

Agenda

- 1) Call to Order
- 2) Roll Call
- 3) Adoption of the Agenda
- 4) Acceptance of Minutes
 - a. September 8, 2020, Minutes
 - b. September 29, 2020, Minutes
- 5) Public Comments
- 6) Reports and Recommendations from the Superintendent of Schools
- 7) Policy Committee Report
 - a. Amendment of Policy 5391
 - b. Amendment of Policy 5050
 - c. Adoption of Policy 3508
 - d. Amendment of Policy 1770 and Repeal of Policy 1750
 - e. Amendment of Policies 4021, 4025, 5221, and 5620
- 8) Action Items by the Board of Education
 - a. Approval of the Consent Agenda
 1. Personnel Items
 - a. Approval of List A personnel matters (2020-10-ER-A)
 - b. Approval of List B personnel matters (2020-10-ER-B)
 2. Contracts
 - a. Contract with Construction Results Corporation for Chiller Replacement at Nellie Stone, Lucy Laney, & Keewaydin (2020-12817)
 - b. Contract Alternative School Contracts
 - (1) Contract Amendment with American Indian OIC to cover increased Title I (4400000548)
 - (2) Contract Amendment with Eastside Neighborhood Services, Menlo High School for increased Title I (4400000542)
 - (3) Contract Amendment with Nawayee Center School for increased Title I (4400000544)
 - (4) Contract Amendment with Plymouth Christian Youth Center for increased Title I (4400000543)
 - (5) Contract Amendment with Project for Pride in Living - Loring Nicollet Alternative School for increased Title I (4400000554)
 - (6) Contract Amendment with Project for Pride in Living - MERC High School for increased Title I (4400000550)
 - (7) Contract Amendment with Volunteers of America for increased Title I (4400000551)
 - c. Contract amendment with English Learning Center for Adult Education services (2020-4400000630)

- d. Contract amendment with Karges-Faulconbridge Engineers for Districtwide COVID HVAC Review (2020-12833)
 - e. Contract amendment with Learning in Style for Adult Education services (2020-4400000631)
 - f. Contract amendment with Riverside Plaza Tenants Association for Adult Education services. (AMD 4400000629)
 - g. Contract with SAP for licensing district-wide (2020-4400000744)
 - h. Contract amendment with Somali Success School for Adult Education services (2020-4400000632)
 - i. Contract amendment with Summit Academy OIC for Adult Education services (2020-4400000633)
 - j. Contract amendment with The Mental Health Collective (dba Watercourse Counseling Center) for Mental Health Services (2020-4400000524-1)
 - k. Contract with Titan School Solutions, Inc. for Integrated Management Software Solution (2020-12836)
 - l. Contract amendment with T-Mobile for additional hotspots (2020-4400000624-3)
 - m. Contract with Total Filtration Services for Replacement MERV-14 Air Filters to Support COVID Building Readiness (2020-12841)
 - n. Contract with United Health Services for employee health insurance coverage (2020-4400000649)
3. Authorizations
- a. Authorizing the Senior Operations Officer to consent and execute agreements relating to the rezoning of a development site, consisting of 1300 West Broadway Avenue, 2011 Girard Avenue North, and 2015 Girard Avenue North to a C2 Zoning District
 - b. Authorizing the Senior Operations Officer to negotiate and execute an easement agreement to reasonably accommodate the Grand Avenue reconstruction project sidewalk shift, adjacent to Lyndale Elementary School property.
 - c. Financial Authorizations
 - (1) Appointment of Deputy Treasurer and Assistant Deputy Treasurer
 - (2) Resolution Regarding Banking Authority for US Bank National Association
 - (3) Resolution Regarding Banking Authority for Minnesota School District Liquid Asset Fund
 - (4) Resolution Regarding Banking Authority for Wells Fargo Bank, N.A.
 - (5) Resolution Regarding Electronic Funds Transfer
- b. Approval of 2019-2021 Collective Bargaining Agreement with the Minneapolis Federation of Teachers (MFT 59)
- c. Resolution Authorizing Transfer of Capital Funds
- 9) New Business
- a. Resolution Establishing Advisory Committee to Investigate Facility Names
 - b. Summary of 2019-2020 Superintendent Evaluation
- 10) Reports and Comments from Board of Education Directors
- 11) Adjournment

Minneapolis Public Schools – Board of Education
Special School District No. 1
Business Meeting
September 8, 2020

I. CALL TO ORDER

Call to Order of the Board of Education. Pursuant to due notice mailed to each member of the Board of Education not less than three days prior to the time of such meeting, the Board members met electronically in a business meeting conducted in accordance with Minnesota Statutes 13D.021 on September 8, 2020, commencing at 5:30 pm. Chair Ellison called the meeting to order.

II. ROLL CALL

Present: Directors: Siad Ali, Jenny Arneson, Kimberly Caprini, Kim Ellison, KerryJo Felder; Nelson Inz, Ira Jourdain, Josh Pauly, Student Representative Genene, Superintendent Graff - 10

III. APPROVAL OF THE AGENDA

MOTION: Director Arneson moved, seconded by Director Felder that the Board of Education, Special School District No. 1, approve the Agenda for September 8, 2020. Motion to approve the agenda was put to a rollcall vote and carried unanimously.

IV. APPROVAL OF MINUTES

- September 24, 2019
- June 16, 2020
- August 14, 2020
- August 18, 2020

MOTION: Director Pauly moved, seconded by Director Felder that the Board of Education, Special School District No. 1, approve the above-listed Minutes. Motion to approve the minutes was put to a rollcall vote and carried unanimously.

V. PUBLIC COMMENTS – Public comments left via Voicemail were played

VI. REPORTS AND RECOMMENDATIONS FROM THE SUPERINTENDENT OF SCHOOLS (NO VOTES)

- A.** Back-to-School Update
- B.** Comprehensive District Design Implementation Report

VII. ACTION ITEMS BY THE BOARD OF EDUCATION

A. Approval of Consent Agenda

These action items represent those that do not involve major policy decisions, budget decisions, taxing decisions, bond awards or items related to the Superintendent's contract of evaluation. Business items on this agenda are previously authorized or budgeted expenditures.

MOTION: Director Caprini moved, seconded by Director Felder, that the Board of Education, Special School District No. 1, approve the consent agenda and adopt the recommendations as presented by the Superintendent. The motion to approve the consent agenda was put to a rollcall vote and carried out unanimously.

B. Resolution (2020-2020A) relating to Refunding Certificates of Participation, Series 2020A, and approving and authorizing the execution of related documentation.

*SPECIAL SCHOOL DISTRICT NO. 1
MINNEAPOLIS, MINNESOTA*

CERTIFICATE OF OFFICIAL ACTION

The undersigned, being the duly qualified and acting School District Clerk of Special School District No. 1 (Minneapolis), Minnesota (the "District"), DOES HEREBY CERTIFY as follows:

Attached hereto is a true and correct copy of a resolution duly adopted by the Board of Education of the District at a lawful meeting duly called and held on September 8, 2020, at which meeting a quorum was present and acting throughout. Such resolution remains in full force and effect in the form in which adopted.

IN WITNESS WHEREOF, the undersigned has hereunto set her/his hand and affixed the official seal of the District this ____ day of September, 2020.

MOTION: Director Caprini moved, seconded by Director Arneson, that the Board of Education, Special School District No. 1, approve the Resolution relating to Refunding Certificates of Participation, Series 2020A, and approving and authoring the execution of related documentation. The motion to approve the resolution was put to a rollcall vote and carried out unanimously.

VIII. NEW BUSINESS – NONE

IX. REPORTS AND COMMENTS FROM BOARD OF EDUCATION DIRECTORS

- A. Notification of Appointments to the World's Best Workforce Advisory Committee
- B. Directors gave comments

X. ADJOURNMENT

MOTION: Director Arneson moved, seconded by Director Felder that the Board of Education, Special School District No. 1, adjourn the meeting at 7:28 p.m. The motion to adjourn was put to a rollcall vote and carried out unanimously.

Full List of Consent Agenda

1. Personnel Items

- a. Approval of List A personnel matters

2. Contracts

- a. Central Roofing
- b. CH Robinson
- c. Gaggle Net, Inc.
- d. H Brooks & Co
- e. Indianhead Food Service Distribution, Inc.
- f. LHB, Inc.
- g. Morcon Construction
- h. Ronald McDonald House
- i. Russ Davis Wholesale
- j. St. Paul Beverage Solutions, LLC
- k. T-Mobile
- l. Veritiv
- m. Whelan Security (dba GaraWorld Security Services)

**OFFICIAL MINUTES
MINNEAPOLIS BOARD OF EDUCATION**

**SPECIAL BUSINESS MEETING
SEPTEMBER 29, 2020**

CALL TO ORDER

Chair Kim Ellison called the meeting to order at 5:04 p.m., a quorum being present.

Pursuant to Minnesota Statutes Section 13D.021, the meeting was held by electronic means and Directors participated remotely due to the local public health emergency (COVID-19 pandemic).

ROLL CALL

Present: Directors Jenny Arneson, Bob Walser, Nelson Inz, Ira Jourdain (arrived at 5:10pm), Kimberly Caprini, Kim Ellison

Absent: Directors Siad Ali, KerryJo Felder, Josh Pauly

APPROVAL OF AGENDA

Arneson moved to approve the agenda.

On roll call, the result was:

Aye: Arneson, Walser, Inz, Caprini, Ellison (5)

No: (0)

Absent: Felder, Ali, Jourdain, Pauly (4)

Adopted.

PRELIMINARY CERTIFICATION OF THE TAX LEVY

Caprini moved the *Resolution Approving the Certification of the Proposed Property Tax Levies 2020 Payable 2021* (2020-0051)

WHEREAS, Minnesota Statutes, section 275.065, subdivision 1(b), requires each district to certify its proposed levy to the county auditor on or before September 30th of each year; and

WHEREAS, final levy certification will be determined at the December 8th Board meeting that will include public comments on the levy starting at 6:00 p.m.; and

WHEREAS, the Senior Financial Officer recommends that the maximum preliminary levy certification be approved by the Board and communicated to the County and to the Minnesota Department of Education.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Directors of Special School District No. 1 approves the preliminary 2020 payable 2021 property tax levy at the maximum amount defined on the Levy Limitation and Certification Report.

On roll call, the result was:

Aye: Arneson, Walser, Inz, Jourdain, Caprini, Ellison (6)

No: (0)

Absent: Felder, Ali, Pauly (3)

Adopted.

ADJOURNMENT

Arneson moved to adjourn.

On roll call, the result was:

Aye: Arneson, Walser, Inz, Jourdain, Caprini, Ellison (6)

No: (0)

Absent: Felder, Ali, Pauly (3)

Adopted.

The meeting was adjourned at 5:16 p.m.

Minutes submitted by Ryan Strack, Administrator of Board and Government Relations.

Meeting materials: <https://meetings.boardbook.org/Public/Agenda/1807?meeting=405893>

Meeting video: <https://eduvision.tv/I?yORgOm>

SECTION 1:**AMENDMENT** “Policy 5391: Graduation Requirements” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 5391: Graduation Requirements

1. PURPOSE

This policy is to establish the requirements for graduation from Minneapolis Public Schools in compliance with Minnesota law and statewide graduation standards established thereby.

2. GENERAL STATEMENT OF POLICY

All students must complete the following requirements in order to earn a diploma for graduation from a Minneapolis Public High School.

