



Regular Meeting Agenda

Diamondhead Education Center
200 W. Burnsville Parkway
Burnsville, MN 55337
May 9, 2024
6:30 PM

Strategic Directions:

- Creating space and opportunity for each and every voice to be heard
- Actively leading by developing and sustaining a diverse and equitable education system
- Supporting and leveraging innovation to improve student outcomes and district culture
- Engaging our community to ensure common understanding of our Strategic Roadmap and the district work to support it

5:45 PM Listening Session with Director Conner and Director Mursal

- I. Call to Order
 - A. Welcome
 - B. Pledge of Allegiance
- II. Approval of Agenda
- III. Information
 - A. Annual Innovation Report 3
Speaker(s): Dr. Chris Bellmont, Assistant Superintendent
 - B. Student Representative Report 16
 - C. Superintendent Report 17
 - D. Board Member Reports 18
- IV. Business Meeting
 - A. 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. Approve Minutes 19
 - 2. Approve Personnel Recommendations
 - 3. Receive a Report about the Listening Session

B. New Business	24
1. Adopt a Resolution to Accept Donations	26
Speaker(s): Jason Sellers, Director of Community Education	
2. Approve, on a First Reading Basis, Changes to Policy 206: Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings/Data Privacy Considerations	28
Speaker(s): Dr. Chris Bellmont, Assistant Superintendent	
3. Closed Session, as permitted by MN State Statute 13D.05 Subd. 3, for Real Estate Discussion on Purchase Proposal for the Metcalf Property	36
Speaker(s): Stacey Sovine, Executive Director of Administrative Services and Stacie Kvilvang, Ehlers Senior Municipal Advisor	
4. Consider Approving Resolution to Approve Purchase Proposal for the Metcalf Property	53
Speaker(s): Stacey Sovine, Executive Director of Administrative Services and Stacie Kvilvang, Ehlers Senior Municipal Advisor	
V. Closed Session, as permitted by Minn. Stat. Section 13D. 03, to Discuss Labor Negotiations	72
Speaker(s): Stacey Sovine, Executive Director of Administrative Services	
VI. Adjourn	



**Agenda III.A.
May 9, 2024**

To: Board of Education
From: Dr. Chris Bellmont, assistant superintendent
Date: May 9, 2024
Re: Annual Innovation Report

Annual Innovation Report

May 9, 2024

Dr. Chris Bellmont, assistant superintendent



***Supporting and leveraging new
methods and original thinking to
improve student outcomes***



***District 191 Strategic Roadmap
Strategic Direction #3***

Grow Your Own

Descriptions

Partnerships between school districts, educator preparation programs, and community organizations that recruit and prepare high school students and non-certified school staff to enter the teaching profession and teach in their communities.

The state provides tuition scholarships or stipends for district employees who are people of color or American Indian.



Community Partners

Metro State University
Grow Your Own Adult Pathway Grant
Scholarship Opportunities
Future Teachers of America



Teamwork Highlights

Currently a **dozen One91 employees** working towards teaching degrees.

One of our schools has more than 10 parents on staff/subbing in the classroom.



System Redesigns

- Addition of Student Systems Leadership Specialists
- House model for middle schools
- Special education service model changes at William Byrne
- Enhanced transition programming between school changes - Kindergarten Jumpstart, Elementary-to-Middle and Middle-to-High School
- Credit Recovery during core school day at BHS
- Expanded early childhood screening: Trained VPK staff to provide screenings at each elementary and Diamondhead, conducted screenings in neighborhood locations



Equity in Action

Multilingual Attendance Line Support

Piloting program at Rahn Elementary to improve two way communications at sites for our families who speak languages other than English. Parents of their top five languages can call in and have an interpreter on the line as they call the site.

Multilingual Training for all staff

Instead of just focusing on our multilingual teachers to provide ESL services, teachers and support staff are learning ways to integrate learning into daily routines.



CPSS & Equity Events

- BHS Diversity, Inclusion and Belonging Council - Leaders Panel - *September*
- MN Association of School Administrators presentation - Leveraging and Supporting Affinity Groups to Empower Students and Staff - *October*
- Education Equity Conference held at BHS - *October*
- Celebrating Diversity and Cultural Heritage through Comic Book Workshop - *October*
- 29:11 International Exchange South African Music group visiting elementary schools - *February*
- Infinity Systems Orgametics and Equimetrics Presentation - *March/April*
- Burnsville High School Culture Week - *May*



Mental Health Initiatives

Caring Community

1 in 20 U.S. adults experiences serious mental illness each year.

1 in 6 U.S. youth aged 6-17 experience a mental health disorder each year.

Of the 195,000 adults in Minnesota who did not receive needed mental health care, 34.5% did not because of cost.

Source: National Alliance of Mental Health

Care Solace

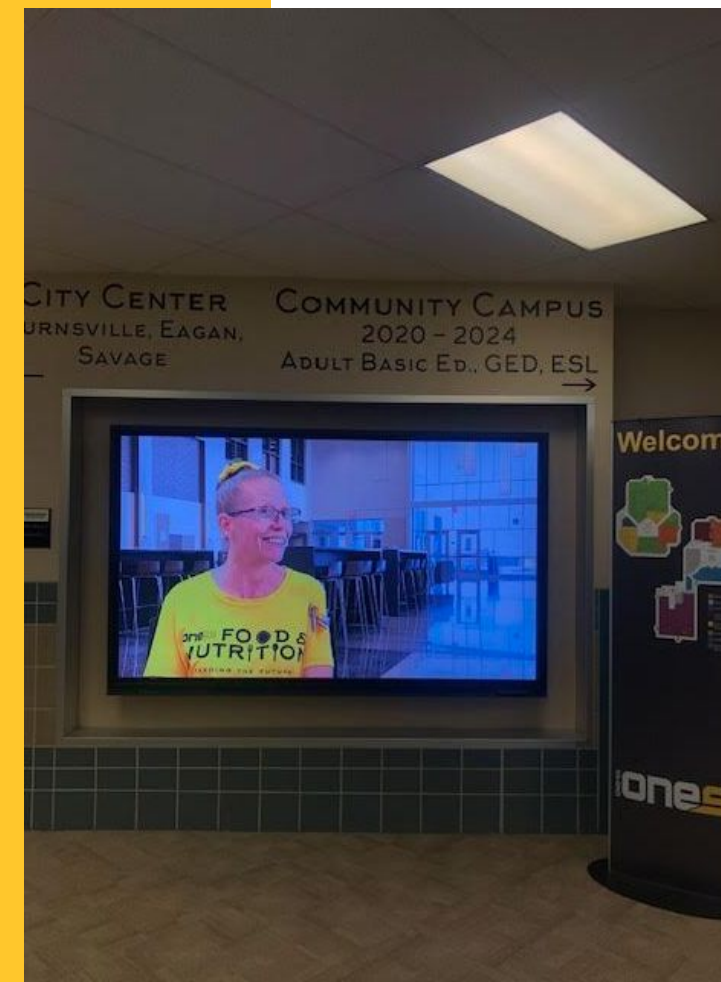
- Provide support for families to get equitable access to mental health services.
- Help navigate insurance, medicaid and sliding scales for families that have limited access to insurance.
- Reduced wait time to get into mental health providers from 4-6 months to 3-4 weeks.

Enhanced EAP Offering

- Fall of 2023 Human Resources added a new EAP with focus on stress, anxiety and mental health.

Infrastructure & System Innovations

- Fluorescent light covers in spaces without natural lighting
- Upgraded entrances at Diamondhead and BHS Athletics Office
- Hot spots through T-Mobile
- Improved bus identification system (animal identification campaign)
- Prospective employee drip email campaign
- Easy Apply online application form for Food Service positions





Student & Staff Agency

- **Student/Staff Instagram Takeover**
 - With support and training from communications, students at Burnsville High School and staff at other schools have taken over the @isd191 Instagram account to share a view of school life through a different lens
- **2024 Muslim Women's Leadership Conference**
 - Community Education supported Muslim staff and Muslim students engaged in Affinity Groups at BHS to attend this leadership opportunity.
- **Central Office Support of Professional Conferences**
 - Dr. Bellmont, SISA and ELT partner with site Principals and Associate Principals to ensure that all our licensed Principals have a chance to attend one professional conference at least 1x per year. In addition, we push-in and give relevant, day-to-day experiences for our future administrators.
- **Burnsville Youth Collaborative (BYC) Transformation**
 - Increase student engagement and participation in BYC at both middle schools. Our numbers have jumped 35% through modifying our offerings and aligning to student interest.

Thank you!



**Agenda III.B.
May 9, 2024**

To: Board of Education
Dr. Chris Bellmont, assistant superintendent

From: Cody Hoang, student board representative

Date: May 9, 2024

Re: Student Board Representative Report

Receive a report from Cody Hoang, student board representative.



**Agenda III.C.
May 9, 2024**

To: Board of Education
From: Dr. Chris Bellmont, assistant superintendent
Date: May 9, 2024
Re: Superintendent Report



**Agenda III.D.
May 9, 2024**

To: Board of Education
Dr. Chris Bellmont, assistant superintendent

From: Eric Miller, board chair

Date: May 9, 2024

Re: Board Member Reports

Receive reports from board members.

School Board Minutes
 INDEPENDENT SCHOOL DISTRICT 191
 April 25, 2024

The regular meeting of the Board of Education was called to order by Chair Miller at 6:30 p.m. The meeting was held at Diamondhead Education Center, 200 West Burnsville Parkway, Burnsville, MN, 55333.

Call to Order

Directors Alt, Hume, Mursal, Werb, and Chair Miller were present. Director Chester was absent. Superintendent Dr. Battle, Student Representative Cody Hoang, administrators, staff and members of the public were also present.

Attendance

Chair Miller welcomed the audience and asked Director Werb to lead the Pledge of Allegiance.

Welcome and
 Pledge of Allegiance

Moved by Hume, seconded by Alt to approve the agenda. The motion carried unanimously (6,0)

Agenda

Received a report from members of the Student Performance and Achievement Committee about College and Career Readiness Graduation Rates from Imina Oftedahl, director of curriculum, instruction and assessment, Becky Ackerson, associate of arts coordinator and counselor and Burnsville High School Student's Nick Vitez and Mariana Jimenez.

Reports

Received a report about the 2024-2025 Equity Plan from Isis Buchanan, director of educational equity, Dawndra Broge, multilingual project manager, Sahro Abdullahi and Ryanne Mikunda, English learner teachers.

Received a report about the FY25 Budget Feedback from Superintendent Dr. Battle and Stacey Sovine, executive director of administrative services.

Received a report about the Early Childhood Special Education Stretch Calendar from Kristi Wanzek, elementary student support supervisor.

Received reports about Board committees, appointments and school assignments: Director Mursal – report about PRC, Director Alt – report about Negotiations, Director Connor – report about AMSD

Director Mursal left the meeting at 8:17pm

Consent Agenda

Moved by Werb, seconded by Hume, to approve the consent agenda:

Minutes

-Approve minutes of the regular board meeting on April 18, 2024.

Personnel Recommendations

-Approve personnel recommendations for Abra Christianson, Alice

Donations

Cranston, Emily Beckmann, Amethyst Stegbauer, Kathryn Huaman, Meg Pawley, Megan Hutera, Ann Bakken, Courtney Kruse, Erin O'Hara, Gabriel Hubbard, Hannah Alderson, John Spangler, Keith French, Kimberly Wakal, Rachel Theis, Amra Omerovic, Jennifer Green, Nicholas Sanborn, Ruth

Checks, Receipt, Claims and In

Budget Analysis

Listening Session

Davila, Amal Osman, Helen Gulikson, Kimberly Wakal, Meg Pawley, Michelle Henderson, Michelle Henderson and Rachael Theis.

