the School District terminates its obligations under the Agreement, it shall have no further obligations to make payments of School District Abatement to the City hereunder, and the City shall have no obligation to make payments of School District Abatement to the Developer; and

(iv) if the City, County, and School District all terminate their obligations hereunder, respectively, this Agreement shall be deemed terminated and the City shall have no further obligations thereunder. Except as otherwise provided in Section 3.12(c), the City may not terminate its obligations to make payments under this Agreement unless the City, County, and School District have all terminated their obligations hereunder.

(c) Take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Section 9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order for the City, the Authority, the County, and the School District to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article IX.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any party, such waiver shall be limited to the particular breach so waived by the specific parties and shall not be deemed to waive any other concurrent, previous or subsequent breach to that party or any other party hereunder.

Section 9.5. Attorney Fees. Whenever any Event of Default occurs and if the City, the Authority, the School District or Developer shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer or the City, the Authority, and the School District under this Agreement, the non-prevailing party or parties in any such action agrees that it shall, within 10 days of written demand by the prevailing party or parties, pay to the prevailing party or parties the reasonable fees of such attorneys and such other reasonable expenses so incurred. If the County shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer, the City, and the School District under this Agreement, it shall pay its own attorney fees and expenses, regardless of what party is the prevailing party and shall not pay the attorneys fees or expenses of any other party to this Agreement.

Section 9.6. Default by City, Authority, County, or School District. Notwithstanding anything to the contrary herein, in the event the City, Authority, County, or School District fails to perform any covenant, condition, obligation or agreement on its part, and such failure has not been cured within 30 days after receipt of written notice to the party from the Developer, or if such failure is by its nature incurable within 30 days, the party does not, within such 30-day limit, provide assurances reasonably satisfactory to the Developer that the failure will be cured as soon as reasonably possible, then the Developer may exercise such remedies as may be available at law or in equity with respect to the defaulting party. The terms of Sections 9.3, 9.4, and 9.5 shall apply in favor the Developer as well as the City, Authority, County, and School District.

## ARTICLE X

### Additional Provisions

Section 10.1. Conflict of Interests; Representatives Not Individually Liable. The City, Authority, County, and School District and the Developer, to the best of their respective knowledge, represent and agree that no member, official, or employee of the City, the Authority, the County, or the School District shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the City, Authority, County, or School District shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City, Authority, County, or School District or for any amount which may become due to the Developer or successor or on any obligations under the terms of the Agreement.

Section 10.2. Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in the Agreement it will comply with all applicable federal, state and local equal employment and non-discrimination laws and regulations.

Section 10.3. [Intentionally Omitted]

Section 10.4. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.6. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) in the case of the Developer, is addressed to or delivered personally to the Developer at Rosemount Inc., 8200 Market Boulevard, Chanhassen, Minnesota 55317, Attention Tony Yankauskas, Vice President and Chief Financial Officer and at Emerson Process Management, 8000 Norman Center Drive, Suite 1200, Bloomington, Minnesota, 55437 ; Attention: Steve Chelesnik, Vice President and Chief Counsel; and

(b) in the case of the City, is addressed to or delivered personally to City Hall, 129 Holmes Street South, Shakopee, Minnesota 55379; Attention: City Administrator;

(c) in the case of the Authority, is addressed to or delivered personally to City Hall, 129 Holmes Street South, Shakopee, Minnesota 55379; Attention: Executive Director;

(d) in the case of the County, is addressed to or delivered personally to the County at the Scott County Government Center, 200 Fourth Avenue West, Shakopee, Minnesota 55379; Attention: County Auditor; and

(e) in the case of the School District, is addressed to or delivered personally to the School District at 100 River Ridge Court, Burnsville, Minnesota 55337; Attention: Superintendent;

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.8. Recording. The City may record this Agreement and any amendments thereto with the Scott County Recorder. The Developer shall pay all costs for recording.

Section 10.9. Partnership Between Developer and School District. The School District and the Developer agree to jointly participate in a formal partnership to enhance the relationships between the School District community and the Developer for the duration of this contract.

It is the goal of the School District to make “Each Student Real–World–Ready.” Partnerships between the School District and local businesses, government agencies, non-profit organizations, and members of the community are each important in helping to achieve this goal. The School District and Developer believe that it is in the best interest of local businesses to proactively support public education so that students graduating from high school are better prepared to enter the workforce or a post-secondary institution where they can become productive and contributing members of society.

The purpose of the partnership between the School District and the Developer, therefore, is to enter into mutually agreeable initiatives that would: (a) provide the School District’s students with opportunities to experience “real – world” business opportunities in our community; (b) encourage the Developer’s employees to be involved in School District activities that support student learning; and (c) provide meaningful and substantive programs to support the type of knowledge, skills and abilities that lead (indirectly or directly) to employment opportunities offered by the Developer and/or other local businesses.

Possible partnership activities might include, but are not limited to:

(i) Employee Engagement Opportunities.

- A. Annual Science Fair Judging;
- B. Mentorship Participation to assist Elementary and/or Secondary students in Math, Reading/Literacy, Career Opportunities or Science programming;
- C. Involvement in Robotics program; and
- D. Participation in STEM, AVID, Gifted/Talented or Arts & Technology magnet school initiatives.

(ii) Participation/Support at Annual Career Fair at High School. Career Fair provides high school students with access to a wide range of post high school job options and encourages post-secondary education for those students with a desire to move on to college.

(iii) Experiential – Field Trip Support. Up to four field trips per school year for students to experience business-in-process directly. Possible content for field trips include manufacturing of devices, plant or office tours, presentations on functional area roles and responsibilities (*e.g.* engineering/product development, manufacturing/operations, marketing, human resources, etc.)

(iv) Sponsorship of Technology-Related Initiatives. The Developer's sponsorship of technology-related initiatives will promote student learning and create positive public relations for both the School District and the Developer.

In addition and as part of this agreement, Developer agrees to formally designate and provide a primary contact to coordinate mutually agreed upon School District to Developer programs or activities. The Developer contact would be charged with program review and approval, coordination of such programs between School District and Developer, and communication of voluntary partnership opportunities to the Developer's local employees. Both the School District and the Developer will make best efforts to work together to offer meaningful opportunities to engage students (and employees) in programs or volunteer opportunities that support positive student outcomes.

It would be highly desirable, but not required, for representatives of the School District and the Developer to meet once per year to assess programs and to make mutually agreeable and fiscally reasonable plans for the coming year. It is not the intent of the School District to put unreasonable expectations on the Developer, but rather to work together and collaborate with the Developer to support positive and differentiated student outcomes that benefit all stakeholders.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the City, Authority, County, School District, and Developer have caused this Contract for Private Development to be duly executed by their duly authorized representatives as of the date first above written.

**CITY OF SHAKOPEE, MINNESOTA**

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: City Administrator

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Brad Tabke, the Mayor of the City of Shakopee, Minnesota, on behalf of the City.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Mark McNeill, the City Administrator of the City of Shakopee, Minnesota, on behalf of the City.

\_\_\_\_\_  
Notary Public

Execution page of the Authority to the Contract for Private Development, dated as of the date and year first written above.

**ECONOMIC DEVELOPMENT  
AUTHORITY FOR THE CITY OF  
SHAKOPEE, MINNESOTA**

By: \_\_\_\_\_  
Its: President

By: \_\_\_\_\_  
Its: Executive Director

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, the President of the Economic Development Authority for the City of Shakopee, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Mark McNeill, the Executive Director of the Economic Development Authority for the City of Shakopee, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

Execution page of the County to the Contract for Private Development, dated as of the date and year first written above.

**SCOTT COUNTY, MINNESOTA**

By: \_\_\_\_\_  
Its: Board Chair

By: \_\_\_\_\_  
Its: County Administrator

Approved as to form:

By: \_\_\_\_\_  
County Attorney

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Tom Wolf, the Board Chair of the Board of Commissioners of Scott County, Minnesota, on behalf of the County.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Gary Shelton, the County Administrator of Scott County, Minnesota, on behalf of the County.

\_\_\_\_\_  
Notary Public





**SCHEDULE A****DEVELOPMENT PROPERTY**

[insert legal description for property to be acquired by Developer and map showing location of Development Property]

## SCHEDULE B

### AUTHORITY LOAN SECURITY AGREEMENT

THIS SECURITY AGREEMENT (the “Security Agreement”) is made as of \_\_\_\_\_, 2013, by and between ROSEMOUNT INC., a Minnesota corporation (the “Developer” or “Debtor”), and the ECONOMIC DEVELOPMENT AUTHORITY FOR THE CITY OF SHAKOPEE, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority” or “Secured Party”).

### R E C I T A L S

WHEREAS, pursuant to a resolution adopted by the Board of Commissioners of the Authority on April 2, 2013, the Authority has agreed to provide a forgivable loan to the Developer in the maximum amount of \$350,000 (the “Loan”) to help finance the construction and equipping of improvements to an existing 500,000 square foot building shell over five years to create an approximately 285,000 square foot facility which will include manufacturing, a research and development lab, office space and warehouse space (the “Minimum Improvements”) on real property (the “Development Property”) located in the City of Shakopee, Minnesota (the “City”) and legally described in Exhibit A of the Contract for Private Development, dated \_\_\_\_\_, 2013 (the “Development Contract”), between the City, the Authority, Scott County, Minnesota (the “County”), and Independent School District No. 191 (Burnsville—Eagan—Savage) (the “School District”); and

WHEREAS, in exchange for the Loan, the Developer has agreed to construct the Minimum Improvements and comply with the provisions of the Development Contract, including the creation of jobs and wages as required by Sections 3.12 and 3.13 of the Development Contract; and

WHEREAS, the Loan shall be forgiven upon completion of Phase One and Phase Two of the Minimum Improvements (as described in the Development Contract) and the satisfaction of the requirements of Sections 3.12 and 3.13 of the Development Contract; and

WHEREAS, if the Developer fails to meet the requirements set forth in the Section 3.8 of the Development Contract, the Developer shall be required to repay all or a portion of the Loan, and as security for the repayment of the Loan, the Authority has required that the Developer execute and deliver to the Authority this Security Agreement granting a security interest to the Authority in certain equipment (the “Equipment”).