~~**3. CREDIT REQUIREMENTS FOR STUDENTS GRADUATING BEFORE 2019.**~~

~~a. Required Credits. A minimum of twenty one and a half (21.5) year-long credits is required for graduation beginning with the class graduating in 2019. These credits include:~~

~~i. Four (4) year-long credits in Language Arts;~~

~~ii. Four (4) year-long credits in Social Studies encompassing~~

~~(1) Three and a half (3.5) year-long credits in-~~

~~(A) United States history;~~

~~(B) geography;~~

~~(C) world history; and~~

~~(D) government and citizenship; and~~

~~(2) One half (0.5) credit in economics. Economics courses may be taught through the social studies department or the business department.~~

~~iii. Three (3) year-long credits in Mathematics encompassing, at a minimum:~~

~~(1) Geometry~~

~~(2) Algebra II or statistics and probability~~

~~(3) Completion of an Algebra I course credit while enrolled in grades nine through twelve (9-12) shall earn an elective credit only.~~

~~iv. Three (3) year-long credits in Science encompassing, at a minimum:~~

~~(1) biology;~~

~~(2) either chemistry or physics.~~

~~v. One (1) year-long credit in the arts;~~

~~vi. One (1) year-long credit in Physical Education;~~

~~vii. One (1) year-long credit in Health;~~

~~viii. Four and a half (4.5) year-long elective credits.~~

~~b. Career and Technical Education Courses. The Superintendent may designate certain career and technical education courses that meet the same academic standards to satisfy the credit requirements of the science, mathematics or arts requirements established above.~~

4. **CREDIT REQUIREMENTS FOR GRADUATION STUDENTS GRADUATING IN 2019 AND THEREAFTER**

- a. Required Credits. A minimum of twenty one and a half (21.5) year-long credits is required for graduation. These credits include:
- i. Four (4) year-long credits in Language Arts.
 - ii. Three and a half (3.5) year-long credits in Social Studies encompassing
 - (1) United States history,
 - (2) human geography,
 - (3) world history, and
 - (4) government and citizenship, and
 - (5) economics. Economics courses may be taught through the social studies department or the business department.
 - iii. Three (3) year-long credits in Mathematics encompassing, at a minimum:
 - (1) One (1) year-long credit in geometry
 - (2) One (1) year-long credit in algebra II or statistics and probability
 - (3) Completion of an Algebra I course credit while enrolled in grades nine through twelve (9-12) shall earn an elective credit only.
 - iv. Three (3) year-long credits in Science, encompassing at a minimum:
 - (1) One (1) year-long credit in biology; and
 - (2) One (1) year-long credit in either chemistry or physics.
 - v. One (1) year-long credit in the arts;
 - vi. One half (0.5) year-long credit in Physical Education;
 - vii. One half (0.5) year-long credit in Health;
 - viii. ~~Six (6)~~ **Five and one half (5.5)** year-long elective credits.
- b. Career and Technical Education Courses. The Superintendent may designate certain career and technical education courses that meet the same academic standards to satisfy the credit requirements of the science, mathematics or arts requirements established above.

5. **OTHER GRADUATION REQUIREMENTS**

- a. Testing. Students must meet state testing requirements.
- b. Personal Learning Plan. Each student must develop a plan for smooth and successful transition to postsecondary education or employment and meet yearly milestones established in that plan.
- c. Ethnic Studies Course. Each student, beginning with those graduating in 2025, must earn a passing grade in an Ethnic Studies course.

6. **DEFINITIONS**

- a. “year-long credit” is the equivalent of the successful completion of an academic year of study or student mastery of applicable state standards.

b. “Personal Learning Plan” is the plan using the career and college exploration and decision assisting curriculum framework used by Minneapolis Public Schools.

c. "Ethnic Studies courses" are identified as such by the Teaching & Learning Department and include explicit exploration of identity and intersectionality, prioritize the history and culture of historically marginalized groups, include the history and current role of race, racism, and anti-racist work, and include interdisciplinary learning that leads to action.

7. IMPLEMENTATION

a. The Superintendent may develop procedures and policies to implement this policy.

Original Adoption:

01/07/1974

Revision Dates:

04/08/1980, 06/12/1984, 08/13/1985, 07/15/1986, 09/26/1989, 06/30/1998, 6/26/2007, 11/10/2009, 01/13/2015

Legal References:

- 20 U.S.C. § 6301, et seq. (No Child Left Behind Act)
- Minn. Stat. §120B.02 (Educational Expectations for Minnesota’s Students)
- Minn. Stat. §120B.023 (Benchmarks)
- Minn. Stat. §120B.024 (Graduation Requirements; Course Credits)
- Minn. Stat. §120B.11 (School District Process)
- Minn. Rules Parts 3501.0505 – 3501.0635 (K-12 Standards)

MPS Policy Cross References:

- Policy 6273 (Local Standards and Assessments)
- Policy 6274 (State Required Assessments)
- Regulation 5391 A (Granting Credits)
- Regulation 5391 B (Graduation Requirements for Transfer Students)

SECTION 1:**AMENDMENT** “Policy 5050: Title IX Non-Discrimination” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 5050: Title IX Non-Discrimination

1. PURPOSE

Students and staff are protected from discrimination on the basis of sex pursuant to Title IX of the Education Amendments of 1972 and the Minnesota Human Rights Act. Title IX is a federal statute that prohibits recipients of federal financial assistance from engaging in discrimination on the basis of sex. As a recipient of federal financial assistance, the school district is required by Title IX of the Education Amendments of 1972 to ensure its education programs and activities do not discriminate on the basis of sex. The purpose of this policy is to provide equal educational opportunity for all students, and equal employment opportunity to all employees, to prohibit discrimination on the basis of sex.

2. GENERAL STATEMENT OF POLICY

- a. ~~The school district provides equal educational opportunity for all students and does not unlawfully discriminate on the basis of sex. No student will be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any educational program or activity operated by the school district on the basis of sex.~~ The school district maintains a learning and working environment that is free from discrimination, harassment, or violence on the basis of sex, and no individual will be excluded from participation in, denied the benefits of, or otherwise subject to discrimination under any school district program or activity. The school district prohibits any form of retaliation.
- b. It is the responsibility of every student, school district employee, volunteer, contracted service provider, and related district personnel ~~school-district employee~~ to comply with this policy.
- c. Any student, parent or guardian having questions regarding this policy should discuss it with the appropriate school district official provided by policy. In the absence of a specific designee, an inquiry or complaint should be referred to the Assistant to the Superintendent. It is a violation of this policy when any student, school district employee, volunteer, contracted service provider, or related district personnel engages in discrimination, harassment, sexual harassment, inflicts violence, threatens violence, or attempts to inflict violence upon a student, school district employee, or other personnel.

3. REPRISAL

It is a violation of this policy for any student school district employee, volunteer, contracted service provider, and related district personnel to retaliate against a person who pursues rights under school district policies or law. The school district may discipline or take appropriate action against any student, school district employee,

volunteer, contracted service provider, and related district personnel who retaliates against any person who reports alleged unlawful sex discrimination toward a student or employee or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such unlawful sex discrimination or violations of this policy. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

4. ACCOUNTABILITY

- a. It is the responsibility of every student, school district employee, volunteer, contracted service provider, and related district personnel to follow this policy.
- b. Submission of a good faith complaint or report will not negatively affect the Complainant or Reporter.
- c. It is a violation of this policy when any student, school district employee, volunteer, contracted service provider, and related district personnel intentionally makes a false report of discrimination, harassment, violence or retaliation.
- d. The Superintendent is authorized to promulgate regulations supporting the implementation of this policy.

5. REPORTING GRIEVANCE PROCEDURES

- a. ~~The school board hereby designates the Superintendent or designee as the school district Title IX coordinator and authorizes the coordinator to receive reports, complaints or grievancees of unlawful sex discrimination toward a student. If the complaint involves the Title IX coordinator, the complaint shall be filed directly with the Assistant to the Superintendent.~~
- b. ~~The school district shall conspicuously post the name of the Title IX coordinator, including mailing address and telephone number. Any student who believes they have been the victim of unlawful sex discrimination by a teacher, administrator or other school district personnel, or any person with knowledge or belief of conduct which may constitute unlawful sex discrimination toward a student should report the alleged acts immediately to an appropriate school district official designated by this policy or may file a grievance.~~
- e. ~~The school district encourages the reporting party or complainant to use the report form available from the principal of each building or available from the school district office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting unlawful sex discrimination toward a student directly to the school district Title IX coordinator or to the Assistant to the Superintendent.~~
- d. ~~In each school building the principal is the person responsible for receiving oral or written reports or grievancees of unlawful sex discrimination toward a student at the building level. Any adult school district personnel who receives a report of unlawful sex discrimination toward a student shall inform the building principal as soon as possible.~~
- e. ~~Upon receipt of a report or grievance, the principal must notify the school district Title IX coordinator and the student's parent or guardian as soon as possible, without screening or investigating the report. The principal may request, but may not insist upon, a written complaint. A written statement of the~~

facts alleged will be forwarded as soon as practicable by the principal to the school district Title IX coordinator and the student's parent or guardian. If the report was given verbally, the principal shall personally reduce it to written form within 24 hours and forward it to the school district Title IX coordinator. Failure to forward any report or complaint of unlawful sex discrimination toward a student as provided herein may result in disciplinary action against any district employee. If the complaint involves the building principal, the complaint shall be made or filed directly with the Superintendent or the school district Title IX coordinator by the reporting party or complainant.

- f. Submission of a good faith complaint, grievance or report of unlawful sex discrimination toward a student will not affect the complainant's or reporter's future employment, grades or work assignments.
- g. The school district will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses, as much as possible, consistent with the school district's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

6. INVESTIGATION

- a. By authority of the school district, the Title IX coordinator, upon receipt of a report, complaint or grievance alleging unlawful sex discrimination toward a student, shall promptly undertake or authorize an investigation. The investigation may be conducted by school district officials or by a third party designated by the school district.
- b. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- c. In determining whether alleged conduct constitutes a violation of this policy, the school district should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.
- d. In addition, the school district may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged unlawful sex discrimination toward a student.
- e. Investigation should be completed as soon as possible. The school district Title IX coordinator may make a written report. If the complaint involves the Superintendent, the report may be filed directly with the school board. The report shall include a summary of facts and a determination of whether the allegations have been substantiated.

7. SCHOOL DISTRICT ACTION

- a.

~~Upon conclusion of the investigation and receipt of a report, the school district will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and school district policies.~~

- ~~b. The result of the school district's investigation of each complaint filed under these procedures should be reported in writing to the complainant by the school district in accordance with state and federal law regarding data or records privacy.~~

8. REPRISAL

~~The school district will discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged unlawful sex discrimination toward a student or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such unlawful sex discrimination. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.~~

Original Adoption:

08/31/99

SECTION 1: ADOPTION “Policy 3508: Use Of Electronic Signatures To Conduct Official Business” of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

ADOPTION

Policy 3508: Use Of Electronic Signatures To Conduct Official Business(*Added*)

1. PURPOSE

The purpose of this policy is to document the school board’s desire to allow school district representatives to send and accept electronic signatures for the purpose of conducting official business to the extent permitted by law and to outline the extent to which the school district will send, accept, and rely on electronic signatures.

2. GENERAL STATEMENT OF POLICY

The school board delegates to the Superintendent and the Superintendent’s delegee the authority to determine the extent to which the School District will send, accept, and otherwise create, generate, communicate, store, process, use, and rely upon electronic signatures to and from other persons. For an electronic transaction to be valid, each party must agree to conduct the transaction electronically. If a law prohibits a transaction from occurring electronically, the transaction must occur in the manner specified by law.

3. DEFINITIONS

- a. Authentication. Authentication means the process used to ascertain the identity of a person or the integrity of specific information. Authentication ensures that the user applying an electronic signature is in fact who they say they are and is authorized to sign.
- b. Electronic signature. Electronic signature means a digital or digitized signature made by electronic sound, symbol or process that is attached to or logically associated with a record and that is executed or adopted with the intent to sign the record.
- c. Transaction. Transaction means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

4. GENERAL STANDARDS

- a. This policy shall only apply to transactions between the District and parties that have consented to conduct transactions by electronic means. Consent to conduct transactions by electronic means is determined from the context of the transaction and surrounding circumstances, including the parties' conduct.
- b. An electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any authentication or other security procedure the District applies to determine the person to which the electronic signature was attributable. The effect of an electronic signature shall be determined from the context and surrounding circumstances at the time of its creation, execution, or adoption.

- including the parties' agreement to engage in an electronic transaction, if any.
- c. Electronic signatures shall be retained with their associated records according to the school district's regular records retention schedule.