- Adopt a resolution to approve and accept donations as presented.
 - February payroll checks in the net amount of \$4,155,998.81. February claims to date, wire transfers and adjustments totaling \$11,402,137.66. Also, that the Board accepts February receipts of \$16,939,581.25 and investments for the General Fund and OPEB of \$73,805,023.79 as of February 29, 2024.
 - Accepts the Budget Analysis for the month ending February 29, 2024.
 - Receive a report about the Listening Session on April 18, 2024.
 - Approve the Southwest West Central Service Cooperative Contract.
 - Approve, non-substantive changes to Policy 204: *School Board Meeting Minutes* and Policy 526: *Hazing Prohibition*.
 - Approve, no changes to Policy 203.5: *School Board Meeting Agenda*, Policy 205: *Open Meeting and Closed Meetings*, Policy 502: *Search of Student Lockers, Desks, Personal Possession and Student's Person* and Policy 531: *The Pledge of Allegiance*.
- The motion carried unanimously (5,0).

Moved by Alt, seconded by Werb, to adopt a Resolution Terminating Non-Licensed Staff Hours at the End of the 2023-2024 School Year.
The motion carried unanimously (5,0).

Last Name	First Name	School	Position	Hours Per Day
Ali	Fartun	Hidden Valley	Educational Assistant	.75
Bartells	Carol	Sky Oaks	Educational Assistant	1
Bussler	Christina	Harriet Bishop	Educational Assistant	1
Carreon Flores	Ersila	Harriet Bishop	Educational Assistant	2
Esparza Alanis	Deisy	Hidden Valley	Educational Assistant	1.25
Gillies	Heidi	Hidden Valley	Educational Assistant	.50
Montoya Alvarez	Maria	Harriet Bishop	Educational Assistant	2
Westman	Cheryl	Sky Oaks	Educational Assistant	1.248

Non-Licensed Staff Hours

Moved by Hume, seconded by Alt, to adopt a Resolution Terminating Non-Licensed Staff at the End of the 2023-2024 School Year.
The motion carried unanimously (5,0).

Last Name	First Name	School	Position
Bohr	Robert	Eagle Ridge Middle School	Educational Assistant
Dale	Maricela	District-Wide	Cultural Liaison
Firnbach	Ragan	Hidden Valley	Long Term Substitute Educational Assistant
Geedi	Ayaan	Sky Oaks	Educational Assistant
Hampton	Kionna	Burnsville High School	Dean
Hassan	Fatuma	Gideon Pond	Educational Assistant
Hussein	Sofia	Gideon Pond	Educational Assistant
Ibrahim	Ardo	District-Wide	Cultural Liaison
Jimenez	Ashanti	Nicollet Middle School	Educational Assistant
Kusniryk	Kelly	Eagle Ridge Middle School	Educational Assistant
Lucius	Rachel	Diamondhead	SISA Coordinator
Milligan	Anna	Nicollet Middle School	Behavior Analyst
Omar	Rahmo	District-Wide	Cultural Liaison
Pickett	Brian	Eagle Ridge Middle School	Educational Assistant

Non-Licensed Staff

Moved by Alt, seconded by Hume, to approve the Early Childhood Special Education Stretch Calendar for 2024-025 School Year.

Early Childhood Stretch Calendar

The motion carried unanimously (5,0).

Moved by Miller, seconded by Hume to move to a recess at 8:23 p.m. until 8:35 p.m. The motion carried unanimously (5,0).

Recess

Director Mursal returned at 8:35pm

Modification of Agenda

Moved by Miller, seconded by Alt to approve the modification of the agenda by removing the closed session to discuss Labor Negotiations. The motion carried unanimously (6,0).

Moved by Miller, seconded by Connor to approve the modified agenda. The motion carried unanimously (6,0).

Labor Acknowledgement

The work session to discuss a request for the posting of a Labor Acknowledgement began at 8:23 p.m.

Moved by Miller and seconded by Hume to adjourn the meeting.

The meeting adjourned at 9:04 p.m.

Adjourn

Abigail Alt, Clerk
Approved

May 9, 2024
Date

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

TO: Members, Board of Education
Dr. Theresa Battle, Superintendent

FROM: Stacey Sovine, Executive Director of Administrative Services

DATE: May 9, 2024

CLASSIFICATION	ACTION	NAME	FINAL	LOCATION	POSITION	EFFECTIVE DATE	HOURS / FTE
Certified	Appointment	Lisa Reuter	*	Rahn Elementary School	Teacher	08/20/2024	1.0 FTE
Certified	Recall	Eduardo Edmondson		Burnsville High School	Teacher	2024-2025 School Year	1.0 FTE
Certified	Recall	Rachel Heil	*	Eagle Ridge Middle School	Teacher	2024-2025 School Year	1.0 FTE
Certified	Recall	Reese Moore	*	Burnsville High School	Teacher	2024-2025 School Year	1.0 FTE
Certified	Resignation	Abby Ertl		Hidden Valley Elementary	Teacher	06/07/2024	1.0 FTE
Certified	Resignation	Arianna Edington	*	Virtual Academy	Teacher	06/07/2024	1.0 FTE
Certified	Resignation	Hawa Salad		Nicollet Middle School	Teacher	06/07/2024	1.0 FTE
Certified	Resignation	Mary Heller		Sky Oaks Elementary School	Teacher	06/07/2024	1.0 FTE
Certified	Resignation	Monica Jones	*	Eagle Ridge Middle School	Teacher	05/06/2024	1.0 FTE
Classified	Appointment	Ardo Ibrahim		Community Education	Community Connections Coordinator	07/01/2024	8 hours/day
Classified	Appointment	Erika Sasseville		Burnsville High School	Musical Director Assistant	Spring Stipend	.37 FTE Stipend
Classified	Appointment	Maricela Dale		Community Education	Community Connections Coordinator	07/01/2024	8 hours/day
Classified	Appointment	Michael Schiller	*	Burnsville High School	Baseball- Assistant Coach	05/03/2024	.177 FTE Stipend
Classified	Change of Assignment	Chelsie Griesinger		District-wide	Licensed Alcohol and Drug Counselor	08/26/2024	8 hours/day
Classified	Change of Assignment	Grace Lee		Vista View Elementary School	Educational Assistant	08/26/2024	7.5 hours/day
Classified	Change of Assignment	Susan Stachowski		Burnsville High School	Webmaster	Year Round Stipend	1.0 FTE Stipend
Classified	Leave of Absence	Sharon Smith-Lossiah	*	Gideon Pond Elementary	CE Coordinator 2	2024-2025 School Year	8 hours/day
Classified	Resignation	Amber Christman		Rahn Elementary School	Educational Assistant	06/06/2024	7.25 hours/day
Classified	Resignation	Ann Funk	*	Burnsville High School	Clerical	05/17/2024	8 hours/day
Classified	Resignation	Ayaan Geedi	*	Sky Oaks Elementary School	Educational Assistant	04/30/2024	7.25 hours/day
Classified	Resignation	Lisa Reuter	*	Rahn Elementary School	Educational Assistant	06/07/2024	7.25 hours/day
Classified	Resignation	Tommie Gaston	*	Burnsville High School	Cultural Liaison	05/03/2024	8 hours/day
Classified	Resignation	Tommie Gaston	*	Burnsville High School	Football- Assistant Coach	05/03/2024	.833 FTE Stipend

**Agenda IV.A.3.
May 9, 2024**

To: Board of Education
From: Dr. Chris Bellmont, assistant superintendent
Date: May 9, 2024
Re: Report about the Listening Session

Recommendation: Receive a report about the listening session scheduled on April 25, 2024

Name	Relationship to ISD 191	Topic Discussed
Antonia Waters	Parent of district student, district resident and taxpayer	Be Seen – Educator Care is Student Care
Jon Abrahamson	District Staff	Wages
Matt Deutsch	District Staff	Educator Working Hours
Erin Woods	Parent of district student, district resident and district taxpayer	Impact of ECFE/VPK on family
Jenn Boyko	Parent of district student	Teacher Contract
Tiffany Vogman	Parent of district student, district resident and district taxpayer	VPK
Macaille Hafner	Parent of district student, district resident and district taxpayer	Early Childhood Partnership
Najma Hussein	Parent of district student, district resident and district taxpayer	Impact of ECFE & VPK
Samantha Mix	Parent of district student, district resident and district taxpayer	ECFE Community Experience
Elizabeth Eiler	District Staff	Special Education
Caron Otto	District Staff	A contract that supports the well-being of all.

May 9, 2024 Board Meeting

Board Members' Questions and Staff Responses regarding BoardBook materials

No questions were submitted for this meeting.

(Topic)

Board Member Question	Staff Response

(Topic)

Board Member Question	Staff Response

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(Topic)

Board Member Question	Staff Response



**Agenda IV.B.1.
May 9, 2024**

To: Board of Education
Dr. Theresa Battle, superintendent
From: Jason Sellars, director of community education
Date: May 9, 2024

RECOMMENDATION: To adopt a resolution to approve and accept donations as presented.

RESOLUTION TO ACCEPT DONATIONS

WHEREAS,

1. School Board Policy 706 establishes guidelines for the acceptance of gifts to the District; and
2. Minnesota Statute 123B.02, Subd. 6 states the School Board may receive, for the benefit of the district, bequests, donations, or gifts for any proper purpose and apply the same to the purpose designated; and
3. Minnesota Statute 465.03 states the School Board may accept a grant or devise of real or personal property only by the adoption of a resolution approved by two-thirds of its members; and
4. Businesses and individuals have submitted donations to the district;

THEREFORE, BE IT RESOLVED by the School Board of ISD 191 to approve and accept with appreciation the donations as presented below and to permit their use as designated by the donors.

Moved by: _____

Seconded by: _____

Members in favor of the motion:

Members opposed:

Whereupon said Resolution was declared duly passed and adopted on May 9, 2024.

Clerk – Board of Education

4/25/2024	Linda Nelson and Jeffrey Harris Richards	Community Education	Brainpower in a Backpack	\$50.00
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Total monetary donations received: \$50



**Agenda IV.B.2.
May 9, 2024**

To: Board of Education

From: Dr. Chris Bellmont, assistant superintendent

Date: May 9, 2024

Re: Policy 206: *Public Participation in School Board*

Recommendation: Approve, on a first reading basis, changes to Policy 206: *Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings/Data Privacy Considerations*

The policy was reviewed at the Policy Review Committee on April 23, 2024

Summary:

- Updating policy to match MSBA recommendations by removing “address’ and updating statute 626.556

Adopted: 11/2003
 Reviewed: 3/9/2023
 Revised: ~~3/23/2023~~ 4/23/2024 PRC
 Rescinds: BDDH

Burnsville-Eagan-Savage School District Policy 206

206 PUBLIC PARTICIPATION IN SCHOOL BOARD MEETINGS/COMPLAINTS ABOUT PERSONS AT SCHOOL BOARD MEETINGS AND DATA PRIVACY CONSIDERATIONS

I. PURPOSE

- A. The school board recognizes the value of participation by the public in deliberations and decisions on school district matters. At the same time, the school board recognizes the importance of conducting orderly and efficient proceedings, with opportunity for expression of all participants' respective views.
- B. The purpose of this policy is to provide procedures to assure open and orderly public discussion as well as to protect the due process and privacy rights of individuals under the law.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the school board is to encourage input and feedback by the public of subjects related to the management of the school district at school board meetings. The school board may adopt reasonable time, place, and manner restrictions on public expression in order to facilitate free discussion by all interested parties.
- B. The school board shall, as a matter of policy, protect the legal rights to privacy and due process of employees and students.
- C. The Board may hold public meetings where the public will not be invited to address the school board including regular business meetings, work sessions and board retreats. The public will still be entitled to notice of these meetings and will be allowed to attend these meetings, but the public will not necessarily be allotted time during the meeting to address the board.

III. DEFINITIONS

- A. "Personnel data" means government data on individuals maintained because the individual is or was an employee or applicant for employment. For purposes of this policy, "employee" includes a volunteer or an independent contractor.
- B. Personnel data on current and former employees that is "public" includes:

Name; employee identification number, which must not be the employee's social security number; actual gross salary; salary range; terms and conditions of

employment relationship; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; bargaining unit; job title; job description; education and training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action as defined in Minn. Stat. § 13.43, Subd. 2(b), together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the complete terms of any agreement settling any dispute arising out of the employment relationship, including a buyout agreement as defined in Minn. Stat. § 123B.143, Subd. 2, except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money; work location; work telephone number; badge number; work-related continuing education; honors and awards received; and payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data.