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by the Debtor, it is agreed as follows:

1. Security Interest and Collateral. Pursuant to the Development Contract, the Authority loaned \$350,000 to Debtor (the “Loan”). The proceeds of the Loan will be applied to the costs of the acquisition of equipment (“Equipment”) for the Minimum Improvements. To secure the repayment of the Loan, the Debtor hereby grants the Secured Party a security interest (herein called the “Security Interest”) in the following property (herein called the “Equipment”):

any and all equipment acquired with the proceeds of the Loan and installed in, attached to, or used in connection with the Minimum Improvements,

together with all parts, additions, replacements, and repairs to the Equipment now or hereafter installed in, attached to, or used in the Minimum Improvements financed with the Loan, and the proceeds thereof (collectively with the Equipment, the "Equipment"). See Exhibit A for a list of the initial Equipment purchased with the proceeds of the Loan.

2. Debtor's Representations, Warranties and Covenants. The Debtor represents, warrants, covenants, and agrees:

(a) Organization. The Debtor is a corporation organized under the laws of the State of Minnesota, validly existing and in good standing under the laws of the State of Minnesota, and the Debtor has full power and authority to execute, deliver, and perform this Security Agreement, and to own its property and conduct its business as presently conducted and as proposed to be conducted.

(b) Authorization. The execution, delivery, and performance of this Security Agreement by the Debtor was duly authorized by all necessary action and will not:

(i) require any consent or approval of any entity which has not been obtained; or

(ii) violate any material provision of any indenture, contract, agreement or instrument to which Debtor is a party or by which it is bound.

(c) Performance by Debtor. Unless Debtor obtains Secured Party's written consent to the contrary, Debtor shall not:

(i) terminate its interest in any of the Equipment; or

(ii) sell, transfer, or assign, or offer to sell, transfer or assign all or any part of the Equipment or permit all or any part of the Equipment to be sold, transferred, or assigned; or

(iii) remove or consent to the removal of any of the Equipment from the Minimum Improvements.

(d) Title to Equipment. Debtor shall keep good marketable title to all of the Equipment, and none of the Equipment is subject to any lien or security interest except for the security interest created by this Security Agreement and other security interests consented to in writing by Secured Party. Debtor has not granted, and will not grant or permit to exist, any lien or security interests in all or a portion of the Equipment other than the liens in favor of Secured Party and other liens consented to in writing by Secured Party. Debtor shall defend the Equipment against all claims and demands of all and any other persons at any time claiming any interest therein adverse to Secured Party.

(e) Actions and Proceedings. There are no actions at law, suits in equity, or other proceedings before any governmental agency, commission, bureau, tribunal, or other arbitration proceedings against or affecting Debtor, that if adversely determined would adversely affect Debtor's interest in the Equipment or would adversely affect the rights of Debtor to pledge and assign all or a part of the Equipment or the rights and security afforded Secured Party hereunder.

(f) Insurance. The Debtor agrees it will keep the Equipment insured, or cause the Equipment to be kept insured, at all times against loss by fire or other hazards concerning which, in the judgment of the Secured Party, insurance protection is reasonably necessary and in amounts sufficient to protect against loss or damage of the Equipment. Such policy or policies will contain a loss payable clause in

favor of Secured Party or its successors or assigns, in form satisfactory to Secured Party, provided, however, that Debtor may, at its reasonable discretion, self-insure the Equipment.

(g) No Fixture. If any of the Equipment is or becomes a fixture, Debtor agrees to furnish Secured Party, at Secured Party's request, with a statement or statements signed by all persons who have or claim an interest in the real estate concerned, which statements shall provide that the signer consents to the security interest created hereby and disclaims any interest in the Equipment as fixtures.

(h) Understandings Regarding Equipment. Debtor acknowledges that the Equipment is or will be of the design, capacity, and manufacture specified for and by Debtor, and that Debtor is satisfied that the same is or will be suitable for its intended purposes. Debtor further acknowledges and agrees that Secured Party has not made, and does not make, any representation, warranty, or covenant with respect to merchantability, fitness for any purpose, durability, patent, copyright or trademark infringement, suitability, or capability of any item of Equipment in any respect or in connection with any other purpose or use of Debtor, or any other representation, warranty, or covenant of any kind or character expressed or implied with respect thereto. Debtor accordingly agrees not to assert any claim whatsoever against Secured Party based thereon. Debtor further agrees, regardless of cause, not to assert any claim whatsoever against Secured Party for loss of anticipatory profits or consequential damages.

(i) Use of Equipment. The Equipment will be used for its intended business purpose and will at all times be located at the Minimum Improvements, except as provided in the Loan Agreement.

(j) Condition of Equipment. Debtor will keep the Equipment in good condition and repair, reasonable wear and tear excepted, and will permit Secured Party to enter the Minimum Improvements at reasonable times and upon reasonable notice for the purpose of examining the Equipment.

(k) Costs of Collection. In the event of any action or proceeding to collect or realize upon the Equipment or to enforce any of Secured Party's rights hereunder, the Debtor shall pay:

- (i) all of Secured Party's attorneys fees and legal expenses, with interest thereon, incurred by the Secured Party;
- (ii) all taxes, levies, insurance expenses, and costs of repairs to, or maintenance of, the Equipment; and
- (iii) all costs of the Secured Party reasonably incurred in taking possession of, disposing of, or preserving the Equipment after any Event of Default (defined below).

3. Event of Default. Upon the occurrence of a default with respect to Section 3.8 of the Development Contract or in this Security Agreement, the Secured Party may exercise any remedy available to it under the terms of the Development Contract or this Security Agreement, and may, without limiting any other right or remedy available to it, exercise and enforce any and all rights and remedies available upon default to a secured party under the Uniform Commercial Code as enacted in the State of Minnesota, Minnesota Statutes, Chapter 336, as amended (the "UCC"), and the Secured Party and all representatives of the Secured Party are hereby granted the right to enter upon any property of the Debtor, without a hearing or prior notice thereof, for the purpose of taking possession of the Equipment. If notice to the Debtor of any intended disposition of the Equipment or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in this Security Agreement) at least ten calendar days prior to the date of the intended disposition or other action.

4. Further Assurances. The Debtor shall execute and deliver to the Secured Party, promptly and at the Debtor's expense, financing statements, including without limitation a UCC-1 Financing Statement listing the Equipment and all proceeds thereof as collateral. Debtor agrees that the Secured Party is authorized, at its option, to file a photocopy or other reproduction of this Security Agreement as a financing statement and such photocopy or other reproduction shall be sufficient as a financing statement under the UCC, and the Debtor hereby irrevocably appoints the Secured Party as the Debtor's attorney-in-fact to execute and file, from time to time, on its behalf, one or more financing statements with respect to the Equipment and to execute such other documents and instruments on behalf of the Debtor as the Secured Party, in its sole judgment, shall deem necessary or desirable for the purposes of effectuating this Security Agreement, such power being coupled with an interest.

5. Cumulative Remedies. All of the Secured Party's rights and remedies herein are cumulative and in addition to any rights or remedies available at law or in equity, including the UCC, and may be exercised concurrently or separately. The Debtor shall pay all costs, expenses, losses, damages, and legal costs (including attorneys fees) incurred by the Secured Party as a result of enforcing any terms or conditions of this Security Agreement.

6. No Liability Imposed on the Secured Party. The Secured Party shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty, or liability, nor shall this Security Agreement operate to place responsibility for the control, care, or management of the Equipment upon Secured Party; provided, that upon (a) the termination of the Development Contract, or (b) if an Event of Default occurs hereunder, the repayment by the Developer of the full amount of the Loan, the Secured Party shall execute and file UCC termination statements in the offices in which financing statements with respect to the Equipment are effective.

7. Indemnification. The Debtor hereby agrees to indemnify and to hold the Secured Party harmless of and from any and all liability, loss, or damage which it may or might incur under or by reason of this Security Agreement, and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein. Should the Secured Party incur any such liability or be required to defend against any such claims or demands, or should a judgment be entered against the Secured Party, the amount thereof, including costs, expenses, and attorneys fees, shall be secured hereby, and shall be added to the obligations of the Debtor secured hereunder. The Debtor shall reimburse the Secured Party for such additional obligations immediately upon demand, and upon the failure of the Debtor so to do, the Secured Party may declare such additional obligations immediately due and payable.

8. Expenses of Secured Party. All expenses paid or incurred in protecting, storing, warehousing, insuring, handling, and shipping the Equipment, all costs of keeping the Equipment free of liens, encumbrances, and security interests (other than the security interest created by this Security Agreement), and the removing of the same and all excise, property, sales, and use taxes imposed by state, federal, or local authority on any of the Equipment or with respect to the sale thereof, shall be borne and paid for by the Debtor and if the Debtor fails to promptly pay any amounts thereof when due, the Secured Party may, at its option, but shall not be required to, pay the same, and upon such payment the same shall constitute additional obligations of the Debtor and shall be secured by the security interests granted hereunder.

9. Continuing Rights. The rights and powers of the Secured Party hereunder shall continue and remain in full force effect until (a) the termination of the Development Contract, or (b) if an Event of Default occurs hereunder, the repayment by the Developer of the full amount of the Loan (and any additional obligations referred to in Sections 7 and 8 hereof are paid in full).

10. Books and Records. The Debtor will permit the Secured Party, and its representatives, at reasonable times and upon reasonable notice, to examine the Debtor's books and records (including data processing records and systems) with respect to the Minimum Improvements and the Equipment and make copies thereof at any time and from time to time, and the Debtor will furnish such information reports to the Secured Party and its representatives regarding the Equipment as the Secured Party and its representatives may from time to time request. The Secured Party shall have the authority, at any time, to require the Debtor to place upon the Debtor's books and records relating to the Equipment and other rights to payment covered by the security interest created in this Security Agreement a notation stating that any such Equipment and other rights of payment are subject to a security interest in favor of the Secured Party.

11. Successors and Assigns. This Security Agreement and each and every covenant, agreement, and provision hereof shall be binding upon the Debtor, and its successors and assigns, and shall inure to the benefit of the Secured Party, and its successors and assigns.