5. AUTHORITY AND RESPONSIBILITIES

- a. The Superintendent and the Superintendent's delegee is delegated authority to determine the extent to which the school district will accept and use electronic signatures to facilitate transactions involving official school district business.
- b. The Superintendent shall adopt and implement all system procedures necessary to accept and use electronic signatures to the extent determined by the Superintendent. The District's system procedures shall be developed in consultation with other appropriate District personnel and shall ensure that all legal requirements are met. Any potential operational risk associated with the use of an electronic signature must be offset by the anticipated benefit of receiving electronic signatures. Consistent with Minnesota law, these system procedures may specify:
- i. The manner and format in which the electronic records attached to the electronic signatures will be created, generated, sent, communicated, received, and stored and the systems established for those purposes;
 - ii. The type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate a transaction;
 - iii. Control processes and procedures that will ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and
 - iv. Any other required attributes for electronic records which are specified for corresponding nonelectric records or reasonably necessary under the circumstances.
- c. Nothing in this policy is intended to authorize any individual to provide an electronic signature on behalf of the school board or school district, unless he or she has been granted such authority pursuant to a delegation of authority by the school board, a specific school board policy, or a law.
- d. The District may maintain official records in an electronic format provided that the relevant record retention schedule is updated to reflect electronic record management and the electronic records are trustworthy, complete, accessible, and durable.

SECTION 1: **AMENDMENT** “Policy 1770: Student Teaching” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 1770: Student Teaching

Student Teaching

~~University supervisors will supervise and direct the work of the student teacher except that such supervision may not contravene the required procedures of the schools.~~

1. PURPOSE

As a natural connection to the provision of excellent instruction to our students, Minneapolis Public Schools has an interest in preparing teachers to be successful in district schools. Sharing preparation of teachers with institutions of higher learning assures that our students will have access to a greater pool of properly trained and diverse teacher candidates. Partnerships with teacher training programs allow the district to exert influence over those programs regarding the particular and special needs of an urban school district.

2. GENERAL STATEMENT OF POLICY

- a. The Superintendent or superintendent’s designee shall establish a program for field experience in partnership with institutions of higher learning that provide teacher preparation and lead to eligibility for licensure as teachers in Minnesota.
- b. The Superintendent or superintendent’s designee shall offer advice to teacher preparation programs regarding the general and particular needs of urban students.
- c. The district will encourage the recruitment of diverse teacher candidates and students in teacher preparation programs.

Original Adoption:

04/25/1967

Revision Dates:

01/30/1973

SECTION 2: **REPEAL** “Policy 1750: Cooperative Education Procedures Between Minneapolis Board Of Education And Colleges, Universities And Other Agencies” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

REPEAL

~~Policy 1750: Cooperative Education Procedures Between Minneapolis Board Of Education And Colleges, Universities And Other Agencies (Repealed)~~

~~Protection of the Welfare of the Schools~~

~~In the execution of this agreement and of the several projects involved under it, it is recognized by both parties to it, namely, the administrative authorities of the public schools and those of the colleges, universities, and other agencies, that the welfare of the schools and of the children attending them is of first importance. Nothing is to be undertaken that will in any way retard the satisfactory progress of pupils or in any sense handicap them. Rather, it is believed that the educational activities in which the public schools and the colleges, universities, and other agencies cooperatively engage will inure to the advantage of pupils now in the schools and that school practices will be improved as a result of the continuing study of school problems.~~

~~Administrative Control~~

~~The executive administration of this agreement shall lie with the Superintendent of the Minneapolis Public Schools and the designated officials of the cooperating agencies. In the case of delegation of executive power or responsibility to other than the individuals named above, the information of that fact shall be made a matter of written record, and transmitted to all whose work is affected thereby.~~

~~Cooperative Activities Defined~~

~~It is understood that this agreement shall cover the following kinds of cooperative activities:~~

- ~~1. Informal observation;~~
- ~~2. Student teaching;~~
- ~~3. Demonstration teaching;~~
- ~~4. Experimental work and research;~~
- ~~5. Observation and student teaching in summer sessions.~~

~~Summer School~~

~~The Minneapolis summer school sessions will be available for the types of observation, student teaching, and research enumerated (in the following policies and regulation).~~

~~Original Adoption:~~

~~04/25/1967~~

~~Revision Dates:~~

~~10/12/71, 1/30/73~~

SECTION 1:**AMENDMENT** “Policy 4021: Weapons Free Work Place” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 4021: Weapons Free Work Place

1. PURPOSE

The purpose of this policy is to establish the commitment of the Minneapolis Public Schools to provide work environments for employees that are weapons free.

2. GENERAL STATEMENT OF POLICY

- a. The Minneapolis Public Schools Board of Directors is committed to weapons free workplaces. The Board has established this policy to address violence including weapons possession in our workplaces.
- b. The District will act to enforce this policy and to discipline or take appropriate action against any employee, contractor, volunteer, and other personnel of the District or member of the public who violates this policy.
- c. It shall be a violation of this policy for any employee, contractor, volunteer, other personnel of the District or member of the public to possess a firearm or a dangerous weapon as described in Minnesota Statutes Section 609.02 when in any district facility or property including buses or district vehicles, or off-campus at any school-related activity.
- d. It is not an exception to this policy for any employee, contractor, volunteer, other personnel of the District or member of the public to carry a weapon pursuant to a Minnesota State Permit or permit of any state.
- e. It is a violation of this policy for any person authorized to carry a pistol under Minnesota Laws related to weapon carry permits within three hundred feet of any district property.

3. EXCEPTIONS

- a. It is not a violation of this policy for an employee or contractor to possess a weapon in a school location for the sole purpose of staff training regarding weapons, provided that the weapon is secured in a locked container when not being used in class demonstration.
- b. It is not a violation of this policy for an active licensed law enforcement officer to be in possession of a weapon at any district location.
- c. It is not a violation of this policy for any contracted bank or deposit courier service personnel to be in possession of a weapon at any district location when in the performance of his or her duties as a bank or deposit courier.
- d. It is not a violation of this policy for military personnel who are on duty performing official duties to be in possession of a weapon at any district location.
- e. It is not a violation of this policy for any non-student authorized to carry a pistol under the Minnesota Laws related to weapon carry permits (Minn. Stat. §

624.714) while in a personal motor vehicle or outside a personal motor vehicle for the purpose of directly placing a firearm in, or retrieving it from, the trunk or rear area of the vehicle. Any possession or carry of a firearm beyond the immediate vicinity of a permit-holder's personal vehicle shall constitute a violation of this policy

- i. Employees and other personnel of the District who have carry permits
 - (1) may only possess firearms within their locked vehicles, and not on their persons.
 - (2) may only possess firearms that are equipped with trigger locks in their locked vehicles on or adjacent to district parking areas or facilities;
 - (3) must secure firearms in a locked container or a locked compartment of their vehicle.

- f. It is not a violation of this policy for any person to possess a dangerous weapon, or replica firearm while serving as a ceremonial color guard.
- g. It is not a violation of this policy to possess, use or distribute appropriate equipment and tools required by an employee, contractor, volunteer or other district personnel in the exercise of his or her assigned duties when such equipment and tools are properly possessed, used and stored. However, when otherwise authorized work equipment and tools are used in a potentially dangerous or threatening manner with an intent to be dangerous or threatening, or without regard to dangers or threats created by the possession or use, such possession or use shall be treated as the possession and use of a prohibited weapon.
- h. Any employee, contractor, volunteer, other personnel of the District or member of the public who finds a weapon or ammunition at a district facility who takes the weapon or ammunition immediately to the principal's office, ~~school resource officer~~ or site administrator shall not be considered to be in possession of a weapon or ammunition. If the person believes that it would be dangerous or impracticable to take the weapon or ammunition to the appropriate location, the person has an affirmative duty to report the presence and location of any weapon or ammunition to the principal, officer or site administrator.

4. RESPONSIBILITY

- a. It is the responsibility of every employee, contractor, volunteer and other personnel of the District to comply with this policy.
- b. It is the responsibility of every visitor or member of the public at or in district facilities to comply with this policy.
- c. Each employee, contractor, volunteer or other personnel of the district shall be provided with written notice of this policy and shall be required to acknowledge receipt thereof.
- d. The Superintendent or Superintendent's designee shall cause such written notices as are permitted by law to be posted at all district facilities to inform the public of this policy.
- e. Any employee, contractor, volunteer or other personnel of the District who receives a report of the presence or suspected presence of a weapon at a district

facility has an affirmative duty to inform the principal, officer or site administrator or to otherwise initiate the emergency response plan of the facility to assure the safety of students, staff and the public.

5. DISTRICT ACTION

- a. Violation of this policy shall result in discipline of the offending employee, contractor or other personnel of the district in keeping with the terms of applicable collective bargaining agreements and contracts up to and including discharge, termination and cancellation of contract for services for employees, volunteers, contractors or other District personnel. The violation shall also be reported to local law enforcement.
- b. A member of the public who violates the policy
 - i. shall be asked to leave the premises,
 - ii. the situation shall be reported to ~~the school resource officer or other~~ law enforcement ~~department~~, then the office of Emergency Management, Safety & Security
 - iii. may be barred from future entry to school locations,
 - iv. may be escorted from the school location by law enforcement ~~officers~~, or be taken into custody by them at their sole discretion.

Original Adoption:

01/08/1991 (as Policy 4025)

Revision Dates:

03/23/1993, 09/18/2001, 05/27/2008 (all as Policy 4025), 03/11/2014

Legal References:

- 18 U.S.C. § 921 (Definition of firearm)
- 20 U.S.C. §§ 7101 – 7165 (Safe and Drug-Free Schools and Communities Act)
- Minn. Stat. § 121A.05 (Referral to Police)
- Minn. Stat. § 121A.06 (Reports of Dangerous Weapon Incidents in School Zones)
- Minn. Stat § 609.66 (Dangerous Weapons)
- Minn. Stat. § 609.605 (Trespass)
- Minn. Stat. § 624.714 (Carrying of Weapons without Permit; Penalties)

MPS Policy Cross References:

- Policy 5221 (Weapons Free Schools)
- Policy 6680 (Safety, Security and Emergency Management)

SECTION 2: **AMENDMENT** “Policy 4025: Drug Free Workplace” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 4025: Drug Free Workplace

1. **PURPOSE**

The purpose of this policy is to establish the commitment of the Minneapolis Public Schools to providing work environments for employees that are alcohol and drug free. The Board of Directors recognizes that a work environment that is free of alcohol or illegal drug use will not only be safer, healthier and more productive, but will support the academic achievement and emotional well-being of our students. Therefore, this policy also provides the authority for district to require employees to submit to alcohol or drug testing in accordance with law.

2. **GENERAL STATEMENT OF POLICY**

- a. The Minneapolis Public Schools Board of Education is committed to alcohol free and drug free workplaces. The Board has established this policy to address alcohol use and abuse and illegal drug use in our workplaces.
- b. The District will act to enforce this policy and to discipline or take appropriate action against any employee, contractor, volunteer or other personnel of the District or member of the public who violates this policy.

3. **PROHIBITED ACTIONS**

- a. The unlawful manufacture, distribution, dispensation, possession or use of alcohol or a controlled substance, or prescription medication is strictly prohibited anywhere on the District's premises, including any vehicles owned or operated by the District, by any person, unless the possession or use of the controlled substance or prescribed medication is according to a prescription from the person's licensed health care provider.
- b. Distribution, dispensation or non-medical use of over the counter medications or preparations is strictly prohibited anywhere on the District's premises by any person. Non-student possession or use of over-the-counter medications and preparations is permitted for the owner of the material so long as the use is in conformance with the manufacturer's printed instructions.
- c. Employees, contractors, volunteers or other district personnel shall not report for duty or assignment under the influence of alcohol or drugs, except those drugs prescribed for them by their licensed health care provider.
- d. Use of drugs and alcohol is also prohibited during the scheduled school or work day, including any unpaid non-duty time that occurs within the school or work day, such as lunch or other meal times or other breaks, whether or not the employee is on or off district property.
- e. Persons operating vehicles owned or leased by the district or other machinery owned or leased by the district shall not possess, use, or be under the influence of alcohol or any drug not specifically prescribed for them. Use of drugs, including over the counter medications, prescription medications and controlled substances which carry a warning against operating heavy machinery shall prohibit the operation of any district owned or leased machinery by the user regardless of the user's ability to exercise other aspects of their assigned duties.