- C. Personnel data on current and former applicants for employment that is "public" includes:

Veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.

- D. "Educational data" means data maintained by the school district which relates to a student.
- E. "Student" means an individual currently or formerly enrolled or registered in the school district, or applicants for enrollment, or individuals who receive shared time services.
- F. Data about applicants for appointments to a public body, including a school board, collected by the school district as a result of the applicant's application for appointment to the public body are private data on individuals, except that the following are public: name; city of residence, except where the appointment has a residency requirement that requires the entire address to be public; education and training; employment history; volunteer work; awards and honors; prior government service; any data required to be provided or that is voluntarily provided in an application to a multimember agency pursuant to Minn. Stat. § 15.0597; and veteran status. Once an individual has been appointed to a public body, the following additional items of data are public: residential address; either

a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee; the first and last dates of service on the public body; the existence and status of any complaints or charges against an appointee; and, upon completion of an investigation of a complaint or charge against an appointee, the final investigative report unless access to the data would jeopardize an active investigation. Any electronic mail address or telephone number provided by a public body for use by an appointee shall be public. An appointee may use an electronic mail address or telephone number provided by the public body as the designated electronic mail address or telephone number at which the appointee can be reached.

- G. “Public Comment Participants” means individuals who meet one or more of the following categories will seek to address the school board during the public comment period:
1. District student
 2. Parent or guardian of a district student
 3. District resident
 4. District taxpayer
 5. District staff person

IV. RIGHTS TO PRIVACY

- A. School district employees have a legal right to privacy related to matters which may come before the school board, including, but not limited to, the following:
1. right to a private hearing for teachers, pursuant to Minn. Stat. § 122A.40, Subd. 14 (Teachers Discharge Hearing);
 2. right to privacy of personnel data as provided by Minn. Stat. § 13.43 (Personnel Data);
 3. right to consideration by the school board of certain data treated as not public as provided in Minn. Stat. § 13D.05 (Not Public Data);
 4. right to a private hearing for licensed or nonlicensed head varsity coaches to discuss reasons for nonrenewal of a coaching contract pursuant to Minn. Stat. § 122A.33, Subd. 3.
- B. School district students have a legal right to privacy related to matters which may come before the school board, including, but not limited to, the following:
1. right to a private hearing, Minn. Stat. § 121A.47, Subd. 5 (Student Dismissal Hearing);
 2. right to privacy of educational data, Minn. Stat. § 13.32 (Educational Data); 20 U.S.C. § 1232g (FERPA);

3. right to privacy of complaints as provided by child abuse reporting and discrimination laws, Minn. Stat. [Ch.260E § 626.556](#) (Reporting of Maltreatment of Minors) and Minn. Stat. Ch. 363A (Minnesota Human Rights Act).

V. THE PUBLIC'S OPPORTUNITY TO BE HEARD

- A. The school board will strive to give all members of the public of the school district an opportunity to be heard and to have complaints considered and evaluated, within the limits of the law and this policy and subject to reasonable time, place, and manner restrictions. Among the rights available to the public is the right to access public data as provided by Minn. Stat. § 13.43, Subd. 2 (Public Data).

- B. The school board provides three opportunities for public input:

1. Board Listening Sessions

The school board may schedule a listening session prior to a regularly scheduled school board meeting during which time the public may make comments directly to the designated school board members or superintendent that deal with any topic related to the board's conduct of the schools. The school board, however, will not act at that day's/evening's regular meeting on any issue presented during the school board listening sessions if that issue was not previously published as an agenda item. A report summarizing the listening session will be given and distributed to board members via the consent agenda at a future meeting.

2. Public Hearings

Public hearings are required by law to be held concerning certain issues, including but not limited to, school closings (Minn. Stat. § 123B.51), truth in taxation (Minn. Stat. § 375.065) education district establishment (Minn. Stat. § 123A.15), and agreements for secondary education (Minn. Stat. § 123A.30). Additionally, other public hearings may be held by the school board on school district matters at the discretion of the school board.

3. Public Forums

The school board may schedule an open forum to create a venue in which the public can gather to become informed about a specific issue, ask questions, offer input, and/or engage in a public conversation.

VI. LISTENING SESSION PROTOCOL

- A. Agenda Items

1. Members of the public who wish to present on a subject discussed at a public school board listening session are encouraged to notify the superintendent's office in advance of the listening session. Each speaker must provide their name, address, the name of group represented (if any), and the subject to be covered or the issue to be addressed.
2. At the start, or in advance (by notifying the district office at 952-707-2005), of the listening session, any person wishing to speak will complete and submit a card with their name, address, name of group representing, if any, and topic.
3. The facilitating board member will recognize one speaker at a time, and will rule out of order other speakers who are not recognized. Only those speakers who have completed a card in section VI.A.2. of this policy shall be recognized to speak by the facilitating board member. Comments by others are out of order. Individuals who interfere with or interrupt speakers, the school board, or the proceedings may be directed to leave.
4. The school board retains the discretion to limit discussion of any agenda item to a reasonable period of time as determined by the school board. If a group or organization wishes to address the school board on a topic, the school board reserves the right to require designation of one or more representatives or spokespersons to speak on behalf of the group or organization.
5. Matters proposed for presentation at a listening session which may involve data privacy concerns, which may involve preliminary allegations, or which may be potentially libelous or slanderous in nature shall not be considered in public, but shall be processed as determined by the school board in accordance with governing law.
6. The facilitating board member shall promptly rule out of order any discussion by any person, including school board members, that would violate the provisions of state or federal law, this policy or the statutory rights of privacy of an individual.
7. Personal attacks by anyone addressing the school board are unacceptable. Persistence in such remarks by an individual shall terminate that person's privilege to address the school board.
8. Depending upon the number of persons in attendance seeking to be heard, the school board reserves the right to impose such other limitations and restrictions as necessary in order to provide an orderly, efficient, and fair opportunity for those present to be heard.
9. The school board reserves the right to conclude the listening session in the event that audio or video recordings are being made and when such recordings may present a barrier to participation.

B. Complaints

1. Routine complaints about a teacher or other employee should first be directed to that teacher or employee or to the employee's immediate supervisor.
2. If the complaint is against an employee relating to child abuse, discrimination, racial, religious, or sexual harassment, or other activities involving an intimidating atmosphere, the complaint should be directed to the employee's supervisor or other official as designated in the school district policy governing that kind of complaint. In the absence of a designated person, the matter should be referred to the superintendent.
3. Unresolved complaints from Paragraph 1. of this section or problems concerning the school district should be directed to the superintendent's office.
4. Complaints which are unresolved at the superintendent's level may be brought before the school board by notifying the school board in writing.

VII. PENALTIES FOR VIOLATION OF DATA PRIVACY

- A. The school district is liable for damages, costs and attorneys' fees, and, in the event of a willful violation, punitive damages for violation of state data privacy laws. (Minn. Stat. § 13.08, Subd. 1)
- B. A person who willfully violates data privacy or whose conduct constitutes the knowing unauthorized acquisition of not public data is guilty of a misdemeanor. (Minn. Stat. § 13.09)
- C. In the case of an employee, willful violation of the Minnesota data practices law, Chapter 13, and any rules adopted thereunder, including any action subject to a criminal penalty, constitutes just cause for suspension without pay or dismissal. (Minn. Stat. § 13.09)

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
 Minn. Stat. § 13.43 (Personnel Data)
 Minn. Stat. § 13.601, Subd. 3 (Applicants for Appointment)
 Minn. Stat. § 13D.05 (Meetings Having Data Classified as Public)
 Minn. Stat. § 121A.47, Subd. 5 (Exclusion and Expulsion Procedures; Closed or Open Meeting)
 Minn. Stat. § 122A.33, Subd. 3 (License and Degree Exemption for Head Coach; Notice of Nonrenewal; Opportunity to Respond)
 Minn. Stat. § 122A.40, Subd. 14 ((Employment; Contracts; Termination; Hearing Procedures

Minn. Stat. § 122A.44 (Contracting with Teachers; Substitute Teachers)
 Minn. Stat. § 123B.02, Subd. 14 (General Powers of Independent School Districts; Employees; Contracts for Services)
 Minn. Stat. § 123B.143, Subd. 2 (Superintendents; Disclose Past Buyouts or Contract is Void)
 Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
 Minn. Stat. Ch. 260E (Reporting of Maltreatment of Minors)
 20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
 Minn. Op. Atty. Gen. 852 (July 14, 2006)

Cross References: Burnsville-Eagan-Savage School District Policy 103 (Complaints-Students, Employees, Parents, Other Persons/
 Burnsville-Eagan-Savage School District Policy 205 (Open Meetings and Closed Meetings)
 Burnsville-Eagan-Savage School District Policy 207 (Public Hearings)
 Burnsville-Eagan-Savage School District Policy 406 (Public and Private Personnel Data)
 Burnsville-Eagan-Savage School District Policy 422 (Policies Incorporated by Reference)
 Burnsville-Eagan-Savage School District Policy 515 (Protection and Privacy of Pupil Records)
 MSBA School Law Bulletin “C” (Minnesota’s Open Meeting Law)
 MSBA School Law Bulletin “I” (School Records – Privacy – Access to Data)
 Board Listening Session Guidelines
 Registration Card



Future Ready. Community Strong.

**Agenda IV.B.3.
May 9, 2024**

To: Board of Education
Dr. Chris Belmont, assistant superintendent

From: Stacey Sovine, Executive Director of Administrative Services and Stacie Kvilvang,
Ehlers Senior Municipal Advisor

Date: May 9, 2024

Re: Real Estate Discussion about Metcalf Property Purchase Proposal

Closed session, as permitted by MN State Statute 13D. 05 Subd 3, to discuss the purchase proposal of the Metcalf property.

AMENDED AND RESTATED PURCHASE AGREEMENT

1. PARTIES. This Amended and Restated Purchase Agreement (this “Agreement”) is made on this ____ day of _____, 2024 (the “Effective Date”), by and between Independent School District No. 191 (Burnsville-Eagan-Savage), a body corporate and politic in the State of Minnesota (the “Seller”) and Syndica, LLP, a North Dakota limited liability partnership (the “Buyer”) , and amends and restates the Purchase Agreement, made on April 28, 2022 (the “Original Agreement”) by and between the Seller and the Buyer in its entirety.

2. SUBJECT PROPERTY. The Seller is the owner of that certain real estate located at 2250 Diffley Road, in the City of Eagan, Dakota County, Minnesota (PID No. 100300031010), legally described on Exhibit A (the “Property”).

3. OFFER/ACCEPTANCE. In consideration of the mutual agreements herein contained, the Buyer offers and agrees to purchase, and the Seller agrees to sell and hereby grants to the Buyer the exclusive right to purchase the Property and all buildings, improvements, and fixtures thereon, together with all appurtenances, including, but not limited to, plants, shrubs, trees, and grass.

4. PERSONAL PROPERTY AND FIXTURES. There is no personal property included in this sale. Because the structures on the Property are subject to demolition, no fixtures are included in this sale and may be removed by the Seller prior to Closing (as defined in Section 9 hereof).

5. PURCHASE PRICE AND TERMS:

A. PURCHASE PRICE. The Buyer shall pay the Seller \$9,631,000 for the Property (the “Purchase Price”). This transaction does not qualify as a business subsidy under the Business Subsidy Act, Minnesota Statutes, Section 116J.993.

B. EARNEST MONEY. In connection with the execution of the Original Agreement by both parties, the Buyer deposited \$50,000.00 in earnest money (the “Earnest Money”) (which shall include any Additional Earnest Money and Approval Earnest Money as those terms are defined below) with Commercial Partners Title, LLC, 200 South Sixth St., Suite 1300, Minneapolis, MN 55402 (the “Title Company”). Such money may be placed in an interest-bearing account. The Earnest Money, and any additional earnest money as defined in Section 8, below, shall be applied towards the Purchase Price at Closing.