12. Severability. It is the intent of this Security Agreement to confer to the Secured Party the rights and benefits hereunder to the full extent allowable by law, including all rights available under the UCC. The unenforceability or invalidity of any provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid. Any provisions judicially determined to be unenforceable shall be severable from this Security Agreement.

13. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Security Agreement may be waived only in writing. No delay in the exercise of any power, right or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right or remedy.

(b) Assignment. This Security Agreement shall be binding upon the Debtor, and its successors and assigns, and shall inure to the benefit of the Secured Party, and its successors and assigns.

(c) Certain Defined Terms. Capitalized terms used in this Security Agreement and defined in this Security Agreement are used with the meanings given in this Security Agreement or the Development Contract.

(d) Other Matters. If any provision or application of this Security Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect, and this Security Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Security Agreement or in any other agreement between Debtor and Secured Party shall survive the execution, delivery, and performance of this Security Agreement and the creation and payment of any indebtedness to Secured Party. Debtor waives notice of the acceptance of this Security Agreement by Secured Party.

14. Notices and Demands. Any notice, demand, or other communication under this Security Agreement by either party to the other shall be sufficiently given or delivered only if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

To the Authority: Economic Development Authority for the  
City of Shakopee, Minnesota  
129 Holmes Street South  
Shakopee, MN 55379  
Attn: Executive Director

To the Debtor: Rosemount Inc.  
8200 Market Boulevard  
Chanhassen, Minnesota 55317  
Attention Tony Yankauskas,

and

Emerson Process Management  
8000 Norman Center Drive  
Suite 1200  
Bloomington, Minnesota, 55437  
Attention: Steve Chelesnik, Vice President and Chief Counsel

or at such other address with respect to any party as that party may, from time to time, designate in writing and forward to the others as provided in this Section 14.

15. Conflict of Interests; Representatives Not Individually Liable. No officer or employee of the Authority may acquire any financial interest, direct or indirect, in this Security Agreement, the Equipment, or in any contract related to the Equipment. No officer, agent, or employee of the Authority shall be personally liable to the Debtor, or any successor in interest, in the event of any default or breach by the Authority or for any amount which may become due to the Debtor or on any obligation or term of this Security Agreement.

16. Binding Effect. The covenants and agreements in this Security Agreement shall bind and benefit the heirs, executors, administrators, successors, and assigns of the parties to this Security Agreement.

17. Merger. None of the provisions of this Security Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Security Agreement.

18. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Security Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

19. Counterparts. This Security Agreement may be executed in any number of counterparts, each of whom shall constitute one and the same instrument.

20. Choice of Law and Venue. This Security Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota without regard to its conflict of laws provisions. Any disputes, controversies, or claims arising out of this Security Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Security Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

21. Waiver. The failure of any party to take any action or assert any right or remedy, or the partial exercise by any party of any right or remedy, shall not be deemed to be a waiver of such action, right, or remedy if the circumstances creating such action, right, or remedy continue or repeat.

22. Entire Agreement. This Security Agreement constitutes the entire agreement between the parties pertaining to its subject matter and it supersedes all prior contemporaneous agreements, representations, and understandings of the parties pertaining to the subject matter of this Security Agreement.

23. Separability. Wherever possible, each provision of this Security Agreement and each related document shall be interpreted so that it is valid under applicable law. If any provision of this Security Agreement or any related document is to any extent found invalid by a court or other governmental entity of competent jurisdiction, that provision shall be ineffective only to the extent of such invalidity, without invalidating the remainder of such provision or the remaining provisions of this Security Agreement or any other related document.

24. Immunity. Nothing in this Security Agreement shall be construed as a waiver by the Authority of any immunities, defenses, or other limitations on liability to which the Authority is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466.

25. Other Matters. All representations and warranties contained in this Security Agreement or in any other agreement between the Debtor and the Authority shall survive the execution, delivery and performance of this Security Agreement and the creation and payment of any indebtedness to the Authority. The Debtor waives notice of the acceptance of this Security Agreement by the Authority.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Debtor has caused this Security Agreement to be duly executed in its name and on its behalf and the Authority has caused this Security Agreement to be duly executed in its name and on its behalf as of the date first above written.

**ROSEMOUNT INC.**

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

Its: \_\_\_\_\_

Execution page of the Authority to Security Agreement, dated as of the date and year first above written.

**ECONOMIC DEVELOPMENT  
AUTHORITY FOR THE CITY OF  
SHAKOPEE, MINNESOTA**

By: \_\_\_\_\_  
Its: President

By: \_\_\_\_\_  
Its: Executive Director

**EXHIBIT A**  
**DESCRIPTION OF EQUIPMENT**

EQUIPMENT

[Insert list of equipment]

**EXHIBIT B**  
**DEVELOPMENT PROPERTY**

[insert legal description for property to be acquired by Developer]

**EXHIBIT C**  
**FORM OF UCC-1 FINANCING STATEMENT**

**SCHEDULE C**

**CERTIFICATE OF COMPLETION**

The undersigned hereby certifies that Rosemount Inc., a Minnesota corporation (the “Developer”), has fully complied with its obligations under Articles III and IV of that document titled “Contract for Private Development,” dated \_\_\_\_\_, 2013, between the City of Shakopee, Minnesota (the “City”), the Economic Development Authority for the City of Shakopee, Minnesota (the “Authority”), Scott County, Minnesota (the “County”), Independent School District No. 191 (Burnsville—Eagan—Savage) (the “School District”), and the Developer, with respect to construction of Phase One and Phase Two of the Minimum Improvements in accordance with the Construction Plans, and that the Developer is released and forever discharged from its obligations to construct Phase One and Phase Two of the Minimum Improvements set forth in Articles III and IV of the Contract for Private Development.

Dated: \_\_\_\_\_, 20\_\_.

**CITY OF SHAKOPEE, MINNESOTA**

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

Its: \_\_\_\_\_

[A copy of this Certificate shall be provided to the Authority, the County and the School District.]

## SCHEDULE D

### FORM OF SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this “Agreement”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between \_\_\_\_\_ (the “Lender”), whose address is at \_\_\_\_\_, the CITY OF SHAKOPEE, MINNESOTA, a public body corporate and politic (the “City”), the ECONOMIC DEVELOPMENT AUTHORITY FOR THE CITY OF SHAKOPEE, MINNESOTA, a public body corporate and politic (the “Authority”), SCOTT COUNTY, MINNESOTA, a public body corporate and politic (the “County”), and INDEPENDENT SCHOOL DISTRICT NO. 191 (BURNSVILLE—EAGAN—SAVAGE), a public body corporate and politic (the “School District”).

#### RECITALS

A. Rosemount Inc., a Minnesota corporation (the “Developer”), is the owner of certain real property situated in Scott County, Minnesota and legally described in Exhibit A attached hereto and incorporated herein (the “Property”).

B. Lender has made a mortgage loan to Developer in the original principal amount of \$ \_\_\_\_\_ (the “Loan”). The Loan is evidenced and secured by the following documents:

[insert loan documents]

The [loan documents], and all other documents and instruments evidencing, securing and executed in connection with the Loan, are hereinafter collectively referred to as the “Loan Documents.”

C. The City, the Authority, the County, and the School District are the owners and holders of certain rights under a certain recorded Contract for Private Development (the “Contract”) by and between the City, the Authority, the County, the School District, and the Developer, dated \_\_\_\_\_, 2013.

NOW, THEREFORE, in consideration of the foregoing and as an inducement to Lender to make the Loan, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto represent, warrant and agree as follows:

1. Consent. The City, Authority, County, and School District acknowledge that the Lender is making the Loan to the Developer and consent to the same. The City, Authority, County, and School District also consent to and approve the assignment of the Contract to the Lender as collateral for the Loan; provided, however, that this consent shall not deprive the City or County of or otherwise limit any of the City’s, Authority’s, County’s, or School District’s rights or remedies under the Contract and shall not relieve the Developer of any of its obligations under the Contract; provided further, however, the limitations to the City’s, Authority’s, County’s, and School District’s consent contained in this Paragraph 1 are subject to the provisions of Paragraph 2 below.

2. Subordination. The City, Authority, County, and School District hereby agree that the rights of the City, Authority, County, and School District with respect to the Development Property under the Contract are and shall remain subordinate and subject to liens, rights and security interests created by the Loan Documents and to any and all amendments, modifications, extensions, replacements or renewals of the Loan Documents; provided, however, that nothing herein shall be construed as subordinating the requirements contained in Section 3.12 of the Contract.

3. Notice to City, County, and School District. Lender agrees to notify City, Authority, County, and School District of the occurrence of any Event of Default given to Developer under the Loan Documents.

4. No Assumption. The City, Authority, County, and School District acknowledge that the Lender is not a party to the Contract and by executing this Agreement does not become a party to the Contract, and specifically does not assume and shall not be bound by any obligations of the Developer to the City, Authority, County, and School District under the Contract, and that the Lender shall incur no obligations whatsoever to the City, Authority, County, and School District except as expressly provided herein.

5. Notice from City. So long as the Contract remains in effect, the City agrees to give to the Lender copies of notices of any Event of Default given to Developer under the Contract.

6. Governing Law. This Agreement is made in and shall be construed in accordance with the laws of the State of Minnesota.

7. Successors. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including any person who acquires title to the Development Property through the Lender of a foreclosure of the Mortgage.

8. Severability. The unenforceability or invalidity of any provision hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

9. Notice. Any notices and other communications permitted or required by the provisions of this Agreement shall be in writing and shall be deemed to have been properly given or served by depositing the same with the United States Postal Service, or any official successor thereto, designated as registered or certified mail, return receipt requested, bearing adequate postage, or delivery by reputable private carrier and addresses as set forth above.

10. Transfer of Title to Lender. The City, Authority, County, and School District agree that in the event the Lender, a transferee of Lender, or a purchaser at foreclosure sale, acquires title to the Development Property pursuant to a foreclosure, or a deed in lieu thereof, the Lender, transferee, or purchaser shall not be bound by the terms and conditions of the Contract except as expressly herein provided. Further the City, Authority, County, and School District agree that in the event the Lender, a transferee of Lender, or a purchaser at foreclosure sale acquires title to the Development Property pursuant to a foreclosure sale or a deed in lieu thereof, then the Lender, transferee, or purchaser shall be entitled to all rights conferred upon the Developer under the Contract (*e.g.* the right to collect abatement, the right to enforce the Contract, etc.), provided that no condition of default exists and remains uncured beyond applicable cure periods in the obligations of the Developer under the Contract.