- f. Possession on District premises, including vehicles owned or operated by or for the District, of paraphernalia associated with controlled substances is prohibited unless the possession is due to a prescription from the person's licensed health care provider.

4. EXCEPTIONS

- a. It is not a violation of this policy for a person to possess an alcoholic beverage in a school location when the possession is for the purpose of curriculum based experiments in science laboratories.
- b. It is not a violation of this policy for employees, contractors, volunteers and other personnel of the District to legally possess or use alcohol while attending an event in their capacity as employee, contractor, volunteer or other personnel of the District
 - i. if the activity held at or on premises other than District premises, and
 - ii. where the location permits the legal use or possession of alcohol and
 - iii. during which activity they do not have the responsibility for supervision, direction, transportation or control of students, and
 - iv. where the employee, contractor, volunteer or other personnel of the District will not be returning to work after the consumption of alcohol.

5. DRUG AND ALCOHOL TESTING

- a. The district may request or require that any district employee, contractor or other District personnel other than an employee whose position requires a commercial driver's license, submit to drug and alcohol testing in accordance with this policy and law. Drug and alcohol testing of employees whose position requires a commercial driver's license is addressed in Policy 4026. Testing shall be by a testing laboratory that meets statutory requirements.
- b. Random alcohol or drug testing shall not be required of any employee, contractor or other District personnel who is not employed in a safety-sensitive position.
- c. Testing for alcohol or drugs may be done if the district has a reasonable suspicion that the employee:
 - i. is under the influence of drugs or alcohol;
 - ii. has violated the district policy or work rules prohibiting the use, possession, sale, manufacture, dispensation or distribution of drugs or alcohol while the employee is working or while the employee is on district premises;
 - iii. has sustained a personal injury in the course of their employment or for which a claim of worker's compensation or other claim against the district might be made;
 - iv. has caused another employee to sustain a personal injury in the course of the other employee's employment or for which a claim against the district might be made;
 - v. has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.
- d. Testing may be required as part of the employee's participation in any chemical

dependency treatment under an employee benefit plan, or to which the employee has been referred by the district.

- e. If the employee's position requires a routine physical examination, alcohol or drug testing may be part of the examination if
 - i. the routine exam is required or requested no more than once annually;
 - ii. the employee is given two (2) weeks' advance written notice that an alcohol or drug test may be administered as part of the examination.
- f. The District has no legal duty to request or require any employee, contractor, or other District personnel to undergo alcohol or drug testing, if the employee, contractor, or other District personnel is not required to have a commercial driver's license by the terms of their position.

6. RESPONSIBILITY

- a. It is the responsibility of every employee, contractor, volunteer, other personnel of the District and members of the public to comply with this policy.
- b. Each employee, contractor, volunteer and other personnel of the District shall be provided with written notice of this Drug Free Workplace policy and shall be required to acknowledge that she or he has received the policy. Failure to acknowledge receipt of the policy may subject the employee, contractor or other District personnel to disciplinary action, up to and including suspension without pay or termination.
- c. Any employee or contractor who is engaged either directly or indirectly in performance of a federal grant shall notify his or her supervisor in writing of his or her conviction of any criminal drug statute for a violation occurring in any of the places above on which work on a school district federal grant is performed no later than five (5) calendar days after such conviction. This notice is a condition of their continued employment in that federal grant.
- d. Any employee who is charged with a violation of any criminal drug statute shall notify their supervisor of such a charge within five (5) calendar days after being charged.
- e. Any employee or contractor who is convicted of any criminal drug statute shall notify their supervisor in writing of such a charge within five (5) calendar days after being convicted.
- f. Each work site shall display a notice that the district has adopted a policy regarding drug and alcohol testing of employees, contractors, or other District personnel.
- g. Employees, contractors and other district personnel whose positions do not require a commercial driver's license may refuse to comply with a request or requirement for alcohol or drug testing, however such a refusal may result in disciplinary action up to and including immediate termination of employment.
- h. The District shall give a person who has undergone alcohol or drug testing at the request or requirement of the district under this policy notice of the test results within three (3) working days after receipt of the test result report from the testing laboratory.
- i. The District shall give a person who has undergone alcohol or drug testing at the request or requirement of the district under this policy and whose test has

had a positive test result for alcohol or drugs written notice of the person's right to explain the positive results and to submit additional information allowed by law, and to request a confirmatory retest:

- i. the district may request the person to indicate any over-the-counter or prescription medication that the person is currently or has recently taken; and
 - ii. the district may request the person to indicate any other information relevant to the reliability of, or an explanation for, a positive result.
 - iii. the person shall have three (3) working days from the date of the notice to submit information that purports to explain a positive result or to request a confirmatory retest.
 - iv. Retests requested by the person shall be of the original sample and shall be at the person's own expense.
- j. If a confirmatory retest does not confirm the original positive results of a test, no adverse personnel action based upon the original test may be taken against the employee.

7. DISTRICT ACTION

- a. Violation of this policy shall result in discipline of the offending employee, contractor or other District personnel in keeping with the terms of this policy and collective bargaining agreements and contracts up to and including discharge, termination and cancellation of contract for services.
- b. Violation of this policy by a volunteer shall result in a termination of the certification of the volunteer to be assigned to a classroom or other school activities for a reasonable period of time, based on the circumstances of the occasion, including the frequency and severity of violation(s).
- c. For employees, contractors or other District personnel who have been required or requested to undergo alcohol or drug testing, the district shall take no disciplinary action unless:
 - i. the testing includes a confirmatory positive result, or
 - ii. the employee has refused to comply with a request or requirement to be tested
- d. The District may temporarily suspend with or without pay or transfer an employee, contractor, or other District personnel to another position at the same rate of pay pending the outcome of alcohol or drug testing, provided that the District believes that it is reasonably necessary to protect the health or safety of the person, students, co-employees, or the public.
- e. Employees or other District personnel who have been suspended without pay must be reinstated with back pay if the outcome of alcohol or drug confirmatory testing or retesting is negative.
- f. Contractors whose services have been suspended shall have an adjustment in their contract appropriate for the circumstances.
- g. An employee who violates the terms of this policy may be required by the District to satisfactorily participate in a drug and/or alcohol abuse assistance or rehabilitation program approved by the District. Any employee who fails to satisfactorily participate in and complete such a required program is subject to

non-renewal, suspension or termination as deemed appropriate by the school board.

- h. A member of the public who violates the policy shall be informed of the policy and asked to leave the district premises. Failure to leave may lead to being reported to ~~the school resource officer or~~ local law enforcement agencies, and escort off the premises by law enforcement officers, or arrest. Failure to comply with this policy by a member of the public may result in the person's prohibition from the premises.
- i. Information regarding alcohol and drug testing results, requests or requirements are private data on individuals and may not be disclosed by the district to another employer, a third-party individual, governmental agency, or private organization without the written consent of the individual requested to be tested or tested. However, evidence of a positive confirmatory test may be:
 - i. used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing, or a judicial proceeding so long as the information is relevant to the proceeding;
 - ii. disclosed to any federal agency or other unit of the United States government as required by federal law, regulation or order, or in accordance with a federal government contract; and
 - iii. disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the person tested.

Original Adoption:

01/08/1991

Revision Dates:

03/23/1993, 09/18/2001, 05/27/2008, 03/11/2014

Legal References:

- 20 U.S.C. §§ 7101 – 7165 (Safe and Drug-Free Schools and Communities Act)
- 21 U.S.C. § 812 (Schedules of Controlled Substances)
- 41 U.S.C. §§ 701-707 (Drug-Free Workplace Act)
- 21 C.F.R. §§ 1308.11 – 1308.15 (Controlled Substances)
- 34 C.F.R. Part 84 (Government-wide Requirements for Drug-Free Workplace)
- Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
- Minn. Stat. § 121A.05 (Referral to Police)
- Minn. Stat. §§ 181.950 -181.957 (Drug and Alcohol Testing in the Workplace)
- Minn. Stat. § 609.605 (Trespass)
- Minn. Stat. § 609.684 (Sale of Toxic Substances to Children; Abuse of Toxic Substances)

MPS Policy Cross References:

- Policy 1040 (Student and Staff Data Protection)
- Policy 5631 (Drug-free Schools,)
- Policy 5680 (Search of Students/ Lockers/ Desks/ Motor Vehicles)
- Policy 6680 (Safety, Security and Emergency Management)

SECTION 3: **AMENDMENT** “Policy 5221: Weapons Free Schools” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 5221: Weapons Free Schools

1. PURPOSE

The purpose of this policy is to establish the commitment of the Minneapolis Public Schools to provide school environments that are safe for students, staff and the public. Establishing a weapons free school zone is one element of creating that safe environment.

2. GENERAL STATEMENT OF POLICY

- a. The Minneapolis Public Schools Board of Directors is committed to weapons-free schools. The Board has established this policy to address violence and potential violence including weapons possession on district premises. The Board also recognizes that students need the assistance of the adults in their homes, communities and schools to assist in creating weapons-free environments. Cases of students who innocently or unintentionally bring weapons to school shall be given special consideration given the developmental abilities of students to make distinctions and choices regarding weapons carried or found to or at school.
- b. No student shall possess, use, transfer, distribute or manufacture a weapon or ammunition to be used as a weapon or by a weapon when in a school location, unless the possession, use or transfer meets an exception to this general statement established in this policy.
- c. The district shall take disciplinary action and any other appropriate action against any student who violates this policy.

3. EXCEPTIONS

- a. A student who finds a weapon or ammunition on the way to school, or in a school location, or a student who discovers that he or she accidentally or unintentionally has a weapon or ammunition in his or her possession who takes the weapon or ammunition immediately after discovery or arrival at school to the principal’s office shall not be considered to be in possession of a weapon or ammunition. If the student believes that it would be impracticable or dangerous to take the weapon or ammunition to the principal’s office, the student shall not

be considered to possess the weapon or ammunition if:

- i. he or she immediately turns the weapon or ammunition over to:
 - (1) an administrator, or
 - (2) a teacher, or
 - (3) other school staff, or
 - (4) a head coach, or
 - ii. he or she immediately notifies any of the persons identified above of the location of the weapon or ammunition, or shows one of them the location.
- b. It is not a violation of this policy for a student to possess a dangerous weapon, or replica firearm as part of the student's participation as a ceremonial color guard when such weapon or replica firearm is part of the regular uniform or ceremony of the color guard.
 - c. It is not a violation of this policy to possess, use, distribute, transfer or manufacture appropriate equipment and tools required by a student's course of study or participation in an approved student activity when such equipment and tools are properly possessed, used, transferred, manufactured or stored. However, when authorized instructional and work equipment or tools are used in a potentially dangerous or threatening manner, such possession and use will be treated as the possession and use of a weapon.

4. RESPONSIBILITY

- a. It is the responsibility of every student to comply with this policy at every school location.
- b. The principal of every school shall cause notice of this policy to be disseminated to every student enrolled in her or his school.
- c. The Superintendent or Superintendent's designee shall cause such written notices as are permitted by law to be posted at all district facilities.
- d. Every student has an affirmative responsibility to report, upon knowledge, belief or reasonable suspicion the existence or location of any weapon at any district location to a staff person as soon as is practicable. Reports made in good faith shall not subject the reporter to disciplinary action, even if no weapon is actually found.
- e. Every district employee upon notice or report from a student of the possible existence of a weapon at any district location shall notify the principal, ~~the school resource officer~~ and shall follow the school or location emergency plan to assure the safety of students, staff and the public.

5. DISTRICT ACTION

- a. Violation of this policy shall result in discipline of the offending student by:
 - i. Consideration for immediate suspension out of school;
 - ii. Confiscation of the weapon, ammunition, or device used as a weapon;
 - iii. Immediate notification of ~~school resource officer, and may also include notification of~~ local law enforcement;
 - iv. Notification of parent or guardian; and
 - v. Recommendation to the Superintendent for an expulsion of the student from school for at least one year.