C. TERMS:

(1) BALANCE DUE SELLER. The Buyer agrees to pay the Purchase Price, less the Earnest Money to the Seller by certified or cashier’s check or by wire transfer at Closing.

(2) DEED/MARKETABLE TITLE. Subject to performance by the Buyer, the Seller agrees to execute and deliver a limited warranty deed conveying marketable title to the Property to the Buyer, subject only to the following exceptions:

- a. Building and zoning laws, ordinances, and state and federal regulations.
- b. Reservation of minerals or mineral rights to the State of Minnesota, if any.
- c. Public utility and drainage easements of record which will not interfere with the Buyer's intended use of the Property.
- d. Title defects waived by the Buyer pursuant to Section 15 below.

6. CONTINGENCIES.

A. Notwithstanding any other provision in this Agreement to the contrary, the parties agree that the purchase of the Property is subject to the following contingencies, which must be accepted or waived before the expiration of the Due Diligence Period or the Approvals Period (where applicable) as those terms are hereafter defined:

- (1)** Title to the Property shall be acceptable to the Buyer, in its sole discretion;
- (2)** The Buyer shall have the right during the Due Diligence Period to conduct such tests, surveys, examinations, and other studies which the Buyer desires to conduct at the Buyer's expense. The results of the same shall be satisfactory to the Buyer in its sole discretion;
- (3)** The Buyer's review of the Deliverables (as defined herein) to the satisfaction of Buyer in its sole discretion.
- (4)** The Buyer has obtained approval from the City of Eagan (the "City") to rezone the Property for the Buyer's intended use;
- (5)** The Buyer has obtained approval from the City of the Buyer's preliminary plat of the Property;
- (6)** The Buyer has obtained any required engineer's permits or necessary watershed district approvals;
- (7)** The Buyer has obtained any utility or transportation permits or easements from the City or Dakota County (the County") that are deemed necessary by the Buyer or a governmental authority for the Buyer's project; and

(8) Passage of special legislation that would allow the Seller to deposit proceeds from the sale of various closed facilities under the Seller's Open Facilities Action Plan, including the Property, into the Seller's unrestricted general fund (the "Special Legislation"); provided that the Seller may, in its sole discretion, proceed with the sale the Property in accordance with the terms hereof. Within five (5) business days of final disposition of the Special Legislation, the Seller shall notify the Buyer in writing of (i) the passage of the Special Legislation, (ii) Seller's election to proceed with the sale of the Property in spite of the failure of the passage of the Special Legislation, or (iii) Seller's election to terminate this Agreement due to the failure of the passage of the Special Legislation. Seller's notification under either (i) or (ii) in the previous sentence shall be hereinafter referred to as "Seller's Contingency Waiver" and the date of delivery of Seller's Contingency Waiver shall hereinafter be referred to as the "Seller Contingency Waiver Date". Notwithstanding anything to the contrary, Seller shall not have the right to terminate this Agreement if the Special Legislation passes. The Seller and the Buyer acknowledge that as of the date of this Agreement, the Special Legislation has passed.

B. During the Due Diligence Period as defined by Section 7, the Buyer may, by giving written notice to the Seller, either:

(1) Terminate this Agreement for any reason; or

(2) Waive any contingencies listed above and proceed to Closing, unless Buyer elects to terminate as set forth in this Agreement, including, without limitation, pursuant to Section 8 .

If the Buyer elects to terminate this Agreement under paragraph (B)(1) of this Section, then, upon the Seller's receipt of the Buyer's written notice of termination, the Earnest Money shall be refunded to the Buyer, and this Agreement shall be null and void and neither party shall have any further obligation to the other.

7. DUE DILIGENCE PERIOD. Commencing on the Effective Date defined in the Original Agreement (April 28, 2022) and for a maximum of 90 calendar days after the Seller Contingency Waiver Date (the "Due Diligence Period"), the Buyer shall have the right, but not the obligation to, conduct an investigation of the Property, to apply to and to work with the City on its conceptual planning, zoning, and other City processes to assess the feasibility of City approval of the project planned by the Buyer. The Seller and the Buyer acknowledge that the Due Diligence Period expired on December 31, 2023.

8. APPROVALS PERIOD; ADDITIONAL EARNEST MONEY. Following the conclusion of the Due Diligence Period, the Buyer shall have 270 days (the "Approvals Period) to obtain all necessary approvals from the City, County, and State that are necessary for the Buyer's intended use of the Property. The Buyer may, at its option, extend the Approvals Period by two 30-day periods (each an "Extension Period"). Upon the conclusion of the Approvals Period, as extended by any Extension Period, this Agreement shall constitute a binding contract that is not subject to any

material contingencies, as described in Treasury Regulations, Section 1.141-2(e). The Buyer must provide written notice to the Seller of any Extension Period and provide an additional \$25,000 of Earnest Money per extension (the “Additional Extension Earnest Money”), to be deposited with the Title Company, applicable to the Purchase Price.

Should the Buyer not receive all necessary approvals from the City, County, and State that are required for the Buyer’s intended use of the Property or for any reason at all, the Buyer may terminate this Agreement by giving the Seller written notice of termination. In that event, the Earnest Money and any Additional Extension Earnest Money shall be retained by the Seller, and this Agreement shall be null and void and neither party shall have any further obligation to the other.

Upon the Buyer receiving successful approvals for the Buyer’s intended use of the Property, the Buyer shall deposit an additional \$100,000 in Earnest Money with the Title Company (the “Approval Earnest Money”). After the Buyer has received successful approvals for the Buyer’s intended use of the Property, the Earnest Money, the Additional Earnest Money, and the Approval Earnest Money shall become non-refundable; provided that if Buyer terminates this Agreement pursuant to Section 15 (Title Examination), Section 20 (Condemnation) or Section 22 (following a Seller default), the Approval Earnest Money is refundable. The foregoing notwithstanding, Buyer shall have the right to terminate this Agreement at any time prior to the Closing Date (as that term is defined below) if the City adopts a moratorium resulting in a prohibition on the issuance of the requisite building permits for Buyer’s intended use of the Property. If Buyer terminates this Agreement following the adoption of a moratorium, the Earnest Money, the Additional Earnest Money and the Approval Earnest Money shall be returned to Buyer.

9. CLOSING DATE. The closing of the sale of the Property (the “Closing”) shall take place within 60 calendar days following the end of the Approvals Period as extended by any Extension Period, or as otherwise mutually agreed upon by the parties but in no event later than 80 calendar days following the end of the Approvals Period as extended by any Extension Period or May 1, 2025, whichever is earlier (the “Closing Date”). The Closing shall take place at the Seller’s District Office, 200 W. Burnsville Parkway, Burnsville, Minnesota or electronically, or at such other location as mutually agreed upon by the parties.

10. DELIVERY OF DOCUMENTS; ASSIGNMENT AND ASSUMPTION. Within 10 business days of the Seller’s execution of this Agreement, the Seller must provide the Buyer with copies of all due diligence materials in the Seller’s possession relating to the Property, including but not limited to, a copy of the Seller’s most recent title insurance policy and any encumbrance documents for the Property; title reports, soil reports, environmental reports, tests and analysis, surveys, building plans, agreements with governmental authorities, engineering reports, plans and specifications or other records of the Property that the Seller has in the Seller’s possession, including all Service Contracts, if any, defined in Section 18 (L).

11. SURVEYING, ENVIRONMENTAL INSPECTION, AND SOIL TESTS. During the Due Diligence Period, the Buyer may inspect, examine, survey, and conduct testing of the Property at its expense, after providing reasonable advance notice to the Seller of such entry. The Buyer shall additionally provide the Seller with the names of entity or persons who will perform any testing and the proposed scope of such testing, as well as the opportunity to observe any such testing.

Any inspections, examinations, surveys, or testing of the Property during the Due Diligence Period by the Buyer shall occur outside of normal school business hours as determined by the Seller. The Buyer shall not damage, encumber, or permit a lien or claim to result from its activities. Any portion of the Property damaged or altered as the result of any survey, inspection, or tests performed by the Buyer, its agents, employees, or contractors will be returned to its original condition by the Buyer, at the Buyer's expense. The Buyer shall not have the right to do any intrusive testing without the prior written authorization of the Seller, which authorization shall not be unreasonably withheld, conditioned or delayed. The Buyer agrees to indemnify and defend the Seller against any liens, claims, losses, or damages directly attributable by the Buyer's exercise of its right to enter and work upon the Property. The Buyer agrees to provide the Seller with a copy of any final report or survey prepared as a result of such surveying, inspection, examination, or testing, upon request by the Seller. The Buyer's obligations under this Section shall survive termination of this Agreement.

12. DOCUMENTS TO BE DELIVERED AT CLOSING. The Buyer and the Seller agree to deliver the following documents at or prior to Closing:

- A. The Seller agrees to execute and deliver the following documents to the Buyer at Closing:
 - (1) A duly recordable limited warranty deed conveying fee simple title to the Property to the Buyer free and clear of all encumbrances subject only to the exceptions stated in paragraphs 5 (C)(2)(a), (b), (c), and (d) of this Agreement.
 - (2) Standard form Affidavit of Seller.
 - (3) Affidavit of the Seller confirming that the Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code.
 - (4) A completed Minnesota Well Disclosure Certificate or a statement that the Seller is not aware of any wells on the Property.
 - (5) The representations and warranties of the Seller contained in this Agreement must be true now and on the Closing Date as if made on the Closing Date, and the Seller shall have delivered to the Buyer at Closing a certificate in a form acceptable to the Buyer, signed by an authorized representative of the Seller, certifying that such representations and warranties are true as of the Closing Date (the "Bring-Down Certificate").
 - (6) ALTA Statements or other form of Settlement Statement prepared by the Title Company.
 - (7) All keys to the Property.
 - (8) Authorizing resolutions or evidence of the Seller's authority and authorization to enter this transaction as may be required by the Title Company.

- (9) Such other documents as may be reasonably required by the Title Company.
- B.** The Buyer agrees to execute and deliver the following documents to the Seller at Closing:
- (1) The balance of the Purchase Price, as adjusted for apportionments pursuant to this Agreement.
 - (2) The Buyer shall, where applicable, join with the Seller in the execution and delivery of the closing documents and instruments as may be required by the Title Company.
 - (3) Authorizing resolutions or evidence of the Buyer's authority and authorization to enter this transaction as may be required by the Title Company.
 - (4) Such other documents as may be reasonably required by the Title Company.

13. CLOSING COSTS AND RELATED ITEMS. The Seller will pay: (a) any deed transfer taxes; (b) any conservation fees; (c) recording fees for all instruments required to establish marketable title in the name of the Seller; (d) the cost of the title commitment, title search, name searches, and exam fees; and (e) one-half of the Closing fee charged by the Title Company to close the transaction contemplated by this Agreement. The Buyer shall be responsible for paying: (a) the recording charges in connection with recording the limited warranty deed; (b) the costs of any reports for any surveys, testing, or inspections conducted by the Buyer of the Property; (c) the cost of the title insurance premium and endorsements, if any; (d) one-half of the Closing fee charged by the Title Company, if any, utilized to close the transaction contemplated by this Agreement; and (e) any fees charged by the Buyer's broker. Each party shall be responsible for paying its own attorneys' fees.

14. REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.

- A.** The Seller shall be responsible for all real estate taxes, including any deferred real estate taxes, penalties, or interest, for the years prior to the year in which Closing occurs. Real estate taxes for the year of Closing shall be prorated between the Buyer and the Seller as of the Closing Date.
- B.** The Seller shall pay all pending and levied special assessments against the Property as of the Closing Date, including, without limitation, special assessments certified for payment with the real estate taxes, any installments of special assessments, including interest payable with general real estate taxes in the year of Closing, and all deferred assessments.