11. Estoppel. The City, Authority, County, and School District hereby represent and warrant to Lender, for the purpose of inducing Lender to make advances to Developer under the Loan Documents that:

- (a) No default or event of default by Developer exists under the terms of the Contract on the date hereof;
- (b) The Contract has not been amended or modified in any respect, nor has any material provision thereof been waived by any of the City, Authority, County, School District, or the Developer, and the Contract is in full force and effect;

(c) Such other reasonable certifications as the Lender may request.

13. Amendments. The City, Authority, County, and School District hereby represent and warrant to Lender for the purpose of inducing Lender to make advances to Developer under the Loan Documents that City, Authority, County, and School District will not agree to any amendment or modification to the Contract that materially affects the collection of City Available Abatement, County Available Abatement, and School District Available Abatement (as those terms are defined in the Contract) in any way affects the Development Property without the Lender's written consent.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, this Subordination Agreement has been executed and delivered as of the day and year first written above.

**CITY OF SHAKOPEE, MINNESOTA**

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: City Administrator

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the Mayor of the City of Shakopee, Minnesota, on behalf of the City.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the City Administrator of the City of Shakopee, Minnesota, on behalf of the City.

\_\_\_\_\_  
Notary Public

**ECONOMIC DEVELOPMENT  
AUTHORITY FOR THE CITY OF  
SHAKOPEE, MINNESOTA**

By: \_\_\_\_\_  
Its: President

By: \_\_\_\_\_  
Its: Executive Director

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the President of the Economic Development Authority for the City of Shakopee, Minnesota, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the Executive Director of the Economic Development Authority for the City of Shakopee, Minnesota, on behalf of the City.

\_\_\_\_\_  
Notary Public

**SCOTT COUNTY, MINNESOTA**

By: \_\_\_\_\_  
Its: Board Chair

By: \_\_\_\_\_  
Its: County Administrator

Approved as to form:

By: \_\_\_\_\_  
County Attorney

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the Board Chair of the Board of Commissioners of Scott County, Minnesota, on behalf of the County.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF SCOTT         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the County Administrator of Scott County, Minnesota, on behalf of the County.

\_\_\_\_\_  
Notary Public



**[LENDER]**

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

STATE OF MINNESOTA     )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the \_\_\_\_\_, on behalf of the [Lender].

\_\_\_\_\_  
Notary Public



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Superintendent of Schools

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**TO:** Members, Board of Education Agenda Item III.D

**FROM:** Randy Clegg, Superintendent

**DATE:** April 4, 2013

**RE:** Board Policy 412: *Expense Reimbursement for Travel*

**Recommendation:** That the Board of Education approve, on a first reading basis, Policy 412: *Expense Reimbursement for Travel*.

As part of the ongoing work to update the Board of Education's governance policies, Board Policy 412: *Expense Reimbursement for Travel* has been reviewed and updated by the Board Policy Committee. This policy will eliminate Board Policy DLCA: *Expense Reimbursement* from the policy manual.

**BURNSVILLE-EAGAN-SAVAGE SCHOOL DISTRICT**

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**Policy 412 Expense Reimbursement for Travel**

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**I. PURPOSE**

The purpose of this policy is to control expense reimbursements for travel by school board members, employees, and board appointed agents.

**II. SCOPE**

This policy applies to all school board members, employees, and board appointed agents.

**III. DEFINITIONS**

*Authorizing Administrator* - Individual with the authority and accountability for the budget which is funding and approving the expense.

**IV. POLICY STATEMENT**

Travel at district expense shall be confined to the purposes of performing one's duties, representing the district, improving the learning environment, professional growth, and contributing to the achievement of district wide goals. All travel expenditures must be in compliance with budgetary and policy constraints and adhere to the district's expense reimbursement regulations.

**V. RESPONSIBILITIES**

*Authorizing Administrator* - Ensure regulations are followed regarding expense reimbursements for travel and are within budgetary constraints.

*Supervisors* - Ensure regulations are followed regarding expense reimbursements for travel.

*Accounting Office* - Provide oversight and administration of the expense reimbursement for travel policy and regulations.

**VI. EXCLUSIONS**

None

**VII. CONTACTS**

Offices that can be contacted regarding the policy:

Office/Department

Telephone Number

Accounting Office

952-707-2055

**VIII. LEGAL REFERENCES**

Minn. Stat. § 15.435

**History:** Issued as Policy DLCA, in review 4/13

**Approved by:**  
Board of Education

**Clerk's Signature:**

**Date:**

Descriptor Term: **Expense Reimbursement for Travel**

Descriptor Code: **DLCA**

Issued Date: **3/91**

Reviewed Date:

Revised Date: **1/05**

Rescinds:

This policy governs the travel of school board, employees and agents of the District. Travel at District expense shall be confined to the purposes of: performing one's duties, representing the District, improving the learning environment, professional growth, and contributing to the achievement of District wide goals. All travel expenditures must be in compliance with budgetary and policy constraints.

Descriptor Term: **Expense Reimbursement for Travel**

Descriptor Code: **DLCA-R**

Issued Date: **9/92**

Reviewed Date:

Revised Date: **1/05**

Rescinds:

#### Eligible District Travel

Only school board members, employees and Board appointed agents are eligible to travel at District expense.

All travel at District expense must be for the District's interest or benefit.

Eligible District travel shall not include routine commuting trips between an employee's residence and workstation.

All exceptions to the above must be approved by the Board.

#### Travel Authorization

Travel reimbursement claims must be approved by the employee's immediate supervisor.

Travel by employees at district expense outside the State of Minnesota and requiring overnight accommodations must be approved in advance by the Superintendent.

Out of state travel by school board members must be approved in advance by the Chair of the school board.

Once travel by employees or agent's of the District has been approved for a particular trip, this approval can be rescinded only by the action of the School Board. If the trip authorization has been rescinded, the District will cover the costs of non-refundable professional expenses paid by and for the employee or agent.

Descriptor Term: **Expense Reimbursement for Travel**

Descriptor Code: **DLCA-R**

Issued Date: **3/91**

Reviewed Date:

Revised Date: **1/05**

Rescinds:

#### Salary Allowance

No employee shall receive any additional compensation for travel time or services rendered while on District sponsored trip.

#### Travel Expenses Allowed

The District will advance or reimburse officers, employees and agents all authorized expenses incurred while on an approved trip.

#### Authorized Transportation

Reimbursement for use of personal vehicles shall be limited to the mileage rate established by the Internal Revenue Service.

Reimbursement for use of personal vehicles shall be limited to the actual cost of the commercial fare, coach class.

If a personal vehicle is used in lieu of commercial transportation, the District's contribution shall be limited to the lesser of the mileage cost calculated at the established rate or the cost of the commercial transportation that would have normally been utilized. In most cases, this payment will be equal to the most cost-effective rate charged by a major commercial carrier.

If cost free shuttle services are not available, mileage or commercial vehicle fares will be allowed for transportation to and from airports and between the place of lodging and the conference site.

The cost of leasing a vehicle for ground transportation will not be reimbursed unless commercial transportation is unavailable or not cost effective in which case the District's contribution shall be restricted to the pro-rated share of the total lease cost attributable to business travel.

Commercial air transportation must be booked by the District's Business Office. Frequent flyer miles resulting from District paid airfare shall accrue to the benefit of the District and cannot be used for personal travel.

Descriptor Term: **Expense Reimbursement for Travel**

Descriptor Code: **DLCA-R**

Issued Date: **3/91**

Reviewed Date:

Revised Date: **1/05**

Rescinds:

#### Authorized Meals

The District will reimburse employees for meals while out of the District on school business.

Employees are expected to exercise reasonable judgment in incurring meal costs. The total cost of reimbursed meals shall not exceed \$40 per day. Exceptions to the \$40 limit will be granted if justified on the basis of location, unique circumstance or when included in a meal/lodging/registration package.

The District will not reimburse employees for individual meals that were included in the registration fee paid by the District.

#### Authorized Lodging

The District will reimburse the actual reasonable costs paid for lodging.

When a room is occupied by more than one person the District's contribution shall not exceed the lower of the single rate for that room or the cost actually incurred by the employee.

#### Authorized Registration

The District will pay the full cost of registration for the employee for attendance at a conference, convention or meeting.

The District shall not pay that portion of a registration fee that is attributable to course credits provided by a college or university.

Descriptor Term: **Expense Reimbursement for Travel**

Descriptor Code: **DLCA-R**

Issued Date: **3/91**

Reviewed Date:

Revised Date: **1/05**

Rescinds:

#### Authorized Gratuities

Gratuities to be reimbursed for meals or taxi fare shall not exceed 20% of the costs. Other gratuities to be reimbursed shall be reasonable and necessary.

#### Receipts

Receipts are required for all lodging, airfares, commercial transportation and registration. Receipts for meals and ground travel should be provided.

#### Personal Expenses

The District will not reimburse employees for personal expenses. Personal expenses include the following:

- Room Service
- Alcoholic Beverages
- Personal Property
- Entertainment
- Personal Phone Calls
- Credit Cards
- Expenses for other than District Employee
- Tobacco
- Child Care Expenses
- Laundry/Dry cleaning

#### Exceptions

Exceptions to allowed travel expenses must be approved by the Superintendent.

#### Expense Advance/Reimbursement Claims

All advance or prepayment requests and all expense reimbursement claims are to be itemized in detail on forms provided by the Business Office. Reimbursement claims must itemize all costs on a daily basis for lodging, transportation, registrations and meeting expenses. Meal costs shall be broken down on a per meal, per day basis. When more than one person is included by an advance request or claim, the names of each must be indicated thereon. Travel expenses shall include the cost of registration, tuition, dues or admission to the event or meeting for which the trip was approved.

Out-of-District travel expenses will be advanced or reimbursed at the employee's discretion.