- b. Any student who intentionally brings a firearm, as defined by federal law, will be expelled for at least one year. The Board of Directors may modify this requirement on a case-by-case basis
- c. The Board of Directors authorizes the Superintendent to exercise administrative discretion in determining whether or not, under all the circumstances of the case, the possession, use or distribution of a weapon by a student warrants a course of action other than the minimum consequences specified above. In the event the Superintendent makes findings in the case that a lesser disciplinary action, or no disciplinary action, is warranted, he or she shall make that recommendation to the Board of Directors, including any other appropriate action recommended to be taken. The Superintendent may take into consideration any of the following in making a recommendation for other than expulsion:
 - i. The age and understanding of the student and whether or not the student has the understanding and ability to form the requisite intent to bring a firearm to school.
 - ii. Whether or not the weapon was displayed to other students;
 - iii. Whether or not the student voluntarily surrendered the weapon or indicated its location to a staff member;
 - iv. Whether or not the student intentionally concealed the weapon to prevent its discovery by a staff member;
 - v. Whether or not the student was cooperative in the investigation of a report of a weapon.
 - vi. Whether or not the student was under suspension when the weapon was brought to a school location.

Original Adoption:

01/08/1991 (as Policy 4025)

Revision Dates:

03/23/1993, 09/18/2001, 05/27/2008 (all as Policy 4025), 03/11/2014

Legal References:

- 18 U.S.C. § 921 (Definition of firearm)
- 20 U.S.C. §§ 7101 – 7165 (Safe and Drug-Free Schools and Communities Act)
- Minn. Stat. § 121A.05 (Referral to Police)
- Minn. Stat. § 121A.06 (Reports of Dangerous Weapon Incidents in School Zones)
- Minn. Stat § 609.66 (Dangerous Weapons)
- Minn. Stat. § 609.605 (Trespass)
- Minn. Stat. § 624.714 (Carrying of Weapons without Permit; Penalties)

MPS Policy Cross References:

- Policy 4021 (Weapons Free Workplace)
- Policy 5200 (Behavior Standards and Code of Conduct)
- Policy 5631 (Drug Free Schools)
- Policy 6680 (Safety, Security and Emergency Management)

SECTION 4: **AMENDMENT** “Policy 5620: Releasing Students To Police” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 5620: Releasing Students To Police

1. **PURPOSE**

Minneapolis Public Schools understands the importance of cooperating with police officers in law enforcement and crime prevention. The schools also must protect their students’ interest in receiving an education, which is the primary purpose of the school. Good relations between the schools and the various law enforcement agencies are fostered by understanding the respective roles and responsibilities of the different entities when they interact. The purpose of this policy is to establish the procedures for access to students by police officers during the school day, and to clarify the responsibilities of district staff in responses to requests from law enforcement officers to question students or to release students to them.

2. **GENERAL STATEMENT OF POLICY**

- a. ~~School Resource Officers are law enforcement officers assigned and trained to work with school administrations. This policy does not apply to School Resource Officers who are subject to contractual agreements with the district.~~
- b. Generally, students may not be released to law enforcement officers during the school day, except as otherwise provided by law or this policy.
- c. Law enforcement officers may be called to the school if the principal or site administrator, or their designee, has reason to believe that a crime has been committed on school grounds or there is a significant safety concern. Law enforcement officers shall determine whether or not a crime has been committed.
- d. Law enforcement officers who seek entry into a school for official business must first contact the principal, site administrator or their designee for permission to enter the school unless exigent circumstances exist. Requests from law enforcement officers who seek entry into a school may also be relayed to the school administration through the Office of Emergency Management, Safety & Security. ~~Requests may also be relayed to the school administration through the designated School Resource Officer for the District or school.~~
- e. In any contact between a law enforcement officer and a student, officers and staff shall endeavor to avoid any undue embarrassment of the student before students or staff.

- f. In any contact between a law enforcement officer and a student, officers and staff shall endeavor to avoid disrupting the educational program of the student or the school.
- g. Students not under custodial arrest may not be released to law enforcement officers, or interviewed by them at school, without prior parental permission, however if reasonable attempts to reach a parent or emergency contacts identified by the parent fail, the principal has the discretion to either allow an interview of the student in the principal's presence, or to request that the law enforcement officer attempt an interview of the student at a different time and or place, unless such permission or notice of the request for contact is specifically prohibited by law.
- h. Law enforcement officers may not remove a student from the school premises without signing a District provided release form accepting responsibility for the student.
- i. No student shall be surrendered to a private organization, or to a private investigator or detective, or representative of any attorney.
- j. Custodial arrests made at school shall be made at the discretion of the law enforcement officer ~~or the School Resource Officer~~, guided by whether the student is a danger or threat to him or herself or others, is likely to flee or to engage in further criminal conduct.
- k. Law enforcement officers making a custodial arrest of a student shall determine the degree of control of the arrested student is necessary to ensure the safety of the student, other students, staff, and the law enforcement officer.
- l. Law enforcement officers other than Minneapolis Police Department officers must coordinate attempts to arrest students at school with the Office of Emergency Management, Safety & Security and/or ~~the School Resource Officer and/or~~ the Minneapolis Police Department and the school administration. School staff may require the presence of a Minneapolis Police Department officer to allow entry to other agency's officers.

3. RESPONSIBILITIES

- a. The Superintendent is authorized to promulgate regulations to implement this policy.
- b. Principals and site administrators are responsible to implement this policy with fidelity.
- ~~e. District staff that negotiates with law enforcement agencies to provide School Resource Officers to the District are responsible for communicating this policy to those agencies.~~

Original Adoption:

04/25/1967

Revision Dates:

10/12/1971, 08/28/1973, 09/30/1975, 06/12/1984, 09/13/1994, 6/26/2012

Legal References:

- Minn. Stat. §13.32 (Educational Data)

MPS Policy Cross References:

- Policy 1040 (Data Practices Compliance)
- Policy 1480 (Visits to Schools)
- Policy 1540 (Complaints Concerning School Personnel)
- Policy 1541 (Response to Violence and Disruption)
- Policy 5200 (Citywide Discipline)
- Policy 5621 (Use of Peace Officers and Crisis Management Teams to Remove Students from School Property)
- Policy 5631 (Drug-Free Schools, Chemical Health, Chemical Use and Abuse)
- Policy 5635 (Reporting Maltreatment of Minors and Vulnerable Adults)
- Policy 5680 (Search of Students/Lockers/Desks/Motor Vehicles)
- Policy 6680 (Safety, Security and Emergency Preparedness)

Minneapolis Public Schools

List A: All Employees: Tuesday, October 13, 2020

Hiring - Licensed

Heidi Alcaide Garcia	Page Middle School	Teacher, English Second Language	8/16/2020
Andie Alton	Jefferson Elementary	Teacher, Special Education	8/16/2020
Elizabeth Anderson	Henry High	Teacher, Special Education	8/23/2020
Paige Armstrong-Hetterick	Field	Teacher, Music	8/16/2020
Michael Athorn	Harrison Education Center	Teacher, Special Education	8/16/2020
Kelsey Barsness	Health Services	Teacher, School Nurse	9/14/2020
Alexandra Beck	Barton Open	Teacher, Elementary	8/16/2020
Michael Bennett	Speech Language Clinicians	Teacher, Speech Language Clinician	8/16/2020
Laura Berens	Cityview	Teacher, Special Education	8/16/2020
Karin Bernal	Seward Montessori School	Teacher, Library Media Specialist	8/16/2020
Karin Bernal	Seward Montessori School	Teacher, Library Media Specialist	8/16/2020
Lauren Caban	Folwell Performing Arts	Teacher, Elementary	8/16/2020
Micaela Carey	Sheridan	Teacher, Social Worker	9/8/2020
Peter Carlson	Southwest High	Teacher, Technology	9/30/2020
Jordan Castleberry	Teaching & Learning	Teacher, TOSA General	8/16/2020
Denise Clarke	Edison High	Teacher, Technology	8/16/2020
Drayton Cousins	Southwest High	Teacher, English	8/16/2020
Drayton Cousins	Southwest High	Teacher, English	8/16/2020
Kari Deslauriers	Anne Sullivan	Teacher, High Five	8/16/2020
Michelle Diaz	Richard Green Central	Teacher, Bilingual/Bicultural (Spanish)	8/16/2020
Elizabeth Dill	Barton Open	Teacher, Science	9/8/2020

Minneapolis Public Schools

List A: All Employees: Tuesday, October 13, 2020

Hiring - Licensed

Marguerite Dowdy	Lyndale Elementary	Teacher, Special Education	9/14/2020
Hannah Edwards	Teaching & Learning	Teacher, TOSA General	8/16/2020
Margaret Ewing	Heritage Academy	Teacher, Math	9/14/2020
Diana Fasanaro	Emerson Spanish Immersion	Teacher, Bilingual/Bicultural (Spanish)	8/16/2020
Abigail Fischer	Armatage	Teacher, Elementary	8/16/2020
Laura Fischer	Andersen United	Teacher, Music	8/16/2020
Kathryn Fling	Pratt Elementary	Teacher, Art	8/16/2020
Paige Fors	Jenny Lind	Teacher, Special Education	9/3/2020
Jennifer Garrison	Andersen United	Teacher, High Five	8/16/2020
Rebecca Glass	Barton Open	Teacher, TOSA Instructional Specialist	9/16/2020
Tatiana Grogan	Nellie Stone Johnson	Teacher, Elementary	8/16/2020
Cady Gulbranson	Early Childhood Special Education	Teacher, Special Education	8/16/2020
Fadumo Haji-Aweis	Page Middle School	Teacher, English	9/28/2020
Adam Hansen	Southwest High	Teacher, Art	9/8/2020
Johnathan Harlin	Lake Harriet Upper (Fulton)	Teacher, Art	8/16/2020
Richard Hawj	Hmong International Academy	Teacher, Elementary	8/16/2020
Jacqueline Hendrickson	Hall International	Teacher, Library Media Specialist	8/16/2020
Katherine Hennessy-Fiske	Wellstone Intl High School	Teacher, Social Studies	9/24/2020
Erik Hensel	Teaching & Learning	Teacher, TOSA Administrative	9/14/2020
Andres Felipe Hernandez Fierro	Anwatin	Teacher, World Languages (Spanish)	8/16/2020
Sarah Hutton	Teaching & Learning	Teacher, TOSA General	8/16/2020

Minneapolis Public Schools

List A: All Employees: Tuesday, October 13, 2020

Hiring - Licensed

Kari Johnson	Anne Sullivan	Teacher, High Five	8/16/2020
Maleah Kagan	Anwatin	Teacher, Special Education	9/29/2020
Tharon Knowlton	South High	Teacher, Music	8/16/2020
Patricia Kroulik	Hiawatha Elementary	Teacher, Special Education	8/16/2020
Matthew Lafave	Indian Education	Teacher, World Languages (Ojibwe)	8/16/2020
Mai Lee	Webster Elementary	Teacher, Elementary	10/5/2020
Noam Lekach-Rosenberg	Anwatin	Teacher, Social Studies	8/16/2020
Blaine Mably	Wellstone Intl High School	Teacher, TOSA Instructional Specialist	7/1/2020
Heidi Macomber	Sheridan	Teacher, English Second Language	8/16/2020
Mahamed Mahamed	Whittier Community School	Teacher, English Second Language	8/16/2020
Olivia Martinetti	Washburn High	Teacher, World Languages (ASL)	8/16/2020
Haley Mccullum	Early Childhood Special Education	Teacher, Special Education	8/16/2020
Aneka Mcmullen	North (ISA)	Teacher, Theatre/Dance	8/16/2020
Rebecca Mijal	Transition Plus	Teacher, Special Education	8/16/2020
Mohamuud Mohamuud	Seward Montessori School	Teacher, Science	9/16/2020
Ellen Nelson	Seward Montessori School	Teacher, Elementary	8/16/2020
Christina Nystrom	Jefferson Elementary	Teacher, Elementary	8/16/2020
Martha Organista Villasenor	Emerson Spanish Immersion	Teacher, Social Worker	8/16/2020
Bertha Ortiz-Robles	Jefferson Elementary	Teacher, Bilingual/Bicultural (Spanish)	8/16/2020
Erika Osterbur	Richard Green Central	Teacher, Bilingual/Bicultural (Spanish)	8/16/2020
Terry Pena	Teacher Development	Teacher, TOSA General	8/16/2020