15. TITLE EXAMINATION. The Buyer shall, within a reasonable time after execution of this Agreement by both parties, obtain a commitment for title insurance from the Title Company or other evidence satisfactory to the Buyer and a survey, to be obtained by Buyer at its cost ("Title Evidence") for the Property. The Buyer shall have 10 business days after receipt of all the Title Evidence to examine the same and to deliver written objections to title, if any, to the Seller. The Seller shall have until the expiration of the Due Diligence Period (or such later date as the parties may

agree upon) to make title marketable, at the Seller's expense. Seller shall use best efforts to make the title marketable. In the event that title to the Property cannot be made marketable or is not made marketable by the Seller by the expiration of the Due Diligence Period, then, at the option of the Buyer, the Buyer may terminate this Agreement in accordance with Section 6 (B)(1) of this Agreement and the Earnest Money shall be refunded to the Buyer.

16. "AS IS, WHERE IS." The Buyer acknowledges that it has inspected or will have the opportunity to inspect the Property and agrees to accept the Property "AS IS" with no right of set off or reduction in the Purchase Price. The sale of the Property shall be without representation of warranties, express or implied, either oral or written, made by the Seller or any official, employee, or agent of the Seller with respect to the physical condition of the Property, including but not limited to, the existence or absence of petroleum, asbestos, hazardous substances, pollutants or contaminants in, on, or under, or affecting the Property or with respect to the compliance of the Property or its operation with any laws, ordinances, or regulations of any government or other body, except as stated above. The Buyer acknowledges and agrees that the Seller has not made and does not make any representations, warranties, or covenants of any kind or character whatsoever, whether expressed or implied, with respect to warranty of income potential, operating expenses, uses, habitability, tenant ability, past or present use, development, investment potential, tax ramifications or consequences, present or future zoning, habitability, merchantability, fitness or suitability for any purpose, all of which warranties the Seller hereby expressly disclaims, except as stated above. Except for the Seller's express representations and warranties contained in this Agreement, all other warranties, either express or implied, of the physical condition (including environmental condition) of the Property are void. The Buyer acknowledges that it and its representatives have or before Closing will have fully inspected the Property or will be provided with an adequate opportunity to do so, are or will be fully familiar with the condition thereof.

17. EFFECT OF INVESTIGATION. The representations, warranties and covenants of the Seller set forth in Section 19 and elsewhere in this Agreement shall survive the Closing for a period of nine months and shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Buyer or by reason of the fact that the Buyer knew that any such representation or warranty is, was, or might be inaccurate or by reason of the Buyer's waiver of any condition set forth in Section 6.

18. REPRESENTATIONS AND WARRANTIES BY THE SELLER. The Seller hereby represents and warrants to the Buyer as of the Closing Date that:

- A. Authority. The Seller is a public school district and political subdivision of the state of Minnesota; the Seller has the requisite power and authority to enter into and perform this Agreement and execute those closing documents signed by it.
- B. Legal Proceedings. There is no action, litigation, investigation, condemnation or proceeding of any kind pending or, to the best of the Seller's knowledge without investigation, threatened against the Seller related to the Property or any portion of the Property, and the Seller has no actual knowledge that any such action is contemplated.
- C. Bankruptcy. No action or proceeding shall have been commenced by or against the Seller under the federal bankruptcy code or any state law for the relief of debtors or

for the enforcement of the rights of creditors, and no attachment, execution, lien, or levy shall have attached to or been issued with respect to the Seller's interest in all or a portion of the Property.

- D. Wells. There are not any wells located on the Property.
- E. Individual Sewage Treatment Systems. There are not any individual sewage treatment systems located on the Property.
- F. Methamphetamine Production. To the best of the Seller's knowledge, methamphetamine production has not occurred on the Property.
- G. Foreign Status. The Seller is not a "foreign person" as such term is defined in the Internal Revenue Code.
- H. Eminent Domain. To the best knowledge of the Seller, there is no existing or proposed or threatened eminent domain or similar proceeding, or private purchase in lieu of such a proceeding which would affect the Property in any material way.
- I. Tenants. There are no tenants or third parties in possession of the Property.
- J. Rights of Others to Purchase Property. The Seller has not entered any other contracts for the sale of the Property, nor are there any rights of first refusal or options to purchase the Property or any other rights of others that might prevent the consummation of this Agreement.
- K. Use of Property. The Property is usable for its current uses without violating any federal, state, local or other governmental building, zoning, health, safety, platting, subdivision or other law, ordinance or regulation, or any applicable private restriction, and such use is a legal conforming use.
- L. Service Contracts. The Seller has not entered into any service, maintenance, supply, leasing, brokerage, and listing and/or other contracts relating to the Property (along with all amendments and modifications thereof, the "Service Contracts") which will be binding upon the Buyer after the Closing, unless the Buyer agrees to assume such Service Contract. Each of the Service Contracts can and, at the Buyer's option, will be terminated by the Seller on or before the Closing Date. The Seller has performed all of its obligations under each of the Service Contracts and no fact or circumstance has occurred which, by itself or with the passage of time or the giving of notice or both, would constitute a default by any party under any of the Service Contracts. The Seller has delivered to the Buyer true, correct, and complete copies of all Service Contracts.
- M. Delivery of Due Diligence Materials. The Seller has or will deliver or make available to the Buyer complete copies of all the documents and other Due Diligence materials required to be delivered pursuant to Section 10 and elsewhere in this Agreement

(collectively, the “Due Diligence Materials”) to the extent in the Seller’s possession or under the Seller’s control regarding the Property, and there are no other documents or information that have not been or will not be provided to the Buyer.

- N. Hazardous Substances. The Seller has not received written notice from any public authority or private party that Property is in violation of any applicable Environmental Law. As used herein, the term “Environmental Law” shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.), the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. § 300f et seq.), and any state counterpart or equivalent of any of the foregoing. To the best of Seller’s knowledge, with the exception of certain fuel storage tanks, there are no hazardous substances present on or in the Property, including any hazardous substances contained in barrels, above-ground or underground storage tanks, landfills, land deposits, dumps, equipment (whether movable or fixed) or other containers, either temporary or permanent, and deposited or located in land, water, sumps, or any other part of the Property, with the exception of substances used on the Property in connection with cleaning and maintenance in the ordinary course of business.
- O. Legal Compliance. The Seller has complied with all applicable laws, ordinances, regulations, statutes, rules, and restrictions pertaining to and affecting the Property and the Seller shall continue to comply with such laws, ordinances, regulations, statutes, rules, and restrictions.
- P. Underground Storage Tank. The Seller knows of two underground storage tank located on the Property.

The provisions of this Section shall survive Closing. The representations and warranties contained in this Section shall be true and correct on the Effective Date and the Closing Date. The Seller shall indemnify and hold the Buyer harmless from any damages sustained by the Buyer that were caused by the Seller’s material breach of any of the above representations and warranties, but only if the claim for indemnification is made within nine (9) months after the Closing Date.

19. REPRESENTATIONS AND WARRANTIES OF THE BUYER. The Buyer represents and warrants to the Seller as follows:

- A. Organization and Authority. The Buyer has the requisite power and authority to enter into and perform this Agreement and all agreements and documents referenced herein and to acquire the Property in accordance with this Agreement. The person signing this Agreement and the Buyer’s closing documents on behalf of the Buyer is authorized to do so.

- B. Consents.** As of the Closing Date, the Buyer will have obtained all consents and approvals required to consummate the transactions contemplated in this Agreement.
- C. Indemnification for the Buyer's Investigation.** The Buyer shall promptly pay when due any and all charges related to its inspections, investigations, and testing of the Property.

The representations and warranties contained in this Section shall survive Closing and shall be true and correct on the Effective Date and the Closing Date. The Buyer shall indemnify, defend, and hold the Seller harmless from any damages sustained by the Seller that were caused by the Buyer's material breach of any of the above representations and warranties, but only if the claim for indemnification is made within nine (9) months from the Closing Date.

20. CONDEMNATION. If, prior to the Closing, eminent domain proceedings are commenced against all or any part of the Property, the Seller shall immediately give notice to the Buyer of such fact and at the Buyer's option (to be exercised within 15 calendar days after the Seller's notice), this Agreement may be terminated, in which event neither party will have further obligations under this Agreement. In that event, the Earnest Money and any Additional Earnest Money and the Approval Earnest Money shall be returned to the Buyer. If the Buyer fails to give such notice, then there shall be no reduction in the Purchase Price, and the Seller shall assign to the Buyer at the Closing all of the Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date, the Seller shall not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without the Buyer's prior written consent.

21. BROKER COMMISSIONS. With the exception of Colliers International, the Buyer represents and warrants that there are no brokers involved in this transaction with whom it has negotiated or to whom it has agreed to pay a broker commission. The Buyer agrees that it shall pay Colliers International its commission of two percent. The Seller represents and warrants that there are no other brokers involved in this transaction with whom it has negotiated or to whom it has agreed to pay a broker commission. The Buyer agrees to indemnify the Seller for any and all claims for brokerage commissions or finders' fees in connection with negotiations for purchase of the Property arising out of any alleged agreement or commitment or negotiation by the Buyer, and the Seller agrees to indemnify the Buyer for any and all claims for brokerage commissions or finders' fees in connection with negotiations for purchase of the Property arising out of any alleged agreement or commitment or negotiation by the Seller.

22. REMEDIES. If the Seller defaults in any of the agreements herein, the Buyer may (i) terminate this Agreement, (ii) seek actual damages for breach of this Agreement or (iii) seek specific performance of this Agreement; provided that any action for specific enforcement must be brought within six months after the date of the alleged breach. In the event of a default of this Agreement by Seller, the Earnest Money shall be returned to the Buyer.

In the event of a default of this Agreement by the Buyer, the Seller, as its sole and exclusive remedy shall be the termination of this Agreement and the retention of the Earnest Money.

The foregoing notwithstanding, with regard to any default by Seller or Buyer of any obligation that explicitly survives Closing, the non-defaulting party will have the right to specifically enforce the subject terms and provisions of this Agreement and/or recover any damages to which it may be entitled at law (including, without limitation, reasonable attorneys' fees and the reasonable costs of investigation) and/or pursue any other remedy available at law or equity.

23. AMENDMENT AND MODIFICATION. No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or have any effect unless made in writing, is signed by the party to be bound and specifies with particularity the extent and nature of such amendment, modification, or waiver. Any waiver by either party of any default by the other party shall not affect or impair any right arising from any previous or subsequent default.

24. NOTICES. Any notice, demand, request, or other communication which may or shall be given or served by the Seller on the Buyer or by the Buyer on the Seller, shall be deemed to have been given or served on the date the same is hand delivered or the date of receipt or the date of delivery if deposited in the United States mail, registered or certified, postage prepaid, and addressed as follows:

If to the Seller:	Independent School District No. 191 Attn: Superintendent Diamondhead Education Center 200 W. Burnsville Parkway Burnsville, MN 55337
With a copy to:	Kennedy & Graven, Chartered Attn: Sarah J. Sonsalla 150 South 5th Street, Suite 700 Minneapolis, MN 55402
If to the Buyer:	Syndica, LLP Attn: Managing Partner 300 23rd Avenue East, Suite 300 West Fargo, ND 58078
With a copy to:	Siegel Brill P.A. Attn: Anthony J. Gleekel 100 Washington Avenue South, Suite 1300 Minneapolis, MN 55401

or such other address as either party may give to another party in accordance with this Section.

25. COVENANTS.

- A. Seller will continue to operate the Property consistent with Seller's recent practices.
- B. From and after the Acceptance Date, Seller will not enter into any service, maintenance or management agreements with respect to the Property other than in

the ordinary course of business provided that any such contract shall be terminable upon thirty (30) days' notice, without penalty, by Buyer.