Descriptor Term: **Expense Reimbursement for Travel**

Descriptor Code: **DLCA**

Issued Date: **3/91**

Reviewed Date:

Revised Date: **1/05**

Rescinds:

However, advance requests will not be honored unless the total cost of the trip or meeting is expected to exceed \$30.00. When more than one officer, employee or agent is involved on a trip, the District will prepay such costs if so requested.

Officers, employees and agents must submit their reimbursement claims or, in the case of advances, their final accounting and refund, if any, immediately after returning from an out-of-District trip. Said claims, final accounting and refunds are to be submitted directly to their immediate supervisor.

Employees who incur in-District travel expenses on a regular basis may withhold and submit their reimbursement claims to their immediate supervisor periodically, providing the final claim for a fiscal year is submitted on or before June 30.

All claims for advance payment or reimbursement of travel expenses must be audited by the employee's immediate supervisor for compliance with this policy. All claims must be signed by the employee and approved by the immediate supervisor before submission to the Business Office.

Legal Reference: Minn. Stat. § 15.435



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Superintendent of Schools

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**TO:** Members, Board of Education Agenda Item III.E

**FROM:** Randy Clegg, Superintendent

**DATE:** April 4, 2013

**RE:** Board Policy 423: *Employee - Student Relationships*

**Recommendation:** That the Board of Education approve, on a first reading basis, Policy 423: *Employee - Student Relationships*.

As part of the ongoing work to update the Board of Education's governance policies, Board Policy 423: *Employee - Student Relationships* has been reviewed and updated by the Board Policy Committee. This policy replaces Board Policy GBEAB in the policy manual.

**BURNSVILLE-EAGAN-SAVAGE SCHOOL DISTRICT**

**District Policy 423 Employee-Student Relationships**

**I. PURPOSE**

The purpose of this policy is to establish and clarify district standards and expectations regarding employee-student relationships.

**II. SCOPE**

This policy applies to all district employees at all times, whether on or off duty and on or off school properties.

**III. DEFINITIONS**

None.

**IV. POLICY STATEMENT**

- A. It is the school district's policy that all employees will be respectful and establish professional relationships with students that cultivate a healthy learning environment. Employees are expected to exercise sound professional judgment in all interpersonal relationships being mindful of their inherent positions of authority and influence over students.
- B. Excessive informal and social involvement with individual students, including electronic communications, is unprofessional, inappropriate, and incompatible with professional employee-student relationships. School district employees shall, whenever possible, employ safeguards against improper relationships with students and/or claims of such improper relationships.
- C. Sexual relationships between school district employees and students are strictly forbidden.
- D. All complaints and/or concerns regarding violations of this policy will be investigated and acted upon appropriately. The school district is not required to defend and indemnify an employee for damages in school related litigation.

**V. RESPONSIBILITIES**

*Superintendent* – Develop and implement procedures and regulations for communicating district expectations.

**VI. EXCLUSIONS**

None

**VII. CONTACTS**

Office/Department

Telephone Number

Director of Labor Relations

952-707-2010

**History:** Issued as GBEAB 4/01, In review 4/13

**Approved by:**  
Board of Education

**Clerk's Signature:**

**Date:**

**VIII. LEGAL REFERENCES**

Minn. Stat. § 13.43, Subd. 16 (School District or Charter School Disclosure of Violence or Inappropriate Sexual Contact)

Minn. Stat. § 122A.20, Subd 2 (Mandatory Reporting to Minnesota Board of Teaching)

Minn. Stat. § 122A.40, Subds. 5(b) and 13(b) (Mandatory immediate discharge of teachers with license revocations due to child or sex abuse convictions)

Minn. Stat. §§ 609.341-609.352 (Defining “intimate parts” and “position of authority” as well as detailing various sex offenses)

Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)

Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)

Minn. Rules Part 3512.5200 (Code of Ethics for School Administrators)

Minn. Rules Part 8700.7500 (Code of Ethics for Minnesota Teachers)

Descriptor Term: **Staff Protection**  
**Staff – Student Relations**  
 Descriptor Code: **GBEAB**  
 Issued Date: **4/01**  
 Reviewed Date:  
 Revised Date:  
 Rescinds:

#### I. PURPOSE

The purpose of this policy is to protect the privacy rights of school district employees and students under both state and federal law when requested to testify or provide educational records for a judicial or administrative proceeding.

#### II. GENERAL STATEMENT OF POLICY

This policy is to provide guidance and direction for school district employees who may be subpoenaed to testify and/or provide educational records for a judicial or administrative proceeding.

#### III. DATA CLASSIFICATION

- A. The Minnesota Government Data Practices Act (MGDPA), Minn. Stat. Ch. 13, classifies all educational data, except for directory information as designated by the school district, as private data on individuals. The state statute provides that private data on individuals may not be released, except pursuant to informed consent by the subject of the data or pursuant to a valid court order. A subpoena is not a court order under the MGDPA.
- B. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C§1232g., provides that educational data may not be released, except pursuant to informed consent by the individual subject of the data or any lawfully issued subpoena. Regulations promulgated under the federal law require that the school district must first make a reasonable effort to notify the parent of the student, or the student if the student is 18 years of age or older, of the subpoena in advance of releasing the information pursuant to the subpoena.

#### IV. APPLICATION AND PROCEDURES

- A. Any employee who receives a subpoena for any purpose related to employment is to inform the building administrator or designated supervisor when the employee receives the subpoena. The building administrator or designated supervisor shall immediately inform the superintendent that the employee has received a subpoena.
- B. No employee may release educational data, personnel data, or any other data of any kind without consultation in advance with the school district official who is designated as the authority responsible for the collection, use and dissemination of data.
- C. Payment for attendance at judicial or administrative proceedings and the retention of witness and mileage fees is to be determined in accordance with the applicable school board policies and collective bargaining agreements.

- D. The administration shall not release any information except in strict compliance with state and federal law and this policy. Recognizing that an unauthorized release may expose the school district or its employees to civil or criminal penalties or loss of employment, the administration shall confer with school district legal counsel prior to release of such data.

Legal References:

Minn. Stat. § Ch. 13 (Minnesota Government Data Practices Act)

20 U.S.C. 1232g (Family Educational Rights and Privacy Act)

**BURNSVILLE EAGAN SAVAGE**  
**Independent School District 191**  
**Human Resources**

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AGENDA ITEM: III.F.

To: Members of the Board of Education  
 Superintendent Randy Clegg

From: Stacey Sovine  
 Human Resources Administrator

Date: April 4, 2013

RE: **Collective Bargaining Agreement with the Burnsville District-wide Administrators**

**RECOMMENDATION: THAT THE BOARD OF EDUCATION APPROVE THE PROPOSED REVISIONS AND RE-ADOPT THE UNCHANGED LANGUAGE IN THE 2011-2013 MASTER AGREEMENT WITH THE BURNSVILLE DISTRICT-WIDE ADMINISTRATORS**

The District reached a tentative agreement on a new two-year contract with the Burnsville District-wide Administrators on March 13, 2013. There are 13 individuals within the unit. Work on a new two year agreement started on February 20, 2013 and extended over four bargaining sessions. During the collective bargaining process, 13 language items were on the table for discussion.

**The major language items agreed upon in the tentative agreement include:**

- Sun-setting tuition reimbursement from full to a maximum of \$1,000 annually and creating a stipend for \$2,000 for PhD's;
- Aligning insurance language to reflect the current plan;
- Changes to initial placement language limited to full step 1 or step 2 salaries;
- Modifying language around flattening vacation tiers and increasing exchange from 2 days to 3 days;
- Sun-setting position elimination reimbursement language;
- Increase matching program to \$2,300 from \$2,000;
- Included Duration Language that was absent in previous agreement;
- Eliminated MOU and COBRA language;
- Steps both years.

**Economic terms agreed to include:**

- 1% increase each year on career increment steps
- 2 year increased cost \$71,800.
- MSBA 2 year package increase is 3.00%

# **MASTER AGREEMENT**

**July 1, ~~2009~~ 2011 – June 30, ~~2011~~ 2013**

**BOARD OF EDUCATION  
INDEPENDENT SCHOOL DISTRICT 191  
BURNSVILLE, MINNESOTA**

**and**

**DISTRICTWIDE ADMINISTRATORS  
ASSOCIATION**

## **ARTICLE I - GENERAL INFORMATION**

### **Section 1. RECOGNITION**

This agreement between Independent School District 191 and ISD 191 Districtwide Administrators Association covers the year July 1, ~~2009~~ 2011 – June 30, ~~2011~~ 2013. In the event that a new agreement has not been mutually adopted by July 1, ~~2011~~ 2013, this agreement will remain in effect; individual salaries for ~~2011-2012~~ 2013-2014 will remain at the ~~2010-2011~~ 2012-2013 amounts until a new agreement is reached, and the new agreement will determine salaries for ~~2011-2012~~ 2013-2014.

The ISD 191 Districtwide Administrators Association is recognized as the exclusive representative of this unit. Duly authorized representatives of the Association are permitted to conduct Association business on school property during regular business hours with notification of supervisor so long as it does not interfere with normal District operations.

### **Section 2. INITIAL PLACEMENT**

In the event of a change in personnel, initial salary schedule placement determination is the responsibility of the Superintendent of Schools or designate. Prior to making the determination, the Superintendent or designate shall consult with the supervisor of the position to determine the initial salary step, and the length of time the individual will be paid at the initial rate. Experience, training, past performance and other factors may be considered in initial placement. ~~In no case shall the initial salary be less than 90% of the stated salary, nor shall the individual be paid the initial salary, if less than the stated salary for more than six (6) months.~~

### **Section 3. PROBATIONARY PERIOD**

All Districtwide Administrators selected to work in a position for which an educational license is not required shall serve a one year probationary period. A Districtwide Administrator selected to work in a position for which an educational license is required will serve a probationary period consistent with MN. Statute 122A.40. A Districtwide Administrator can be released or removed during probation, provided his/her performance has been reviewed three times.

### **Section 4. SALARY INCREASES**

A salary increase under this contract shall be conditional, based upon a year of satisfactory service to the District.

An Administrator shall be deemed to have had a year of satisfactory service unless the Administrator has been notified to the contrary in writing by January 15<sup>th</sup> of that year, and prior to March 15 the Administrator has had the opportunity to have consulted and worked with the Administrator's immediate supervisor in raising the level of job performance.