Minneapolis Public Schools

List A: All Employees: Tuesday, October 13, 2020

Hiring - Licensed

Brenna Peterkin	Southwest High	Teacher, Health	9/28/2020
Kristina Pettis	River Bend	Teacher, Special Education	8/16/2020
Dawn Pettit	Roosevelt High	Teacher, Special Education	9/22/2020
Iana Phillips	Teaching & Learning	Teacher, TOSA General	8/16/2020
Taylor Phimister	Waite Park Elementary	Teacher, Elementary	8/16/2020
Rachel Pollard	Occupational, Physical Therapists	Teacher, Occupational Therapist	8/16/2020
Jeffrey Rajacich	Field	Teacher, Math	8/16/2020
Timothy Rand	Lyndale Elementary	Teacher, Physical Education	9/8/2020
Jessica Ranes	Jenny Lind	Teacher, Special Education	9/8/2020
Nancy Remmert	Whittier Community School	Teacher, TOSA Instructional Specialist	9/8/2020
Danielle Ricci	Jenny Lind	Teacher, Theatre/Dance	9/9/2020
Caitlin Samuels	Windom Elementary	Teacher, Social Worker	8/16/2020
Kathleen Saporito	Special Ed Program 1	Teacher, Special Education	8/16/2020
Christine Selby	Heritage Academy	Teacher, English	8/16/2020
Matthew Shaver	Hall International	Teacher, Elementary	8/16/2020
Sarah Shelley	Nellie Stone Johnson	Teacher, Elementary	9/14/2020
Charles Smith	Washburn High	Teacher, Technology	8/16/2020
Beatriz Solis Doe	Windom Elementary	Teacher, High Five	8/16/2020
Kelsey Stotz	Waite Park Elementary	Teacher, Music	8/16/2020
Jonathan Sussman	Bethune	Teacher, Music	8/16/2020
Tamara Turner	Andersen United	Teacher, Art	8/16/2020

Minneapolis Public Schools

List A: All Employees: Tuesday, October 13, 2020

Hiring - Licensed

Michael Van Patten	Anne Sullivan	Teacher, Special Education	8/16/2020
Tanner Vanderkrabben	Lake Harriet Upper (Fulton)	Teacher, Music	8/16/2020
Michael Vasich	FAIR Senior	Teacher, Music	8/16/2020
Todd Wallace	Anne Sullivan	Teacher, Physical Education	9/28/2020
Claire Weiss	Jefferson Elementary	Teacher, Science	8/16/2020
Katurah Weyenberg	Jenny Lind	Teacher, TOSA General	8/16/2020
Aaron Wojahn	Folwell Performing Arts	Teacher, Math	8/16/2020
Song Yang	Hmong International Academy	Teacher, English Second Language	8/16/2020

Hiring - Non Licensed

Samira Ali	Washburn High	Special Education Assistant	9/23/2020
Jennifer Anderson	Educator Professional Development	Office Specialist, Senior	9/15/2020
Theodore Anderson	Franklin Middle	Associate Educator	9/3/2020
Octavia Austin	Transportation	Bus Aide	1/6/2020
Jamie Bailey	KBEM Radio	KBEM Program Specialist	8/24/2020
Brittany Becker	Barton Open	Associate Educator	8/24/2020
Brittany Bentley	Kenwood Elementary	Special Education Assistant	10/5/2020
Timothy Blaylark	Operational & Security Services	Public Safety Support Specialist	9/23/2020
Casey Cooper	FAIR Senior	Special Education Assistant	9/9/2020
Joshua Cunningham	Franklin Middle	Special Education Assistant	9/3/2020
Carly Cupito	River Bend	Special Education Assistant	9/22/2020
Madai Espinosa Campos	Jefferson Elementary	Special Education Assistant	9/1/2020

Minneapolis Public Schools

List A: All Employees: Tuesday, October 13, 2020

Hiring - Non Licensed

Amandia Gurley	North (ISA)	Special Education Assistant	9/3/2020
Richard Hammonds	River Bend	Special Education Assistant	10/5/2020
Patricia Hay-Chapman	River Bend	Special Education Assistant	9/15/2020
Lakendrick Hayes	Operational & Security Services	Public Safety Support Specialist	9/23/2020
Iris Helm-Hernandez	Minneapolis Kids	Child Care Assistant	9/22/2020
Lee Hibbard	Jenny Lind	School Secretary	9/14/2020
Tasha Holifield	Page Middle School	Special Education Assistant	9/3/2020
Anna Johnson	Anne Sullivan	Special Education Assistant	10/6/2020
Samuel Keis	Henry High	Special Education Assistant	8/24/2020
Abigail Maclaren	Operational & Security Services	Public Safety Support Specialist	9/23/2020
Ash Mcgoff	Dowling Elementary	Special Education Assistant	9/15/2020
Maren Miller	Burroughs	Special Education Assistant	9/28/2020
Cassandra Misseldine	South High	Special Education Assistant	9/3/2020
Willie Monroe	Engineers, Zone 2	Custodian	9/15/2020
Mulki Naley	Heritage Academy	Family & Community Liaison (ESP)	7/2/2020
Magdalena Nova	Emerson Spanish Immersion	Special Education Assistant	9/21/2020
Noah Peterson	Northrop Elementary	Special Education Assistant	10/5/2020
Broderick Powell	Operational & Security Services	Manager, Emergency Management	8/19/2020
Miranda Price	Talent Acquisition	Human Resources Specialist	9/15/2020
Harbi Robleh	Transportation	School Bus Driver	8/30/2020
Alejandra Rodriguez Garcia	Check and Connect	Associate Educator	10/6/2020

Minneapolis Public Schools

List A: All Employees: Tuesday, October 13, 2020

Hiring - Non Licensed

Lasonderia Rogers	Loring Elementary	Account Clerk	9/15/2020
Sabina Rogers	Anne Sullivan	Special Education Assistant	10/6/2020
Rachel Stewart	Hall International	School Success Program Assistant	8/3/2020
Alexander Tsadwa	South High	School Success Program Assistant	9/3/2020
Zion Wakjira	Transportation	School Bus Driver	11/5/2019
Curtis Walton	FAIR Senior	Associate Educator	9/8/2020
Kawsar Yusuf	Barton Open	Special Education Assistant	9/15/2020
Marcus Zackery	Henry High	Coordinator, Public Relations	9/22/2020

Discharges

Licensed

Non-Licensed

Coordinator, Youth & Adult Programs 9-2-2020 2020-10-ER-4016

Probationary Separations

Licensed

Licensed, Staff Reduction

Non-Licensed

Dist. Communication Ctr. Specialist 09-11-2020 2020-10-ER-4198

Materials Handler 9-15-2020 2020-10-ER-4201
HR Consultant, Talent Acquisition 9-18-2020 2020-10-ER-4195

Non-Licensed, Staff Reduction

Layoffs

Licensed

Non-Licensed

Administrative Contract Non-Renewals

 **AIA**® Document A101® – 2017**Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum**

AGREEMENT made as of the Thirteenth day of August in the year 2020
(In words, indicate day, month and year.)

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

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

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

Construction Results Corporation
5465 Hwy 169 North
Plymouth, MN 55442

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

Chiller Replacement at Nellie Stone Johnson, Lucy Laney and Keewaydin

Nellie Stone Johnson Community School
807 27th Avenue North
Minneapolis, MN 55411

Lucy Laney Community School
3333 Penn Avenue North
Minneapolis, MN 55412

Lake Nokomis – Keewaydin Community School
5209 30th Avenue South
Minneapolis, MN 55417

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

KFI Engineers
670 County Road B West
St. Paul, MN 55113

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

The date of this Agreement.

A date set forth in a notice to proceed issued by the Owner.

Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

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

§ 3.3 Substantial Completion

§ 3.3.1 The Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

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[] Not later than () calendar days from the date of commencement of the Work.

[X] By the following date: Defined in EXH-D Project Schedule

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates as defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

(Table Deleted)

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract as defined in EXH-B Project Charter, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Table Deleted)

§ 4.2.2 Subject to the conditions noted in EXH-B Project Charter, alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Paragraph Deleted)

(Table Deleted)

§ 4.3 Allowances, if any, included in the Contract Sum are defined in EXH-B Project Charter.

(Table Deleted)

§ 4.4 Unit prices, if any are defined in EXH-B Project Charter.

(Paragraph Deleted)

(Table Deleted)

§ 4.5 Liquidated damages

Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays,

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User Notes:

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expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated

damages for delay (but not as penalty), Contractor shall pay Owner \$1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the Owner.

(Paragraph Deleted)

After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner \$1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 When an Application for Payment is received by the Architect, payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

(Paragraph Deleted)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

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

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

Init.

- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Paragraph Deleted)

5% (five percent)

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

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

Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as

determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

(Paragraph Deleted)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.
- .3 all lien waivers and IC134 forms have been delivered to the Owner.

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§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the Architect's final Certificate for Payment.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

§ 5.4 Prompt Payment to Subcontractors

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017.

§ 6.1.1 Mediation

Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor may request Binding Dispute Resolution.

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

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Arbitration pursuant to Section 15.4 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other (*Specify*)

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

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

Don Bielinski
1250 West Broadway Avenue
Minneapolis, MN 55411

§ 8.3 The Contractor’s representative:

(Name, address, email address, and other information)

John Snyder
Construction Results Corporation
5465 Hwy 169
Plymouth, MN 55442

§ 8.4 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days’ prior notice to the other party.

Init.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

January 31, 2020

- .5 Drawings

Number	Title	Date
--------	-------	------

- .6 Specifications

Section	Title	Date	Pages
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- .7 Addenda, if any:

Number	Date	Pages
--------	------	-------

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

- .8 Other Exhibits:

(Paragraphs Deleted)

[EXH-B Project Charter](#)

Init.

| (Paragraph Deleted)

| EXH-C Owner Insurance
EXH-D Project Schedule

| (Paragraph Deleted)

| (Table Deleted)

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
.9	Other documents, if any, listed below: <i>(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)</i>		

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

OWNER (Signature)

 (Printed name and title)

M. Luurtsema

CONTRACTOR (Signature)
 8-28-2020 Mike Luurtsema, President

 (Printed name and title)

Additions and Deletions Report for AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:57:30 ET on 08/14/2020.

PAGE 1

AGREEMENT made as of the Twentieth day of March in the year 2020.

...

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

...

Construction Results Corporation
5465 Hwy 169 North
Plymouth, MN 55442

...

Chiller Replacement at Nellie Stone Johnson, Lucy Laney and Keewaydin

Nellie Stone Johnson Community School
807 27th Avenue North
Minneapolis, MN 55411

Lucy Laney Community School
3333 Penn Avenue North
Minneapolis, MN 55412

Lake Nokomis – Keewaydin Community School
5209 30th Avenue South
Minneapolis, MN 55417

...

KFI Engineers
670 County Road B West
St. Paul, MN 55113

PAGE 2

[] A date set forth in a notice to proceed issued by the Owner.

...

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the The Contractor shall achieve Substantial Completion of the entire Work:

PAGE 3

[] By the following date: Defined in EXH-D Project Schedule

...

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following ~~dates: dates are defined in EXH-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.~~

...

Portion of Work

Substantial Completion Date

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the ~~Contract. The Contract Sum shall be (\$). Contract as defined in EXH-B Project Charter,~~ subject to additions and deductions as provided in the Contract Documents.

...

§ 4.2.1 Alternates, if any, included in the Contract ~~Sum: Sum are defined in EXH-B Project Charter.~~

...

Item

Price

...

§ 4.2.2 Subject to the conditions noted ~~below, the following in EXH-B Project Charter,~~ alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

...

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

...

Item

Price

Conditions for Acceptance

...