- C. On or before the Closing Date, Seller shall pay all contractors, subcontractors, laborers and material suppliers that have performed work upon the Property.
- D. Within 120 days of the Closing Date, Buyer shall obtain a demolition permit to demolish the structures on the Property and shall substantially complete demolition within 180 days of the Closing Date, subject to events of force majeure. If Buyer fails to obtain a demolition permit within the 120 period or fails to substantially complete the demolition within the 180 day period (subject to events of force majeure), Seller, following at least 30 days' written notice, may re-enter the Property (if demolition is not substantially completed within the 30 day notice period) for the sole purpose of demolishing the structures on the Property (including all preliminary work related thereto) as required hereunder. Any third party costs incurred by Seller in demolishing the structures on the Property shall be paid or reimbursed by Buyer. If Buyer fails to pay or reimburse Seller for such demolition costs within 30 days from receipt of Seller's written request, Seller may place a lien against the Property for such costs. Any payment request by Seller hereunder shall include reasonable detail and supportive documentation. This provision shall survive closing. This requirement shall be set forth in the deed to the Property or in a declaration of restrictive covenants to be executed by Seller at Closing.
- E. Buyer understands and agrees that the Property shall be subject to a restrictive covenant, in the limited warranty deed transferring the Property or a declaration of restrictive covenants, in form reasonably acceptable to the Buyer and Seller that prohibits Buyer and any successors in interest from using the Property as a public, private, or charter school providing general education instruction for any students that are in kindergarten through twelfth grade unless the school is in conjunction with or consented to by Independent School District No. 191.

26. NO PARTNERSHIP OR JOINT VENTURE. Nothing in this Agreement shall be construed or interpreted as creating a partnership or joint venture between the Seller and the Buyer relative to the Property.

27. CUMULATIVE RIGHTS. Except as may otherwise be provided herein, no right or remedy herein conferred on or reserved by either party is intended to be exclusive of any other right or remedy provided by law, but such rights and remedies shall be cumulative in and in addition to every other right or remedy given herein or elsewhere or existing at law, equity or by statute.

28. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and no other agreement prior to this Agreement or contemporaneous herewith shall be effective except as expressly set forth or incorporated herein. This Agreement shall supersede all previous agreements and understandings, either or oral or written between the parties with respect to the Property, including in particular, the Original Agreement.

29. BINDING EFFECT. This Agreement binds and benefits the parties and their successors and assigns.

30. CONTROLLING LAW. This Agreement has been made under the substantive laws of the State of Minnesota, and such laws shall control its interpretation.

31. ASSIGNMENT. Buyer shall not assign its rights under this Agreement without the express written consent of Seller, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Buyer may assign its rights under this Agreement to an affiliate of Buyer after 30 days' prior written notice to the Board of Education of Seller.

32. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same instrument. Executed copies of the signature pages of this Agreement transmitted electronically in Portable Document Format ("PDF") shall be treated as originals, fully binding and with full legal force and effect, and the parties waive any rights they may have to object to such treatment. Any party delivering an executed counterpart of this Agreement by PDF also shall deliver a manually executed counterpart of this Agreement, but the failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date written above.

SELLER

**INDEPENDENT SCHOOL
DISTRICT NO. 191**

By: _____
Eric Miller
Its: Board Chair

By: _____
Abigail Alt
Its: Board Clerk

BUYER

SYNDICA, LLP

By: _____
Austin Morris
Its: Managing Partner

EXHIBIT A**Legal Description of the Property**

The Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ of NW $\frac{1}{4}$) of Section 30, Township 27,
Range 23, Dakota County, Minnesota.

PID: 100300031010



Future Ready. Community Strong.

**Agenda IV.B.4.
May 9, 2024**

To: Board of Education
Dr. Chris Belmont, assistant superintendent

From: Stacey Sovine, Executive Director of Administrative Services and Stacie Kvilvang,
Ehlers Senior Municipal Advisor

Date: May 9, 2024

Re: Consider Approving Resolution to Approve Purchase Proposal for the Metcalf Property

**INDEPENDENT SCHOOL DISTRICT NO. 191
(BURNSVILLE – EAGAN – SAVAGE)
DAKOTA AND SCOTT COUNTIES, MINNESOTA**

**RESOLUTION RATIFYING AUTHORIZATION OF CONVEYANCE OF
PROPERTY BY INDEPENDENT SCHOOL DISTRICT NO. 191 TO SYNDICA,
LLP AND APPROVING AMENDED AND RESTATED PURCHASE
AGREEMENT IN CONNECTION THEREWITH**

BE IT RESOLVED BY the School Board (“Board”) of Independent School District No. 191 (Burnsville–Eagan–Savage), Dakota and Scott Counties, Minnesota (the “School District”) as follows:

Section 1. Recitals.

1.01. The School District and Syndica, LLP, a North Dakota limited liability partnership (“Buyer”) desire to amend and restate the Purchase Agreement, made on April 28, 2022 (the “Original Purchase Agreement”), by and between the School District and Buyer (as amended and restated, the “Amended and Restated Purchase Agreement”) pursuant to which the School District will convey certain property owned by the School District and located at 2250 Diffley Road, in the City of Eagan, Dakota County, Minnesota, legally described as: The Northwest Quarter of the Northwest Quarter (NW ¼ of NW ¼) of Section 30, Township 27, Range 23, Dakota County, Minnesota (the “Property”).

1.02. Pursuant to the Amended and Restated Purchase Agreement, purchase price for the Property is now \$9,631,000.

1.03. Pursuant to a resolution of the Board of the School District adopted on April 28, 2022 (the “Original Approving Resolution”), the School District made a finding that conveyance of the Property is desirable and in the best interest of the School District and approved the Original Purchase Agreement, notwithstanding anything to the contrary in the Open Facilities Resolution (as defined in the Original Approving Resolution).

Section 2. Amended and Restated Purchase Agreement Approved.

2.01. The Board hereby ratifies its finding that conveyance of the Property is desirable and in the best interest of the School District and its approval of the conveyance of the Property to the Buyer.

2.02. Notwithstanding anything to the contrary in the Open Facilities Resolution, the School District hereby approves the Amended and Restated Purchase Agreement in substantially the form presented to the School District, subject to modifications that do not alter the substance of the transaction and that are approved by the Board Chair and Board Clerk of the School District, provided that execution of the Purchase Agreement by those officials shall be conclusive evidence of their approval.

2.03. School District staff and officials are authorized to take all actions necessary to perform the School District’s obligations under the Amended and Restated Purchase Agreement as a whole, including without limitation execution of any documents to which the School District is a party referenced in or attached to the Amended and Restated Purchase Agreement, and of any deed or other documents necessary to convey the Property to the Buyer, all as described in the Amended and Restated Purchase Agreement.

Approved this 9th day of May, 2024, by the School Board of Independent School District No. 191 (Burnsville – Eagan – Savage), Dakota and Scott Counties, Minnesota.

Board Chair

ATTEST:

Board Clerk

AMENDED AND RESTATED PURCHASE AGREEMENT

1. PARTIES. This Amended and Restated Purchase Agreement (this “Agreement”) is made on this ____ day of _____, 2024 (the “Effective Date”), by and between Independent School District No. 191 (Burnsville-Eagan-Savage), a body corporate and politic in the State of Minnesota (the “Seller”) and Syndica, LLP, a North Dakota limited liability partnership (the “Buyer”) , and amends and restates the Purchase Agreement, made on April 28, 2022 (the “Original Agreement”) by and between the Seller and the Buyer in its entirety.

2. SUBJECT PROPERTY. The Seller is the owner of that certain real estate located at 2250 Diffley Road, in the City of Eagan, Dakota County, Minnesota (PID No. 100300031010), legally described on Exhibit A (the “Property”).

3. OFFER/ACCEPTANCE. In consideration of the mutual agreements herein contained, the Buyer offers and agrees to purchase, and the Seller agrees to sell and hereby grants to the Buyer the exclusive right to purchase the Property and all buildings, improvements, and fixtures thereon, together with all appurtenances, including, but not limited to, plants, shrubs, trees, and grass.

4. PERSONAL PROPERTY AND FIXTURES. There is no personal property included in this sale. Because the structures on the Property are subject to demolition, no fixtures are included in this sale and may be removed by the Seller prior to Closing (as defined in Section 9 hereof).

5. PURCHASE PRICE AND TERMS:

A. PURCHASE PRICE. The Buyer shall pay the Seller \$9,631,000 for the Property (the “Purchase Price”). This transaction does not qualify as a business subsidy under the Business Subsidy Act, Minnesota Statutes, Section 116J.993.

B. EARNEST MONEY. In connection with the execution of the Original Agreement by both parties, the Buyer deposited \$50,000.00 in earnest money (the “Earnest Money”) (which shall include any Additional Earnest Money and Approval Earnest Money as those terms are defined below) with Commercial Partners Title, LLC, 200 South Sixth St., Suite 1300, Minneapolis, MN 55402 (the “Title Company”). Such money may be placed in an interest-bearing account. The Earnest Money, and any additional earnest money as defined in Section 8, below, shall be applied towards the Purchase Price at Closing.

C. TERMS:

(1) BALANCE DUE SELLER. The Buyer agrees to pay the Purchase Price, less the Earnest Money to the Seller by certified or cashier’s check or by wire transfer at Closing.

(2) DEED/MARKETABLE TITLE. Subject to performance by the Buyer, the Seller agrees to execute and deliver a limited warranty deed conveying marketable title to the Property to the Buyer, subject only to the following exceptions:

- a. Building and zoning laws, ordinances, and state and federal regulations.
- b. Reservation of minerals or mineral rights to the State of Minnesota, if any.
- c. Public utility and drainage easements of record which will not interfere with the Buyer's intended use of the Property.
- d. Title defects waived by the Buyer pursuant to Section 15 below.

6. CONTINGENCIES.

A. Notwithstanding any other provision in this Agreement to the contrary, the parties agree that the purchase of the Property is subject to the following contingencies, which must be accepted or waived before the expiration of the Due Diligence Period or the Approvals Period (where applicable) as those terms are hereafter defined:

- (1)** Title to the Property shall be acceptable to the Buyer, in its sole discretion;
- (2)** The Buyer shall have the right during the Due Diligence Period to conduct such tests, surveys, examinations, and other studies which the Buyer desires to conduct at the Buyer's expense. The results of the same shall be satisfactory to the Buyer in its sole discretion;
- (3)** The Buyer's review of the Deliverables (as defined herein) to the satisfaction of Buyer in its sole discretion.
- (4)** The Buyer has obtained approval from the City of Eagan (the "City") to rezone the Property for the Buyer's intended use;
- (5)** The Buyer has obtained approval from the City of the Buyer's preliminary plat of the Property;
- (6)** The Buyer has obtained any required engineer's permits or necessary watershed district approvals;
- (7)** The Buyer has obtained any utility or transportation permits or easements from the City or Dakota County (the County") that are deemed necessary by the Buyer or a governmental authority for the Buyer's project; and

(8) Passage of special legislation that would allow the Seller to deposit proceeds from the sale of various closed facilities under the Seller's Open Facilities Action Plan, including the Property, into the Seller's unrestricted general fund (the "Special Legislation"); provided that the Seller may, in its sole discretion, proceed with the sale the Property in accordance with the terms hereof. Within five (5) business days of final disposition of the Special Legislation, the Seller shall notify the Buyer in writing of (i) the passage of the Special Legislation, (ii) Seller's election to proceed with the sale of the Property in spite of the failure of the passage of the Special Legislation, or (iii) Seller's election to terminate this Agreement due to the failure of the passage of the Special Legislation. Seller's notification under either (i) or (ii) in the previous sentence shall be hereinafter referred to as "Seller's Contingency Waiver" and the date of delivery of Seller's Contingency Waiver shall hereinafter be referred to as the "Seller Contingency Waiver Date". Notwithstanding anything to the contrary, Seller shall not have the right to terminate this Agreement if the Special Legislation passes. The Seller and the Buyer acknowledge that as of the date of this Agreement, the Special Legislation has passed.

B. During the Due Diligence Period as defined by Section 7, the Buyer may, by giving written notice to the Seller, either:

(1) Terminate this Agreement for any reason; or

(2) Waive any contingencies listed above and proceed to Closing, unless Buyer elects to terminate as set forth in this Agreement, including, without limitation, pursuant to Section 8 .