After the procedures set forth in the preceding paragraph have been followed, and assuming dismissal proceedings have not been instituted, an Administrator who has had a year of unsatisfactory service will not be granted a salary increase.

### **Section 5. PERSONNEL FILES**

An Administrator shall have access to his or her own personnel file. The Administrator may copy material in the file at the Administrator's own expense. Administrators shall have the opportunity to read and sign all formal personal performance evaluations before they are entered in the personnel file. An Administrator may attach a signed explanation, rebuttal or amplification to any material entered in the Administrator's personnel file.

### **Section 6. POSITION ELIMINATION**

For employees hired into the unit prior to October 1, 2012, if an Administrator who leaves the District because of a discontinued position, they shall receive seven (7) days pay at the current rate for each year of service in the District to a maximum of 130 days pay.

## **ARTICLE II - CALENDAR**

### **Section 1. BASIC WORK YEAR**

The normal work year for Administrators is 12 months. When the work year is less than 12 months or less than eight hours per day, leave benefits will be prorated.

When applicable, prorated salaries shall be computed by dividing the annual salary by the number of days in the work year; i.e., 261 days for full time 12 month employees.

If an Administrator is dismissed from work or told not to report by order of the Superintendent because of an emergency situation, a full day's wages shall be paid.

### **Section 2. VACATION**

A. Each full-time administrator shall have twenty-eight vacation days their first year of employment, twenty-four their second year, and twenty-eight days thereafter.

B. All vacation time must be taken within 24 months of the start of the fiscal year in which it is received or be forfeited.

C. Effective July 1, 2012, Districtwide Administrators can exchange up to two (2) three (3) days of vacation for cash which will be deposited into the Minnesota State Retirement System's Post-Retirement Healthcare Savings Plan. The value of each day shall be 1/261 of the annual salary if the employee is a 12-month employee. Employees must notify Human Resources of the election in writing by June 15th of the previous fiscal year.

D. An Administrator who terminates employment during a fiscal year is entitled to vacation benefits earned during that fiscal year. The Administrator may elect to take the earned vacation days before the date of termination or to accept a lump sum payment at the current rate for unused days. An Administrator who uses unearned vacation must reimburse the District at the time of termination.

### **Section 3. HOLIDAYS**

Administrators will have ten holidays each year: Independence Day, Labor Day, Thanksgiving Day and the day following, Christmas Eve Day, Christmas Day, New Years Eve Day, New Years Day, Memorial Day, and one (1) additional holiday as determined consistent with the academic calendar. Effective July 1, 2004, Districtwide Administrators may select one of the following days as the holiday that is consistent with the academic calendar; Education Minnesota Conferences (the third Thursday or Friday in October), Martin Luther King Day, Good Friday/Passover.

## **ARTICLE III - ABSENCES**

### **Section 1. PERSONAL ILLNESS ABSENCE**

Administrators will be granted twelve (12) days annual personal illness absence at the beginning of each contract year. Unused days may accumulate to 180 days.

If an Administrator is absent for more than 30 consecutive working days, income protection insurance will take effect according to the terms of the existing LTD insurance policy. Any excess days will be available upon return.

Doctor and dental appointments may be considered as personal illness absence.

Upon terminations of employment, the District will be reimbursed for personal illness absences taken but not earned.

## **Section 2. CONDITIONAL USE FAMILY ILLNESS AND BEREAVEMENT ABSENCE**

Districtwide Administrators will have (10) days of conditional use, paid time off days. These days will not accrue. These days are to be used exclusively for the purpose of family illness and/or bereavement. Family is defined as parent or former guardian, spouse, siblings, parent of spouse, child, or dependent living in the immediate household and those who dwell under the same roof and comprise a family or domestic establishment.

In the event a second death occurs in a fiscal year, the Executive Director of Human Resources can grant additional, reasonable time off.

## **Section 3. SICK OR INJURED CHILD CARE LEAVE (§ 181.9413)**

Administrators who have exhausted their family illness absences may use personal illness absence provided by the employer for absences due to an illness of the employee's child for such reasonable periods as the employee's attendance with the child may be necessary, on the same terms the employee is able to use personal illness benefits for the employee's own illness. This section applies only to personal illness benefits payable to the employee from the employer's general assets.

A "child" means an individual under 18 years of age or an individual under age 20 who is still attending secondary school.

## **Section 4. PERSONAL BUSINESS ABSENCE**

Administrators will receive two (2) days each contract year for personal business activities that cannot be handled outside the normal work day. These days may not accumulate beyond the year in which they are received.

## **Section 5. PROFESSIONAL ABSENCE**

Administrators may be allowed to attend professional meetings and other activities of a professional nature with full pay. Advance authorization must be obtained.

## **Section 6. RELIGIOUS ABSENCE**

Administrators may use two (2) days of sick absence or personal absence per year as religious absence for religious observance of a sacred holiday when such observance cannot take place outside the normal work day. Written application must be made to the Executive Director for Human Resources at least ten (10) days in advance.

## **Section 7. JURY DUTY**

Administrators will receive their regular pay from the District while on Jury Duty. Any money paid to the Administrator for Jury Duty service will be turned over to the District. Any money paid to the Administrator for travel expense will be retained by the Administrator.

### **Section 8. EMERGENCY CLOSINGS**

In the event the Superintendent closes schools for a snow day or another emergency, Districtwide Administrators can take a vacation day, personal day, or telecommute for the day.

## **ARTICLE IV - LEAVES**

### **Section 1. PROFESSIONAL ACTIVITY LEAVE**

A professional activity leave to pursue a prescribed course of study may be granted for a period of up to one year at the sole discretion of the School Board. Applications shall include a description of the benefit to the District.

A committee of one Board member, the Superintendent of Schools and one Administrator named by the Association shall interview applicants within 30 days of the deadline date and make a recommendation to the Board of Education within 30 days of the conclusion of the interview.

Applicants awarded such leave shall be compensated at 70 percent of the current salary computed on the number of working days involved.

To be eligible for such leave, an Administrator must have been an Administrator in the District's employ for at least five (5) years. Administrators granted such leave shall pledge themselves to two (2) years, or prorated for leaves of less than one (1) year, service in the District following termination of the leave or pay back a prorated portion of the monies paid while on leave if early release is requested. This item is not subject to the grievance procedure.

### **Section 2. GENERAL LEAVE**

A leave may be granted for up to two (2) years without pay or fringe benefits upon recommendation of the Superintendent and approval of the Board. Insurance may be continued subject to the rules of COBRA and at the expense of the employee.

At the time a leave is granted, a date will be established for tentative return to the position in the District insofar as is possible. Upon return, the employee shall have all benefits applicable to this agreement reinstated subject to completion of enrollment forms.

This item is not subject to the grievance procedure.

### **Section 3. MATERNITY LEAVE**

Maternity disability absence shall be treated as any other temporary disability.

### **Section 4. PARENTAL LEAVE**

An unpaid parental leave of up to a maximum of one (1) year shall be available to Administrators for the purpose of caring for a child for which the Administrator has legal responsibility. The request for parental leave shall include an estimated commencement date and return date. The estimated commencement date shall be following the physician's estimated date of cessation of disability. For an adoption, the commencement date shall be immediately following when the child is turned over to the parent. Insurance benefits may be continued at the employee's expense per COBRA.

## **ARTICLE V - MATCHING CONTRIBUTION & SEVERANCE PAY**

### **Section 1. Matching Contribution**

Effective July 1, 2012, the District will match up to \$1,500 per year to an approved Minnesota deferred compensation program as permitted by M.S. 356.24. After a Districtwide Administrator has completed one year of service, the District will match up to ~~\$2,000~~ \$2,300 per year to an approved Minnesota deferred compensation program. This matching contribution is available to all Districtwide Administrators. Employees who work less than full-time shall receive a pro-rated contribution to a Minnesota deferred compensation program based on their F.T.E. equivalency as of July 1<sup>st</sup>. The contribution will remain in effect for the duration of the fiscal year.

## **ARTICLE VI - CONTINUATION OF BENEFITS**

### **Section 1. TERMINATION**

Upon termination of employment, all District contributions shall cease. An employee may continue to participate in health and accident group plans pursuant to law and/or carrier conversion provisions, if any.

### **Section 2. LEAVES OF ABSENCE**

An employee on a District approved unpaid leave of absence shall be permitted to participate in group insurance programs, to the extent permitted by the carrier, but shall pay all premiums during the term of the leave.

### **Section 3. DISABLED EMPLOYEE**

An employee who becomes eligible for long term disability shall retain such benefits as are provided by the carrier, and the District shall make normal contractual contributions for health and accident insurance for the period of three years from the time he/she qualifies for LTD benefits. When a districtwide administrator becomes eligible for long-term disability benefits (31<sup>st</sup> day of disability), vacation, personal days, sick leave, bereavement, and family illness leave shall be pro-rated based upon time worked.

### **Section 4. DEATH OF AN EMPLOYEE**

The family of a deceased employee may continue to participate in the group health and hospitalization insurance plan for up to 36 months following the death of the employee by paying the total cost of the premium.

### **Section 5. EARLY RETIREMENT**

An Administrator who has reached age 55 and who has at least ten (10) years of continuous service in the District shall be eligible to continue participation in the District group medical/hospitalization insurance plan. Group determination will be as per MN Statute 471.61. The administrator will pay the premium.

For Administrators ranked at 14 and above and who were hired before July 1, 1998, the District shall contribute 75% of the dollar amount of the premium in effect at the time of the Administrator's retirement until the Administrator is eligible for Medicare. The portion of the premium not paid by the District shall be paid by the Administrator.