§ 4.3 Allowances, if any, included in the Contract ~~Sum:~~

...
(Identify each allowance.)Sum are defined in EXH-B Project Charter.

...

Item

Price

...

§ 4.4 Unit prices, if ~~any~~any are defined in EXH-B Project Charter.

...

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

...

Item

Units and Limitations

Price per Unit (\$0.00)

...

§ 4.5 Liquidated ~~damages~~, if ~~any~~damages

PAGE 4

(Insert terms and conditions for liquidated damages, if any.)Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated

...

damages for delay (but not as penalty), Contractor shall pay Owner \$1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the

...

Owner.

...

§ 4.6 Other:

...

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the Contract time specified in the Contract Documents, the contractor shall pay the Owner \$1,000.00 per day that expires after the time specified in the Contract Documents for Final Completion and readiness for Final Payment until the Work is completed.

...

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

...

§ 5.1.3 ~~Provided that~~ When an Application for Payment is received by the Architect ~~not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above,~~ payment of the amount certified shall be made by the Owner not later than 45 (forty-five) days after the Architect receives the Application for Payment.

...

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

...

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor on AIA G702 Application and Certificate for Payment in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

PAGE 5

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

...

5% (five percent)

...

For major items installed into the Work, the Contractor may request full payment for the items to ensure prompt delivery and fabrication. Such items shall be recommended by the Architect and approved by the Owner as not requiring retainage. Prompt payment for the items shall be documented by the Contractor to the Owner in the subsequent payment application by submitting a full lien release for the items. Major items may include mechanical units with long lead times, structural systems with long lead times, critical path systems or items, etc. Major items will be discussed and defined by Owner, Architect, and Contractor.

...

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.) Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as

...

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows: determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

(Insert any other conditions for release of retainage upon Substantial Completion.)

...

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site-site or otherwise stored offsite with adequate Owner approved insurance provided to the Owner.

...

3 all lien waivers and IC134 forms have been delivered to the Owner.

PAGE 6

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than ~~30~~45 days after the issuance of the Architect’s final Certificate for ~~Payment, or as follows:~~

...

Payment.

...

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Owner will pay the Contractor 0% interest for Payments not due made within forty five (45) days.

...

*(Insert rate **§ 5.4** Prompt Payment to Subcontractors)*

...

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of interest agreed upon, if any, payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party requesting payment on any undisputed amount not paid on time. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the party responsible for payment shall pay the actual penalty due to the party requesting payment.

...

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless A201-2017.

...

§ 6.1.1 Mediation

...

the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker. Either the Owner or the Contractor may request mediation of any Claim submitted to the Architect for decision before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the date of this contract. The request for mediation shall be made in writing to the American Arbitration Association and to the other party of this contract.

...

Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of the date of filing the request.

...

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.) If the Claim is not resolved by mediation, the Architect's action shall become final and binding thirty (30) days after termination of the mediation proceedings. Within the time period, the Owner and Contractor may request Binding Dispute Resolution.

...

The Work must continue, at the Owner's discretion, in accordance with paragraph 15.1.4.1 of AIA Document A201-2017.

PAGE 7

[X] Litigation in a court of competent jurisdiction

...

Termination fee will be based on the percentage of work completed and any materials purchased or in production at the time of termination. Said fee and justification shall be provided to the Owner by the Contractor within ten (10) days of the notice of termination.

...

Don Bielinski
1250 West Broadway Avenue
Minneapolis, MN 55411

...

John Snyder
Construction Results Corporation
5465 Hwy 169
Plymouth, MN 55442

PAGE 8

Owner prohibits Contractor from using the Work in any marketing material or business development practice. Contractor is prohibited from communication with any news outlet or public without Owner's written approval.

Floor plans, designs, wiring, safety and security measures shall be kept confidential by the Contractor, the Subcontractors, the Sub-subcontractors (of any tier) during and after completion of the Work.

...

January 31, 2020

...

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

...

~~AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:~~

...

[EXH-B Project Charter](#)

PAGE 9

(Insert the date of the E204 2017 incorporated into this Agreement.)

...

[EXH-C Owner Insurance](#)

...

[EXH-D Project Schedule](#)

...

~~[] The Sustainability Plan:~~

...

Title

Date

Pages

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Minneapolis Public Schools, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:57:30 ET on 08/14/2020 under Order No. 1260426072 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Thirteenth day of August in the year 2020
(In words, indicate day, month and year.)

for the following **PROJECT:**
(Name and location or address)

Chiller Replacement at Nellie Stone Johnson, Lucy Laney and Keewaydin

Nellie Stone Johnson Community School
807 27th Avenue North
Minneapolis, MN 55411

Lucy Laney Community School
3333 Penn Avenue North
Minneapolis, MN 55412

Lake Nokomis – Keewaydin Community School
5209 30th Avenue South
Minneapolis, MN 55417

Minneapolis Public Schools Project Number 20MULT1004
Official Publication 21-2100

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE CONTRACTOR:
(Name, legal status and address)

Construction Results Corporation
5465 Hwy 169, Plymouth, MN 55442

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

TABLE OF ARTICLES

- A.1 GENERAL
- A.2 OWNER'S INSURANCE
- A.3 CONTRACTOR'S INSURANCE AND BONDS
- A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™-2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 **Causes of Loss.** The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss

Sub-Limit

§ A.2.3.1.2 **Specific Required Coverages.** The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage

Sub-Limit

Init.

/

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

§ A.2.4.2 Ordinance or Law Insurance, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

§ A.2.4.3 Expediting Cost Insurance, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

§ A.2.4.4 Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

§ A.2.4.5 Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered

under the required property insurance.

§ **A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured’s business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

§ **A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

§ **A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

§ **A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR’S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner’s written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor’s Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect’s consultants as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor’s negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner’s general liability insurance policies and shall

Init.

/

apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits as defined in EXH-C Owner Insurance providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.

Init.

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User Notes:

(1682002739)

§ A.3.2.5 Workers' Compensation at statutory limits for Coverage A as defined in EXH-C Owner Insurance.

§ A.3.2.6 Employers' Liability Coverage B as defined in EXH-C Owner Insurance.

(Paragraph deleted)

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits as defined in EXH-C Owner Insurance.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the types and limits of insurance as defined in EXH-C Owner Insurance.

(Paragraphs deleted)

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Payment Bond	
Performance Bond	

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

Additions and Deletions Report for **AIA® Document A101® – 2017 Exhibit A**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:58:55 ET on 08/14/2020.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Thirteenth day of August in the year 2020

...

(Name and location or address)

Chiller Replacement at Nellie Stone Johnson, Lucy Laney and Keewaydin

Nellie Stone Johnson Community School
807 27th Avenue North
Minneapolis, MN 55411

Lucy Laney Community School
3333 Penn Avenue North
Minneapolis, MN 55412

Lake Nokomis – Keewaydin Community School
5209 30th Avenue South
Minneapolis, MN 55417

Minneapolis Public Schools Project Number 20MULT1004
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Minneapolis Public Schools Special School District #1
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Minneapolis, MN 55411

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5465 Hwy 169, Plymouth, MN 55442

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§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance ~~written on a builder's risk "all-risks" completed value or equivalent~~ policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The

Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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~~§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance as defined in EXH-C Owner Insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:~~

...

~~§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than (\$) each occurrence, (\$) general aggregate, and (\$) aggregate for products-completed operations hazard, as defined in EXH-C Owner Insurance providing coverage for claims including~~

...

~~§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than (\$) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage as defined in EXH-C Owner Insurance.~~

~~§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Umbrella coverage as defined in EXH-C Owner Insurance.~~

~~§ A.3.2.5 Workers' Compensation at statutory limits:limits for Coverage A as defined in EXH-C Owner Insurance.~~

~~§ A.3.2.6 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.Coverage B as defined in EXH-C Owner Insurance.~~

~~§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks~~

~~§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.as defined in EXH-C Owner Insurance.~~

~~§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate.~~

~~§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than (\$) per claim and (\$) in the aggregate.~~

~~§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.~~

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ~~(\$)~~ per claim and ~~(\$)~~ in the aggregate, as defined in EXH-C Owner Insurance.
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If Professional Liability insurance is required as part of the Contract, the Contractor shall maintain coverage for one year beyond the date of Substantial Completion.

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.) types and limits of insurance as defined in EXH-C Owner Insurance.

§ A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

§ A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than ~~(\$)~~ per claim and ~~(\$)~~ in the aggregate, for Work within fifty (50) feet of railroad property.

§ A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than ~~(\$)~~ per claim and ~~(\$)~~ in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

§ A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

§ A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

§ A.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage

Limits

§ A.3.4 Performance Bond and Payment Bond

Exhibit B – Project Charter

Project Name and Number

Chiller Replacement at Nellie Stone Johnson, Lucy Laney and Keewaydin

Nellie Stone Johnson Community School
807 27th Avenue North
Minneapolis, MN 55411

Lucy Laney Community School
3333 Penn Avenue North
Minneapolis, MN 55412

Lake Nokomis – Keewaydin Community School
5209 30th Avenue South
Minneapolis, MN 55417

Minneapolis Public Schools Project Number 20 MULTI004
Official Publication 21-2100

Description

Work as described in the Contract Documents issued for Bid on August 11, 2020, Addendum 1 – issued on July 30, 2020, and Addendum 2 – issued on August 5, 2020.

Contract Sum

The Contract Sum shall be \$2,873,740.00

Alternates

Item	Price	Status
Not Applicable		

Conditions

Item	Price	Conditions for Acceptance
Not Applicable		

Allowances

Item	Price
Not Applicable	

Unit Prices

Item	Units and Limitations	Price per Unit (\$0.00)
Not Applicable		

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:

The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

- a. Worker's Compensation and Employer's Liability Insurance

- i. Coverage A is statutory.
- ii. Coverage B
 - \$500,000 Each Accident
 - \$500,000 Each Employee
 - \$500,000 Policy Limit (Disease)

- b. Comprehensive General Liability Insurance *

General Aggregate	\$1,000,000
Products/Completed Operations Aggregate	\$1,000,000
Per Occurrence	\$1,000,000
Medical Payments	\$10,000

* The Owner should be named as an additional insured for Comprehensive General Liability Insurance.

- c. Automobile Insurance

Per Occurrence	\$1,000,000
PIP	Basic
Underinsured Motorist	\$1,000,000
Uninsured Motorist	\$1,000,000

- d. Professional Liability Insurance

- i. Per Claim \$2,000,000

- ii. For projects with an estimated construction Contract Sum of over \$10,000,000 or major structural work an aggregate is required as follows:

Aggregate	\$4,000,000
-----------	-------------

e. Umbrella Liability Insurance

- i. Per Occurrence \$2,000,000
- ii. For projects with an estimated construction Contract Sum of over \$10,000,000 or major structural work an aggregate is required as follows:

Aggregate	\$2,000,000
-----------	-------------

f. Manned or Unmanned Aircraft Coverage (if used)

- i. Per Claim \$1,000,000
- ii. Aggregate \$1,000,000

For specialty consultants used for commissioning activities, studies, asbestos surveys and security, items A, B, C and F shall apply.

Special Asbestos Abatement Liability Insurance is required for Asbestos Abatement Contractors. The limits are \$1,500,000 per claim, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

2. CONSULTANT’S OBLIGATIONS

Consultant shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required to be carried under the terms hereof and shall endeavor to satisfy the requirements of the insurance companies issuing them. In the event Consultant neglects, refuses or fails to provide or maintain any of the insurance required to be carried under the Agreement, or if such insurance is canceled for any reason, the Owner or the Owner’s lender(s) shall have the right, but not the duty, to procure or maintain the same.

In the event the Owner or the Owner’s lender(s) do procure or maintain such insurance, the Owner or the Owner’s lender(s) shall have, in addition to any and all other available remedies, the right to recover from the Consultant (including the right of set-off against sums otherwise due the Consultant) all of the costs associated with procuring or maintaining such insurance.

3. PROFESSIONAL LIABILITY INSURANCE

- a. Professional Liability Coverage of \$2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below \$2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."
- b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.
- c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

4. COVERAGE

The coverage's referred to above are set forth in full in the respective policy forms, and the foregoing descriptions of such policies are not intended to be complete.