If the Buyer elects to terminate this Agreement under paragraph (B)(1) of this Section, then, upon the Seller's receipt of the Buyer's written notice of termination, the Earnest Money shall be refunded to the Buyer, and this Agreement shall be null and void and neither party shall have any further obligation to the other.

7. DUE DILIGENCE PERIOD. Commencing on the Effective Date defined in the Original Agreement (April 28, 2022) and for a maximum of 90 calendar days after the Seller Contingency Waiver Date (the "Due Diligence Period"), the Buyer shall have the right, but not the obligation to, conduct an investigation of the Property, to apply to and to work with the City on its conceptual planning, zoning, and other City processes to assess the feasibility of City approval of the project planned by the Buyer. The Seller and the Buyer acknowledge that the Due Diligence Period expired on December 31, 2023.

8. APPROVALS PERIOD; ADDITIONAL EARNEST MONEY. Following the conclusion of the Due Diligence Period, the Buyer shall have 270 days (the "Approvals Period) to obtain all necessary approvals from the City, County, and State that are necessary for the Buyer's intended use of the Property. The Buyer may, at its option, extend the Approvals Period by two 30-day periods (each an "Extension Period"). Upon the conclusion of the Approvals Period, as extended by any Extension Period, this Agreement shall constitute a binding contract that is not subject to any

material contingencies, as described in Treasury Regulations, Section 1.141-2(e). The Buyer must provide written notice to the Seller of any Extension Period and provide an additional \$25,000 of Earnest Money per extension (the “Additional Extension Earnest Money”), to be deposited with the Title Company, applicable to the Purchase Price.

Should the Buyer not receive all necessary approvals from the City, County, and State that are required for the Buyer’s intended use of the Property or for any reason at all, the Buyer may terminate this Agreement by giving the Seller written notice of termination. In that event, the Earnest Money and any Additional Extension Earnest Money shall be retained by the Seller, and this Agreement shall be null and void and neither party shall have any further obligation to the other.

Upon the Buyer receiving successful approvals for the Buyer’s intended use of the Property, the Buyer shall deposit an additional \$100,000 in Earnest Money with the Title Company (the “Approval Earnest Money”). After the Buyer has received successful approvals for the Buyer’s intended use of the Property, the Earnest Money, the Additional Earnest Money, and the Approval Earnest Money shall become non-refundable; provided that if Buyer terminates this Agreement pursuant to Section 15 (Title Examination), Section 20 (Condemnation) or Section 22 (following a Seller default), the Approval Earnest Money is refundable. The foregoing notwithstanding, Buyer shall have the right to terminate this Agreement at any time prior to the Closing Date (as that term is defined below) if the City adopts a moratorium resulting in a prohibition on the issuance of the requisite building permits for Buyer’s intended use of the Property. If Buyer terminates this Agreement following the adoption of a moratorium, the Earnest Money, the Additional Earnest Money and the Approval Earnest Money shall be returned to Buyer.

9. CLOSING DATE. The closing of the sale of the Property (the “Closing”) shall take place within 60 calendar days following the end of the Approvals Period as extended by any Extension Period, or as otherwise mutually agreed upon by the parties but in no event later than 80 calendar days following the end of the Approvals Period as extended by any Extension Period or May 1, 2025, whichever is earlier (the “Closing Date”). The Closing shall take place at the Seller’s District Office, 200 W. Burnsville Parkway, Burnsville, Minnesota or electronically, or at such other location as mutually agreed upon by the parties.

10. DELIVERY OF DOCUMENTS; ASSIGNMENT AND ASSUMPTION. Within 10 business days of the Seller’s execution of this Agreement, the Seller must provide the Buyer with copies of all due diligence materials in the Seller’s possession relating to the Property, including but not limited to, a copy of the Seller’s most recent title insurance policy and any encumbrance documents for the Property; title reports, soil reports, environmental reports, tests and analysis, surveys, building plans, agreements with governmental authorities, engineering reports, plans and specifications or other records of the Property that the Seller has in the Seller’s possession, including all Service Contracts, if any, defined in Section 18 (L).

11. SURVEYING, ENVIRONMENTAL INSPECTION, AND SOIL TESTS. During the Due Diligence Period, the Buyer may inspect, examine, survey, and conduct testing of the Property at its expense, after providing reasonable advance notice to the Seller of such entry. The Buyer shall additionally provide the Seller with the names of entity or persons who will perform any testing and the proposed scope of such testing, as well as the opportunity to observe any such testing.

Any inspections, examinations, surveys, or testing of the Property during the Due Diligence Period by the Buyer shall occur outside of normal school business hours as determined by the Seller. The Buyer shall not damage, encumber, or permit a lien or claim to result from its activities. Any portion of the Property damaged or altered as the result of any survey, inspection, or tests performed by the Buyer, its agents, employees, or contractors will be returned to its original condition by the Buyer, at the Buyer's expense. The Buyer shall not have the right to do any intrusive testing without the prior written authorization of the Seller, which authorization shall not be unreasonably withheld, conditioned or delayed. The Buyer agrees to indemnify and defend the Seller against any liens, claims, losses, or damages directly attributable by the Buyer's exercise of its right to enter and work upon the Property. The Buyer agrees to provide the Seller with a copy of any final report or survey prepared as a result of such surveying, inspection, examination, or testing, upon request by the Seller. The Buyer's obligations under this Section shall survive termination of this Agreement.

12. DOCUMENTS TO BE DELIVERED AT CLOSING. The Buyer and the Seller agree to deliver the following documents at or prior to Closing:

- A. The Seller agrees to execute and deliver the following documents to the Buyer at Closing:
 - (1) A duly recordable limited warranty deed conveying fee simple title to the Property to the Buyer free and clear of all encumbrances subject only to the exceptions stated in paragraphs 5 (C)(2)(a), (b), (c), and (d) of this Agreement.
 - (2) Standard form Affidavit of Seller.
 - (3) Affidavit of the Seller confirming that the Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code.
 - (4) A completed Minnesota Well Disclosure Certificate or a statement that the Seller is not aware of any wells on the Property.
 - (5) The representations and warranties of the Seller contained in this Agreement must be true now and on the Closing Date as if made on the Closing Date, and the Seller shall have delivered to the Buyer at Closing a certificate in a form acceptable to the Buyer, signed by an authorized representative of the Seller, certifying that such representations and warranties are true as of the Closing Date (the "Bring-Down Certificate").
 - (6) ALTA Statements or other form of Settlement Statement prepared by the Title Company.
 - (7) All keys to the Property.
 - (8) Authorizing resolutions or evidence of the Seller's authority and authorization to enter this transaction as may be required by the Title Company.

(9) Such other documents as may be reasonably required by the Title Company.

B. The Buyer agrees to execute and deliver the following documents to the Seller at Closing:

(1) The balance of the Purchase Price, as adjusted for apportionments pursuant to this Agreement.

(2) The Buyer shall, where applicable, join with the Seller in the execution and delivery of the closing documents and instruments as may be required by the Title Company.

(3) Authorizing resolutions or evidence of the Buyer's authority and authorization to enter this transaction as may be required by the Title Company.

(4) Such other documents as may be reasonably required by the Title Company.

13. CLOSING COSTS AND RELATED ITEMS. The Seller will pay: (a) any deed transfer taxes; (b) any conservation fees; (c) recording fees for all instruments required to establish marketable title in the name of the Seller; (d) the cost of the title commitment, title search, name searches, and exam fees; and (e) one-half of the Closing fee charged by the Title Company to close the transaction contemplated by this Agreement. The Buyer shall be responsible for paying: (a) the recording charges in connection with recording the limited warranty deed; (b) the costs of any reports for any surveys, testing, or inspections conducted by the Buyer of the Property; (c) the cost of the title insurance premium and endorsements, if any; (d) one-half of the Closing fee charged by the Title Company, if any, utilized to close the transaction contemplated by this Agreement; and (e) any fees charged by the Buyer's broker. Each party shall be responsible for paying its own attorneys' fees.

14. REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.

A. The Seller shall be responsible for all real estate taxes, including any deferred real estate taxes, penalties, or interest, for the years prior to the year in which Closing occurs. Real estate taxes for the year of Closing shall be prorated between the Buyer and the Seller as of the Closing Date.

B. The Seller shall pay all pending and levied special assessments against the Property as of the Closing Date, including, without limitation, special assessments certified for payment with the real estate taxes, any installments of special assessments, including interest payable with general real estate taxes in the year of Closing, and all deferred assessments.

15. TITLE EXAMINATION. The Buyer shall, within a reasonable time after execution of this Agreement by both parties, obtain a commitment for title insurance from the Title Company or other evidence satisfactory to the Buyer and a survey, to be obtained by Buyer at its cost ("Title Evidence") for the Property. The Buyer shall have 10 business days after receipt of all the Title Evidence to examine the same and to deliver written objections to title, if any, to the Seller. The Seller shall have until the expiration of the Due Diligence Period (or such later date as the parties may

agree upon) to make title marketable, at the Seller's expense. Seller shall use best efforts to make the title marketable. In the event that title to the Property cannot be made marketable or is not made marketable by the Seller by the expiration of the Due Diligence Period, then, at the option of the Buyer, the Buyer may terminate this Agreement in accordance with Section 6 (B)(1) of this Agreement and the Earnest Money shall be refunded to the Buyer.

16. "AS IS, WHERE IS." The Buyer acknowledges that it has inspected or will have the opportunity to inspect the Property and agrees to accept the Property "AS IS" with no right of set off or reduction in the Purchase Price. The sale of the Property shall be without representation of warranties, express or implied, either oral or written, made by the Seller or any official, employee, or agent of the Seller with respect to the physical condition of the Property, including but not limited to, the existence or absence of petroleum, asbestos, hazardous substances, pollutants or contaminants in, on, or under, or affecting the Property or with respect to the compliance of the Property or its operation with any laws, ordinances, or regulations of any government or other body, except as stated above. The Buyer acknowledges and agrees that the Seller has not made and does not make any representations, warranties, or covenants of any kind or character whatsoever, whether expressed or implied, with respect to warranty of income potential, operating expenses, uses, habitability, tenant ability, past or present use, development, investment potential, tax ramifications or consequences, present or future zoning, habitability, merchantability, fitness or suitability for any purpose, all of which warranties the Seller hereby expressly disclaims, except as stated above. Except for the Seller's express representations and warranties contained in this Agreement, all other warranties, either express or implied, of the physical condition (including environmental condition) of the Property are void. The Buyer acknowledges that it and its representatives have or before Closing will have fully inspected the Property or will be provided with an adequate opportunity to do so, are or will be fully familiar with the condition thereof.

17. EFFECT OF INVESTIGATION. The representations, warranties and covenants of the Seller set forth in Section 19 and elsewhere in this Agreement shall survive the Closing for a period of nine months and shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Buyer or by reason of the fact that the Buyer knew that any such representation or warranty is, was, or might be inaccurate or by reason of the Buyer's waiver of any condition set forth in Section 6.

18. REPRESENTATIONS AND WARRANTIES BY THE SELLER. The Seller hereby represents and warrants to the Buyer as of the Closing Date that:

- A. Authority. The Seller is a public school district and political subdivision of the state of Minnesota; the Seller has the requisite power and authority to enter into and perform this Agreement and execute those closing documents signed by it.
- B. Legal Proceedings. There is no action, litigation, investigation, condemnation or proceeding of any kind pending or, to the best of the Seller's knowledge without investigation, threatened against the Seller related to the Property or any portion of the Property, and the Seller has no actual knowledge that any such action is contemplated.
- C. Bankruptcy. No action or proceeding shall have been commenced by or against the Seller under the federal bankruptcy code or any state law for the relief of debtors or

for the enforcement of the rights of creditors, and no attachment, execution, lien, or levy shall have attached to or been issued with respect to the Seller's interest in all or a portion of the Property.