## **ARTICLE VII - INSURANCE BENEFITS**

### **Section 1. HEALTH AND ACCIDENT COVERAGE**

For all Districtwide Administrators who have a full-time assignment, who are employed by the District, who qualify and are enrolled in the District base plan, the District contribution for individual or dependent coverage shall be as follows:

- A. ~~For individual coverage, it shall be equal to the rate for the highest cost HMO/PPO program offering choices among a number of health care providers and an office visit co-payment provision. The balance of the premium for any other plan shall be paid by the employee. Effective July 1, 2010, the district shall contribute 95% of the monthly premium. The remainder shall be paid by the employee via payroll deduction.~~
- B. ~~For dependent coverage, it shall be equal to the rate for the highest cost HMO/PPO program offering choices among a number of health care providers and an office visit co-payment provision. Effective July 1, 2007, the District will contribute 87% of the premium for dependent health insurance. The remainder of the premium will be paid by the employee. Effective July 1, 2010, the district shall contribute 83% of the monthly premium. The remainder shall be paid by the employee via payroll deduction.~~
- A. For all District-wide Administrators who have a full-time assignment, who are employed by the School District, who qualify for and are enrolled in the plan, the School District will contribute the equivalent value of 95% of the single, (composite) premium. The composite premium shall be based on an insurance plan which shall consist of a high deductible insurance plan with a 105 plan and a CHP (health insurance account) whereby the in-network deductible is fully paid via the CHP (health insurance account) and 105 plan and the in-network deductible equals the in-network out of pocket maximum. The remainder shall be borne by the employee. Full-time assignment, for insurance purposes as outlined in this Section, shall mean thirty (30) hours per week.
- B. For all District-wide Administrators who have a full-time assignment, who are employed by the School District, who qualify for and are enrolled in the plan, the School District will contribute the equivalent value of 83% of the dependent, (composite) premium. The composite premium shall be based on an insurance plan which shall consist of a high deductible insurance plan with a 105 plan and a CHP (health insurance account) whereby the in-network deductible is fully paid via the CHP (health insurance account) and 105 plan and the in-network deductible equals the in-network out of pocket maximum. The remainder shall be borne by the employee. Full-time assignment, for insurance purposes as outlined in this Section, shall mean thirty (30) hours per week.
- C. Effective July 1, 2010, when a district-wide administrator and his/her spouse are employed by the district and are both eligible for insurance, either the husband or the wife will contribute an amount equal to 5% of the single premium towards family coverage.
- D. With respect to health coverage subject to Health Care Reform, the District reserves the right to provide coverage "in addition to" the coverage described herein, for one or more individuals covered by this agreement, in order to manage the potential penalties to which the District may be subject. Such coverage in addition to the coverage described herein will be considered bargained but specifically will not be considered part of the aggregate value of the benefits and specifically will not be subject to any applicable aggregate reduction in value limitations.

## **Section 2. LIFE INSURANCE**

The District shall pay for \$50,000 term life insurance for all Administrators who enroll in the term life program. Effective January 1, 2009, pursuant to the terms of the policy purchased by the District, all Districtwide Administrators shall pay for an additional \$200,000 of life insurance via pay roll deduction.

## **Section 3. LONG TERM DISABILITY INSURANCE**

Administrators shall be covered by the District policy in effect for Long Term Disability insurance. The conditions of the carrier shall be controlling.

At the Administrator's request, and upon qualifying for Long Term Disability payments, the District will pay to Administrators who have accumulated over 30 days of personal illness leave the remaining fraction of regular income with 1/3 or 1/4 day subtracted from the total number of remaining personal illness leave days. This supplement will continue until remaining personal illness leave is exhausted or until the employee has been disabled for six (6) months.

For purposes of qualifying for retirement benefits after a disability absence of six (6) months, the eligible Administrator will be returned to personal illness until such leave is exhausted. Accumulated personal illness leave must be exhausted before the employee may reapply for LTD benefits.

#### **Section 4. DENTAL INSURANCE**

For each Administrator, the District shall contribute the total cost of the premium for individual and dependent coverage as set forth under the policy in effect in the District.

#### **Section 5. LIABILITY INSURANCE**

The District will provide liability insurance coverage for each Administrator.

### **ARTICLE VIII - MISCELLANEOUS BENEFITS**

#### **Section 1. MILEAGE AND EXPENSE**

**EXPENSES:** The District will reimburse Administrators for mileage and expenses of job related activities pursuant to School Board Policy upon submission of proper forms.

#### **Section 2. TAX SHELTERED ANNUITY AND DEFERRED COMPENSATION PLANS**

Tax sheltered annuities and deferred compensation plans, either variable or fixed, shall be made available to Administrators. Regulations and procedures are available in the Human Resources Office. The District's 403(b) Committee, comprised of members from every bargaining unit will review board policy and regulations annually for compliance with State and Federal laws.

The Districtwide Administrators shall appoint a member to represent the unit on the District's 403(b) Committee. The committee recommended the following 403(b) vendors; Fidelity, Fidelity via Educators Financial Services (E.S.I.), AXA (Equitable) and Lincoln Financial Services. All bargaining units approved the plans in November, 2008 for implementation January 1, 2009.

All deposits including employee elections and employer matches will be deposited into one of the above plans. Any employee hired after January 1, 2009 who elects to defer compensation in to a 403(b) account will be automatically enrolled in Fidelity unless they affirmatively opt out and select one of the other approved vendors.

The District will institute a standing 403(b) Committee comprised of representatives from each bargaining unit with representation determined by the size of each group.

#### **Section 3. FLEXIBLE BENEFIT PLAN**

The School District has established a Flexible Benefit Plan under IRS Code 125. Regulations and procedures are available in the Human Resources Office. A Board policy and accompanying regulations have been developed and will be updated annually to comply with IRS Regulations.

#### **Section 4. PROFESSIONAL MEMBERSHIPS**

The District will fund memberships in not more than two state organizations and not more than one national organization for each Administrator. All such memberships must be consistent with the Administrator's assignment and subject to advance approval of the immediate supervisor. Exceptions may be granted by the Superintendent.

#### **Section 5. TUITION REIMBURSEMENT**

Sub 1. For individuals hired prior to July 1, 2010, the District will reimburse tuition costs to Administrators for approved course-work that is of benefit to the District. Advance approval and verification of satisfactory completion are required. Reimbursement will not be paid to Administrators on leave.

Subd 2. Employees hired after July 1, 2010 are eligible for up to one thousand dollars (\$1,000) in tuition reimbursement per school year for post-graduate coursework that is germane to their assignment and benefits the District. All coursework must be preapproved by the Executive Director of Human Resources.

Subd 3. Effective July 1, 2012, employees who have earned a doctorate from an accredited college or university will receive an additional two thousand dollars (\$2,000) per year above the salary schedule, if the Board determines that the doctorate relates to the employee's position with the District.

#### **Section 6. PROFESSIONAL DEVELOPMENT**

The District supports continuous improvement and development of all personnel. Administrators are encouraged to attend professional meetings and other activities of a professional nature. The District will pay expenses associated with authorized professional meetings and activities. ~~The District will fund each administrator's attendance at one national professional event during the period of this contract.~~ The event must be germane to the administrator's assignment. The administrator's immediate supervisor must approve the activity.

#### **Section 7. EXCEPTIONAL SERVICE PAY**

Subd. 1. When Districtwide Administrators teach courses through the District Staff Development Department or Community Education, they will be compensated at the rate normally used to compensate other professional instructors.

Subd. 2. When Districtwide Administrators render special services that both the Association and the District deem well beyond the scope of their normal job description, Association leaders and District administration shall meet and confer on terms and conditions for the special service performed.

#### **Section 8. INDEMNIFICATION**

Subject to the limitations on liability set forth in the Minnesota Statutes, the District shall defend and indemnify Administrators for damages, including punitive damages, claimed or levied against the Administrator, provided that the Administrator: (1) was acting in the performance of the duties of the position, and (2) was not guilty of malfeasance in office, willful neglect of duty, or bad faith. Indemnification of Administrators provided under this section shall be modified in accordance with any amendments to Section 466.07 of the Minnesota Statutes.

#### **Section 9. JOB EVALUATIONS**

A Districtwide Administrator shall have the right to request a position re-evaluation if he or she feels that their duties and responsibilities have changed significantly over time. The Director of Human Resources shall share the results with the Administrator via a summary conference.

## **ARTICLE IX - GRIEVANCE PROCEDURE**

### **Section 1.**

A claim by an Administrator that there has been a violation, misinterpretation or misapplication of any provision of this agreement may be processed as a grievance as hereinafter provided.

### **Section 2. LEVEL I**

In the event that an Administrator or the Association believes there is a basis for a grievance, the Administrator shall complete the District grievance form and submit a copy to the Executive Director of Human Resources within twenty (20) days of the alleged grievance. A District representative shall meet with the grievant within ten (10) working days of the receipt of the grievance and render a written decision within five (5) working days of the meeting. A copy of the decision will be placed in the grievant's personnel file.

### **Section 3. LEVEL II**

In the event the grievant or the Association is not satisfied with the decision rendered at Level I, the grievant may appeal, in writing, to the Superintendent of Schools within five (5) working days after the decision at Level I has been rendered and disseminated. Within ten (10) working days upon receipt of the appeal, the Superintendent of Schools shall meet with the grievant. The Superintendent of Schools shall respond, in writing, within fifteen (15) working days of the meeting.

### **Section 4. LEVEL III**

If the grievant or the Association is not satisfied with the disposition of the grievance by the Superintendent of Schools, the alleged grievance may be submitted to arbitration. Notification of dissatisfaction shall be made, in writing, to the Superintendent of Schools within ten (10) working days after the decision has been rendered.

The dispute will be submitted to an arbitrator selected and agreed upon by both parties. The arbitrator shall have no power to alter, add or subtract from the expressed terms of the contract. Both parties agree to be bound by the award of the arbitrator. The fees and expenses of the arbitrator shall be shared equally by the parties.

### **Section 5.**

The grievant may have an Association representative either join or represent the grievant at any level and at the grievant's discretion.

### **Section 6.**

If a grievance is not responded to at Levels I and /or II within the time limits and the limits have not been mutually waived, the alleged grievance is viewed to have been denied and the grievant has the right to move to the next level.

### **Section 7.**

If the grievance is not presented or transmitted by the grievant within the time limits set forth above, it shall be considered dropped. The time limit in each step may be extended by mutual written agreement of the parties.

### **Section 8.**

Notwithstanding the expiration of this agreement, any claim or grievance arising thereunder may be processed through the grievance procedure until resolution.