- D. Wells. There are not any wells located on the Property.
- E. Individual Sewage Treatment Systems. There are not any individual sewage treatment systems located on the Property.
- F. Methamphetamine Production. To the best of the Seller's knowledge, methamphetamine production has not occurred on the Property.
- G. Foreign Status. The Seller is not a "foreign person" as such term is defined in the Internal Revenue Code.
- H. Eminent Domain. To the best knowledge of the Seller, there is no existing or proposed or threatened eminent domain or similar proceeding, or private purchase in lieu of such a proceeding which would affect the Property in any material way.
- I. Tenants. There are no tenants or third parties in possession of the Property.
- J. Rights of Others to Purchase Property. The Seller has not entered any other contracts for the sale of the Property, nor are there any rights of first refusal or options to purchase the Property or any other rights of others that might prevent the consummation of this Agreement.
- K. Use of Property. The Property is usable for its current uses without violating any federal, state, local or other governmental building, zoning, health, safety, platting, subdivision or other law, ordinance or regulation, or any applicable private restriction, and such use is a legal conforming use.
- L. Service Contracts. The Seller has not entered into any service, maintenance, supply, leasing, brokerage, and listing and/or other contracts relating to the Property (along with all amendments and modifications thereof, the "Service Contracts") which will be binding upon the Buyer after the Closing, unless the Buyer agrees to assume such Service Contract. Each of the Service Contracts can and, at the Buyer's option, will be terminated by the Seller on or before the Closing Date. The Seller has performed all of its obligations under each of the Service Contracts and no fact or circumstance has occurred which, by itself or with the passage of time or the giving of notice or both, would constitute a default by any party under any of the Service Contracts. The Seller has delivered to the Buyer true, correct, and complete copies of all Service Contracts.
- M. Delivery of Due Diligence Materials. The Seller has or will deliver or make available to the Buyer complete copies of all the documents and other Due Diligence materials required to be delivered pursuant to Section 10 and elsewhere in this Agreement

(collectively, the “Due Diligence Materials”) to the extent in the Seller’s possession or under the Seller’s control regarding the Property, and there are no other documents or information that have not been or will not be provided to the Buyer.

- N. Hazardous Substances. The Seller has not received written notice from any public authority or private party that Property is in violation of any applicable Environmental Law. As used herein, the term “Environmental Law” shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.), the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. § 300f et seq.), and any state counterpart or equivalent of any of the foregoing. To the best of Seller’s knowledge, with the exception of certain fuel storage tanks, there are no hazardous substances present on or in the Property, including any hazardous substances contained in barrels, above-ground or underground storage tanks, landfills, land deposits, dumps, equipment (whether movable or fixed) or other containers, either temporary or permanent, and deposited or located in land, water, sumps, or any other part of the Property, with the exception of substances used on the Property in connection with cleaning and maintenance in the ordinary course of business.
- O. Legal Compliance. The Seller has complied with all applicable laws, ordinances, regulations, statutes, rules, and restrictions pertaining to and affecting the Property and the Seller shall continue to comply with such laws, ordinances, regulations, statutes, rules, and restrictions.
- P. Underground Storage Tank. The Seller knows of two underground storage tank located on the Property.

The provisions of this Section shall survive Closing. The representations and warranties contained in this Section shall be true and correct on the Effective Date and the Closing Date. The Seller shall indemnify and hold the Buyer harmless from any damages sustained by the Buyer that were caused by the Seller’s material breach of any of the above representations and warranties, but only if the claim for indemnification is made within nine (9) months after the Closing Date.

19. REPRESENTATIONS AND WARRANTIES OF THE BUYER. The Buyer represents and warrants to the Seller as follows:

- A. Organization and Authority. The Buyer has the requisite power and authority to enter into and perform this Agreement and all agreements and documents referenced herein and to acquire the Property in accordance with this Agreement. The person signing this Agreement and the Buyer’s closing documents on behalf of the Buyer is authorized to do so.

- B. Consents.** As of the Closing Date, the Buyer will have obtained all consents and approvals required to consummate the transactions contemplated in this Agreement.
- C. Indemnification for the Buyer's Investigation.** The Buyer shall promptly pay when due any and all charges related to its inspections, investigations, and testing of the Property.

The representations and warranties contained in this Section shall survive Closing and shall be true and correct on the Effective Date and the Closing Date. The Buyer shall indemnify, defend, and hold the Seller harmless from any damages sustained by the Seller that were caused by the Buyer's material breach of any of the above representations and warranties, but only if the claim for indemnification is made within nine (9) months from the Closing Date.

20. CONDEMNATION. If, prior to the Closing, eminent domain proceedings are commenced against all or any part of the Property, the Seller shall immediately give notice to the Buyer of such fact and at the Buyer's option (to be exercised within 15 calendar days after the Seller's notice), this Agreement may be terminated, in which event neither party will have further obligations under this Agreement. In that event, the Earnest Money and any Additional Earnest Money and the Approval Earnest Money shall be returned to the Buyer. If the Buyer fails to give such notice, then there shall be no reduction in the Purchase Price, and the Seller shall assign to the Buyer at the Closing all of the Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date, the Seller shall not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without the Buyer's prior written consent.

21. BROKER COMMISSIONS. With the exception of Colliers International, the Buyer represents and warrants that there are no brokers involved in this transaction with whom it has negotiated or to whom it has agreed to pay a broker commission. The Buyer agrees that it shall pay Colliers International its commission of two percent. The Seller represents and warrants that there are no other brokers involved in this transaction with whom it has negotiated or to whom it has agreed to pay a broker commission. The Buyer agrees to indemnify the Seller for any and all claims for brokerage commissions or finders' fees in connection with negotiations for purchase of the Property arising out of any alleged agreement or commitment or negotiation by the Buyer, and the Seller agrees to indemnify the Buyer for any and all claims for brokerage commissions or finders' fees in connection with negotiations for purchase of the Property arising out of any alleged agreement or commitment or negotiation by the Seller.

22. REMEDIES. If the Seller defaults in any of the agreements herein, the Buyer may (i) terminate this Agreement, (ii) seek actual damages for breach of this Agreement or (iii) seek specific performance of this Agreement; provided that any action for specific enforcement must be brought within six months after the date of the alleged breach. In the event of a default of this Agreement by Seller, the Earnest Money shall be returned to the Buyer.

In the event of a default of this Agreement by the Buyer, the Seller, as its sole and exclusive remedy shall be the termination of this Agreement and the retention of the Earnest Money.

The foregoing notwithstanding, with regard to any default by Seller or Buyer of any obligation that explicitly survives Closing, the non-defaulting party will have the right to specifically enforce the subject terms and provisions of this Agreement and/or recover any damages to which it may be entitled at law (including, without limitation, reasonable attorneys' fees and the reasonable costs of investigation) and/or pursue any other remedy available at law or equity.

23. AMENDMENT AND MODIFICATION. No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or have any effect unless made in writing, is signed by the party to be bound and specifies with particularity the extent and nature of such amendment, modification, or waiver. Any waiver by either party of any default by the other party shall not affect or impair any right arising from any previous or subsequent default.

24. NOTICES. Any notice, demand, request, or other communication which may or shall be given or served by the Seller on the Buyer or by the Buyer on the Seller, shall be deemed to have been given or served on the date the same is hand delivered or the date of receipt or the date of delivery if deposited in the United States mail, registered or certified, postage prepaid, and addressed as follows:

If to the Seller: Independent School District No. 191
Attn: Superintendent
Diamondhead Education Center
200 W. Burnsville Parkway
Burnsville, MN 55337

With a copy to: Kennedy & Graven, Chartered
Attn: Sarah J. Sonsalla
150 South 5th Street, Suite 700
Minneapolis, MN 55402

If to the Buyer: Syndica, LLP
Attn: Managing Partner
300 23rd Avenue East, Suite 300
West Fargo, ND 58078

With a copy to: Siegel Brill P.A.
Attn: Anthony J. Gleekel
100 Washington Avenue South, Suite 1300
Minneapolis, MN 55401

or such other address as either party may give to another party in accordance with this Section.

25. COVENANTS.

- A. Seller will continue to operate the Property consistent with Seller's recent practices.
- B. From and after the Acceptance Date, Seller will not enter into any service, maintenance or management agreements with respect to the Property other than in

the ordinary course of business provided that any such contract shall be terminable upon thirty (30) days' notice, without penalty, by Buyer.

- C. On or before the Closing Date, Seller shall pay all contractors, subcontractors, laborers and material suppliers that have performed work upon the Property.
- D. Within 120 days of the Closing Date, Buyer shall obtain a demolition permit to demolish the structures on the Property and shall substantially complete demolition within 180 days of the Closing Date, subject to events of force majeure. If Buyer fails to obtain a demolition permit within the 120 period or fails to substantially complete the demolition within the 180 day period (subject to events of force majeure), Seller, following at least 30 days' written notice, may re-enter the Property (if demolition is not substantially completed within the 30 day notice period) for the sole purpose of demolishing the structures on the Property (including all preliminary work related thereto) as required hereunder. Any third party costs incurred by Seller in demolishing the structures on the Property shall be paid or reimbursed by Buyer. If Buyer fails to pay or reimburse Seller for such demolition costs within 30 days from receipt of Seller's written request, Seller may place a lien against the Property for such costs. Any payment request by Seller hereunder shall include reasonable detail and supportive documentation. This provision shall survive closing. This requirement shall be set forth in the deed to the Property or in a declaration of restrictive covenants to be executed by Seller at Closing.
- E. Buyer understands and agrees that the Property shall be subject to a restrictive covenant, in the limited warranty deed transferring the Property or a declaration of restrictive covenants, in form reasonably acceptable to the Buyer and Seller that prohibits Buyer and any successors in interest from using the Property as a public, private, or charter school providing general education instruction for any students that are in kindergarten through twelfth grade unless the school is in conjunction with or consented to by Independent School District No. 191.

26. NO PARTNERSHIP OR JOINT VENTURE. Nothing in this Agreement shall be construed or interpreted as creating a partnership or joint venture between the Seller and the Buyer relative to the Property.

27. CUMULATIVE RIGHTS. Except as may otherwise be provided herein, no right or remedy herein conferred on or reserved by either party is intended to be exclusive of any other right or remedy provided by law, but such rights and remedies shall be cumulative in and in addition to every other right or remedy given herein or elsewhere or existing at law, equity or by statute.

28. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and no other agreement prior to this Agreement or contemporaneous herewith shall be effective except as expressly set forth or incorporated herein. This Agreement shall supersede all previous agreements and understandings, either or oral or written between the parties with respect to the Property, including in particular, the Original Agreement.

29. BINDING EFFECT. This Agreement binds and benefits the parties and their successors and assigns.

30. CONTROLLING LAW. This Agreement has been made under the substantive laws of the State of Minnesota, and such laws shall control its interpretation.

31. ASSIGNMENT. Buyer shall not assign its rights under this Agreement without the express written consent of Seller, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Buyer may assign its rights under this Agreement to an affiliate of Buyer after 30 days' prior written notice to the Board of Education of Seller.

32. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same instrument. Executed copies of the signature pages of this Agreement transmitted electronically in Portable Document Format ("PDF") shall be treated as originals, fully binding and with full legal force and effect, and the parties waive any rights they may have to object to such treatment. Any party delivering an executed counterpart of this Agreement by PDF also shall deliver a manually executed counterpart of this Agreement, but the failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date written above.

SELLER

**INDEPENDENT SCHOOL
DISTRICT NO. 191**

By: _____

Eric Miller

Its: Board Chair

By: _____

Abigail Alt

Its: Board Clerk

BUYER

SYNDICA, LLP

By: _____
Austin Morris
Its: Managing Partner

EXHIBIT A**Legal Description of the Property**

The Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ of NW $\frac{1}{4}$) of Section 30, Township 27,
Range 23, Dakota County, Minnesota.

PID: 100300031010



**Agenda VI
May 9, 2024**

To: Board of Education
Dr. Chris Bellmont, assistant superintendent

From: Stacey Sovine, executive director of administrative services

Date: May 9, 2024

Re: Labor Negotiations Strategy

Closed session, as permitted by MN State Statue 13D. 03 to discuss labor negotiation strategy.