### **Section 9.**

No reprisals of any kind will be taken by the Board or the School Administration against any Administrator because of participation in this grievance procedure.

**Section 10.**

The Superintendent of Schools may appoint a designee to act in the Superintendent's behalf at Level II.

**STEP MOVEMENT**

Districtwide Administrators will move on step provided they have started in the position by December 15th of the prior year or completed 6 1/2 months in the position.

**LONGEVITY**

After ten years of District service, Districtwide Administrators are eligible for a \$500 stipend; after fifteen (15) years of District service, Districtwide Administrators are eligible for a \$1,000 stipend; after twenty years, a \$2,000 stipend.

In the event a new Master Agreement is not in place by July 1, 2011-2013, salaries in this agreement will remain in effect until salaries for 2011-2012-2013-2014 and 2012-2013-2014-2015 have been negotiated.

**ARTICLE X  
DURATION**

Section 1. Terms and Reopening Negotiations: This contract shall be effective as of July 1, 2011, and shall continue in effect through June 30, 2013, or thereafter until replaced by a subsequent agreement. Negotiations for a successor agreement may commence when the parties mutually agree, but in no event later than ninety (90) days prior to expiration of this Agreement.

Section 2. Effect: This Agreement constitutes the full and complete agreement between the School Board and the District-wide Administrators Association. The provisions herein relating to terms and conditions of employment supersede and take precedence over any and all prior agreements, resolutions, practices, School District policies, rules or regulations concerning terms and conditions of employment inconsistent with these provisions.

Section 3. Severability: The provisions of this Agreement shall be severable, and if any provision thereof or the application of any such provision under any circumstances is held invalid, it shall not affect any other provisions thereof under different circumstances.

Section 4. Amendment: This Agreement shall constitute the full and complete commitments between both parties and may be altered, changed, added to, deleted from, or modified only through the voluntary mutual consent of the parties in written, signed agreement to this Agreement.

**ARTICLE XI**

**WITNESS WHEREOF**, the parties have executed this agreement as follows:

**FOR DISTRICTWIDE ADMINISTRATORS**

**FOR INDEPENDENT SCHOOL  
DISTRICT 191**

\_\_\_\_\_  
Chief Negotiator

\_\_\_\_\_  
Board Chair

\_\_\_\_\_  
Union Representative

\_\_\_\_\_  
Board Clerk

---

Chief Negotiator

Date

Draft

**Salary Schedule**  
**July 1, 2009 2011 – June 30, 2011 2013**

<b>Grade</b>	<b>Position</b>	<b>2011 - 2012</b>	<b>2012 - 2013</b>
18	Executive Director of Individualized Student Services		
<b>Step 1</b>		<b>\$ 118,170</b>	<b>\$ 119,351</b>
<b>Step 2</b>		<b>\$ 121,200</b>	<b>\$ 122,412</b>
17	Director of Community Education		
<b>Step 1</b>		<b>\$ 111,098</b>	<b>\$ 112,208</b>
<b>Step 2</b>		<b>\$ 113,938</b>	<b>\$ 115,077</b>
15	Director of Planning & Technology <b>expires 12/13/2012</b>		
15	Director of Accounting Services <b>expires 12/13/2012</b>		
15	Director of Instruction <b>effective 12/13/2012</b>		
15	Director of Curriculum		
15	Director of Operations & Properties		
15	Director of Activities and Athletics		
<b>Step 1</b>		<b>\$ 101,549</b>	<b>\$ 102,564</b>
<b>Step 2</b>		<b>\$ 104,195</b>	<b>\$ 105,236</b>
14	Director of Food Services		
14	Director of Health Services		
14	Director of Communications		
<b>Step 1</b>		<b>\$ 92,977</b>	<b>\$ 93,906</b>
<b>Step 2</b>		<b>\$ 95,453</b>	<b>\$ 96,407</b>
13	Special Education Supervisor <b>effective 12/13/2012</b>		
<b>Step 1</b>		<b>\$ 86,415</b>	<b>\$ 87,279</b>
<b>Step 2</b>		<b>\$ 90,016</b>	<b>\$ 90,916</b>
12	Assistant Director of Food Service <b>expires 12/13/2012</b>		
12	Senior Citizen Programs Coordinator <b>expires 12/13/2012</b>		
12	Community Education Coordinator		
<b>Step 1</b>		<b>\$ 69,436</b>	<b>\$ 70,130</b>
<b>Step 2</b>		<b>\$ 71,437</b>	<b>\$ 72,151</b>
11	Adult Basic Education Coordinator		
<b>Step 1</b>		<b>\$ 63,398</b>	<b>\$ 64,031</b>
<b>Step 2</b>		<b>\$ 65,279</b>	<b>\$ 65,931</b>

**Memorandum of Understanding**  
**Between**  
**Districtwide Administrators and the**  
**School Board of Independent School District #191**

Effective July 1, 2010, the district will discuss the placement of any new positions in the Districtwide Administrators unit with the President of the organization, prior to placement.

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**NOTICE OF RIGHT TO CONTINUATION COVERAGE (COBRA)**

Continuation coverage must be offered for each group health plan offered by the District under which health benefits are provided; i.e., health insurance, dental insurance and life insurance.

Continuation coverage generally must consist of coverage which, as of the time it is being provided, is identical to the coverage provided under the group health plan to similarly situated employees or dependents that have not experienced a qualifying event. If coverage does not have value to an individual (e.g., a region-specific HMO plan) he/she must be given an opportunity to continue COBRA under an alternate plan if a different plan covers similarly situated active employees or to change during open enrollment.

**TIMELINES**

Minnesota law requires coverage be provided through the last day of the month in which a termination of employment occurs. The continuation period runs from the date coverage would otherwise have ended.

A qualified individual must be provided an election period of at least 60 days measured from the later of (1) the date the individual would otherwise lose coverage under the plan as a result of a qualifying event; or (2) the date the notice is sent informing the individual of his/her rights to elect coverage.

An individual who waives COBRA coverage can revoke the waiver and elect COBRA any time before the end of the election period. The decision of the individual as of the last day of the election period is the binding decision. Elections, waivers and revocations of waivers are all considered to have been made on the date they are sent to the Assistant Superintendent for Human Resources.

If an individual has not waived his/her right to continuation coverage by the sixtieth day, the Assistant Superintendent, HR, shall notify the individual by first class, return receipt requested to the last known address or addresses that the election time line has expired.

A qualified individual has 45 days from the date on which he or she elects (date on which he/she sends the election to the Assistant Superintendent for Human Resources) continuation coverage to submit any premiums. The individual is not covered until insurance is paid.

If COBRA coverage is initially waived and then the individual changes his/her mind within the election period, the effective date of coverage is the date on which the election is made (i.e., there will be a gap in coverage).

Following the initial payment, there is a grace period of 30 days. Failure to make a timely payment of premium will result in loss of coverage. When the employee through which coverage is received dies, failure of the survivor to make premium or fee payments within 90 days after notice of the requirement to pay the premiums or fees shall be a basis for the termination of the coverage without written consent. In event of termination by reason of the survivor's failure to make required premium or fee contributions, written notice of cancellation must be mailed to the survivor's last known address at least 30 days before the cancellation.

**PREMIUMS**

The District may pay all or part of the premium in all or specified circumstances for all or part of the period of continuation coverage as provided by FMLA or the applicable Master Agreement or Employment Policy in effect at the time of a qualifying event.

Except for the additional 11 months available in cases of disability, the premium may not exceed 102% of the "applicable premium" under a group plan. "Applicable premium" is the cost to the plan for coverage provided to similarly situated active employees who have not experienced the qualifying event.

Premium amounts are guaranteed until the end of a plan year, September 30. That is, someone who becomes eligible in June will be subject to a rate increase four months late.

## **OPTIONS**

### **Conversion**

The option for conversion shall be available to individuals who have exercised their right to continue coverage. The Assistant Superintendent for Human Resources shall provide notice of the right to convert to an individual policy within 180 days prior to the expiration of the 18, 29 or 36 month period of continuation coverage.

### **Disability**

An additional eleven (11) months of coverage is available if an eligible employee and/or dependent receives a social security disability determination which relates back to the time of a qualifying event. The individual eligible for continuation benefits (or a representative) must notify the Assistant Superintendent for Human Resources within 30 days of receiving the determination and prior to the expiration of the 18 month Period of Continuation Coverage.

Minnesota law provides in part that, "No employer or insurer of that employer shall terminate, suspend or otherwise restrict the participation in or receipt of benefits otherwise payable under any program or policy of group insurance to any covered employee who becomes totally disabled while employed by the employer solely on account of absence caused by such total disability."

"Total disability" is defined as, "(a) the inability of an injured or ill employee to engage in or perform the duties of the employee's regular occupation or employment within the first two years of such disability and (b) after the first two years of such disability, the inability of the employee to engage in any paid employment or work for which the employee may, by education and training, including rehabilitative training, be or reasonably become qualified."

Disability may result in higher benefits; the 2% administrative fee may not be charged.

### **Death or Divorce**

When the employee through which coverage is received dies or is divorced or legally separated from a spouse, coverage is continued until the earlier of (a) the date the surviving spouse becomes covered under another group health plan, or (b) the date coverage would otherwise have ended had the employee lived or the marriage continued.

### **Leave**

An approved leave is a qualifying event in that the District shifts the entire cost of coverage to the employee during the leave. Such a cost shift is a change in the "terms and conditions" and, therefore, is a loss of coverage and, thus, is a qualifying event.

### **Medicare/Medicaid**

Medicare does not impact an individual's entitlement to COBRA.

### **Pre-existing Coverage**

COBRA is available without regard to other coverage.

### **Retirement**

Benefits provided by a Master Agreement or Employment Policy in effect at the time of retirement apply towards satisfying the maximum period of continuation coverage. Any qualified dependent shall be given the opportunity to elect COBRA or reject COBRA and receive alternate coverage instead. Electing alternative coverage under alternative coverage provided by a Master

Agreement or Employment Policy removes the obligation for the District to provide a COBRA election at the end of alternative coverage. There is a limited exception in cases where a qualifying event occurs during the period of alternative coverage which would result in a spouse and/or dependent child(ren) losing the alternative coverage.

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