5. GENERALLY

- a. The Consultant thereby represents and warrants to the Owner that, as of the date of the execution of the Agreement, the Consultant is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance or for damages covered by any of the insurance required to be carried under the Agreement that would affect the Consultant's ability to provide the insurance coverage required by this agreement.

- b. It is understood that the provisions in the Agreement requiring the Consultant to carry insurance shall not be construed as in any manner waiving or restricting the liability of the Consultant as to any obligations imposed under the Agreement, including, but not limited to, obligations imposed under the provisions of Article 11 of the AIA A201-2017 General Conditions.

Insurance requirements for Contractors

1. CONTRACTOR’S INSURANCE – to be used with AIA A101-2017

The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

a. Commercial General Liability

- | | |
|---|-------------|
| i. General Aggregate | \$1,500,000 |
| ii. Products/Completed Operations Aggregate | \$1,500,000 |
| iii. Per Occurrence | \$1,500,000 |

The Owner shall be named as additional insured for Commercial General Liability Insurance

b. Automobile Insurance

- | | |
|----------------------------|-------------|
| i. Per Occurrence | \$1,000,000 |
| ii. PIP | Basic |
| iii. Underinsured Motorist | \$1,000,000 |
| iv. Uninsured Motorist | \$1,000,000 |

c. Workers Compensation

- | | |
|------------------------------|-------------------------|
| i. Coverage A is statutory. | |
| ii. Coverage B | \$500,000 Each Accident |
| iii. \$500,000 Each Employee | |

d. Professional Liability (if the Contractor is hiring professionals)

- i. Per Claim \$2,000,000

For Projects with an estimated construction cost of over \$10,000,000 or major structural work, additional Aggregate coverage of \$4,000,000 is required.

e. Manned or Unmanned Aircraft Coverage (if used)

- i. Per Claim \$1,000,000
- ii. Aggregate \$1,000,000

f. Property Insurance

- i. Per Claim \$1,000,000
- ii. Aggregate \$1,000,000

This insurance is only required for materials stored offsite and not incorporated into the project at delivery. For material stored on site, no additional insurance is required.

g. Builders "all risk" Insurance

- i. Per Claim \$2,000,000
- ii. Aggregate \$4,000,000

This insurance is only required for additions exceeding \$10,000,000. Renovations to existing schools are not required to have builders all risk insurance.

h. Umbrella Liability

- i. Aggregate limit \$5,000,000

This insurance is required only for projects larger than \$10,000,000 in total construction costs.

Exhibit D – Project Schedule

Project Name and Number

Chiller Replacement at Nellie Stone Johnson, Lucy Laney and Keewaydin

Nellie Stone Johnson Community School
807 27th Avenue North
Minneapolis, MN 55411

Lucy Laney Community School
3333 Penn Avenue North
Minneapolis, MN 55412

Lake Nokomis – Keewaydin Community School
5209 30th Avenue South
Minneapolis, MN 55417

Minneapolis Public Schools Project Number 20MULT1004
Official Publication 21-2100

Description

Work as described in the Contract Documents issued for Bid on August 11, 2020, Addendum 1 – issued on July 30, 2020, and Addendum 2 – issued on August 5, 2020.

Schedule

Substantial Completion

The Work will be substantially complete as follows:

Nellie Stone Johnson Community School and Lucy Laney Community School;
Chillers, chilled water system, summer boiler system and interior spaces
completed and operational: April 14, 2021

Keewaydin Community School; Chillers, chilled water pumps/piping and
summer boiler system completed and operational: April 14, 2021

Keewaydin Community School; AHU chilled water piping installed and
operational: August 1, 2021

Building Information Modeling and Digital Data Exhibit

This Exhibit dated the 13 day of March in the year 2018 is incorporated into the agreement (the “Agreement”) between the Parties for the following Project:
(Name and location or address of the Project)

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS**
- 2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA**
- 3 DIGITAL DATA PROTOCOLS**
- 4 BUILDING INFORMATION MODELING PROTOCOLS**
- 5 OTHER TERMS AND CONDITIONS**

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 This Exhibit provides for the establishment of protocols for the development, use, transmission, and exchange of Digital Data for the Project. If Building Information Modeling will be utilized, this Exhibit also provides for the establishment of the protocols necessary to implement the use of Building Information Modeling on the Project, including protocols that establish the expected Level of Development for Model Elements at various milestones of the Project, and the associated Authorized Uses of the Building Information Models.

§ 1.2 The Parties agree to incorporate this Exhibit into their agreements with any other Project Participants that may develop or make use of Digital Data on the Project. Prior to transmitting or allowing access to Digital Data, a Party may require any Project Participant to provide reasonable evidence that it has incorporated this Exhibit into its agreement for the Project, and agreed to the most recent Project specific versions of AIA Document G201™–2013, Project Digital Data Protocol Form and AIA Document G202™–2013, Project Building Information Modeling Protocol Form.

§ 1.2.1 The Parties agree that each of the Project Participants utilizing Digital Data on the Project is an intended third party beneficiary of the Section 1.2 obligation to incorporate this Exhibit into agreements with other Project Participants, and any rights and defenses associated with the enforcement of that obligation. This Exhibit does not create any third-party beneficiary rights other than those expressly identified in this Section 1.2.1.

§ 1.3 Adjustments to the Agreement

§ 1.3.1 If a Party believes that protocols established pursuant to Sections 3.2 or 4.5, and memorialized in AIA Documents G201–2013 and G202–2013, will result in a change in the Party’s scope of work or services warranting an adjustment in compensation, contract sum, schedule or contract time, the Party shall notify the other Party. Failure to provide notice as required in this Section 1.3 shall result in a Party’s waiver of any claims for adjustments in compensation, contract sum, schedule or contract time as a result of the established protocols.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be incorporated into an agreement between the parties and used in conjunction with AIA Documents G201™–2013, Project Digital Data Protocol Form, and G202™–2013, Building Information Modeling Protocol Form. It is anticipated that other Project Participants will incorporate a project specific E203–2013 into their agreements, and that the Parties and other Project Participants will set forth the agreed-upon protocols in AIA Documents G201–2013 and G202–2013.

§ 1.3.2 Upon such notice, the Parties shall discuss and negotiate revisions to the protocols or discuss and negotiate any adjustments in compensation, contract sum, schedule or contract time in accordance with the terms of the Agreement.

§ 1.3.3 Notice required under this Section 1.3 shall be provided within thirty days of receipt of the protocols, unless otherwise indicated below:

(If the Parties require a notice period other than thirty days from receipt of the protocols, indicate the notice period below.)

§ 1.4 Definitions

§ 1.4.1 **Building Information Model.** A Building Information Model is a digital representation of the Project, or a portion of the Project, and is referred to in this Exhibit as the “Model,” which term may be used herein to describe a Model Element, a single model or multiple models used in the aggregate, as well as other data sets identified in AIA Document G202–2013, Project Building Information Modeling Protocol Form.

§ 1.4.2 **Building Information Modeling.** Building Information Modeling or Modeling means the process used to create the Model.

§ 1.4.3 **Model Element.** A Model Element is a portion of the Model representing a component, system or assembly within a building or building site.

§ 1.4.4 **Level of Development.** The Level of Development (LOD) describes the minimum dimensional, spatial, quantitative, qualitative, and other data included in a Model Element to support the Authorized Uses associated with such LOD.

§ 1.4.5 **Authorized Uses.** The term “Authorized Uses” refers to the permitted uses of Digital Data authorized in the Digital Data and/or Building Information Modeling protocols established pursuant to the terms of this Exhibit.

§ 1.4.6 **Model Element Author.** The Model Element Author is the entity (or individual) responsible for managing and coordinating the development of a specific Model Element to the LOD required for an identified Project milestone, regardless of who is responsible for providing the content in the Model Element. Model Element Authors are to be identified in Section 3.3, Model Element Table, of AIA Document G202–2013.

§ 1.4.7 **Digital Data.** Digital Data is information, including communications, drawings, specifications and designs, created or stored for the Project in digital form. Unless otherwise stated, the term Digital Data includes the Model.

§ 1.4.8 **Confidential Digital Data.** Confidential Digital Data is Digital Data containing confidential or business proprietary information that the transmitting party designates and clearly marks as “confidential.”

§ 1.4.9 **Written or In Writing.** In addition to any definition in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, “written” or “in writing” shall mean any communication prepared and sent using a transmission method set forth in this Exhibit, or the protocols developed pursuant to this Exhibit, that permits the recipient to print the communication.

§ 1.4.10 **Written Notice.** In addition to any terms in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, “written notice” shall be deemed to have been duly served if transmitted electronically to an address provided in this Exhibit or the Agreement using a transmission method set forth in this Exhibit that permits the recipient to print the communication.

§ 1.4.11 **Party and Parties.** The terms “Party” and “Parties” refer to the signing parties to the Agreement.

§ 1.4.12 **Project Participant.** A Project Participant is an entity (or individual) providing services, work, equipment or materials on the Project and includes the Parties.

ARTICLE 2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

§ 2.1 The transmission of Digital Data constitutes a warranty by the Party transmitting Digital Data to the Party receiving Digital Data that the transmitting Party is the copyright owner of the Digital Data, or otherwise has permission to transmit the Digital Data for its use on the Project in accordance with the Authorized Uses of Digital Data established pursuant to the terms of this Exhibit.

§ 2.2 If a Party transmits Confidential Digital Data, the transmission of such Confidential Digital Data constitutes a warranty to the Party receiving such Confidential Digital Data that the transmitting Party is authorized to transmit the Confidential Digital Data. If a Party receives Confidential Digital Data, the receiving Party shall keep the Confidential Digital Data strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 2.2.1.

§ 2.2.1 The receiving Party may disclose Confidential Digital Data as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. The receiving Party may also disclose the Confidential Digital Data to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Digital Data as set forth in this Exhibit.

§ 2.3 By transmitting Digital Data, the transmitting Party does not convey any ownership right in the Digital Data or in the software used to generate the Digital Data. Unless otherwise granted in a separate license, the receiving Party’s right to use, modify, or further transmit Digital Data is specifically limited to designing, constructing, using, maintaining, altering and adding to the Project consistent with the terms of this Exhibit, and nothing contained in this Exhibit conveys any other right to use the Digital Data.

§ 2.4 Where a provision in this Article 2 conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Article 2 shall prevail.

ARTICLE 3 DIGITAL DATA PROTOCOLS

§ 3.1 **Anticipated Types of Digital Data.** The anticipated types of Digital Data to be used on the Project are as follows: *(Indicate below the information on the Project that shall be created and shared in a digital format. If the Parties indicate that Building Information Modeling will be utilized on the Project, the Parties shall also complete Article 4.)*

Anticipated Digital Data	Applicability to the Project <i>(Indicate Applicable or Not Applicable)</i>	Location of Detailed Description <i>(Section 3.1.1 below or in an attachment to this exhibit and identified below)</i>
Project Agreements and Modifications		
Project communications		
Architect’s pre-construction submittals		
Contract Documents		
Contractor’s submittals		
Subcontractor’s submittals		
Modifications		
Project payment documents		
Notices and claims		
Building Information Modeling		

§ 3.1.1 Insert a detailed description of the anticipated Digital Data identified in Section 3.1, if not further described in an attachment to this Exhibit.

§ 3.2 As soon as practical following execution of the Agreement, the Parties shall further describe the uses of Digital Data, and establish necessary protocols governing the transmission and Authorized Uses of Digital Data, in consultation with the other Project Participants that are expected to utilize Digital Data on the Project.

§ 3.2.1 Unless another Project Participant is identified below, the Architect shall prepare and distribute to the other Project Participants Digital Data protocols for review, revision and approval.
(If a Project Participant other than the Architect shall be responsible for preparing draft and final Digital Data protocols, identify that Project Participant.)

§ 3.2.2 The agreed upon Digital Data protocols shall be set forth in AIA Document G201–2013 and each Project Participant shall memorialize their agreement in writing to such Digital Data protocols.

§ 3.2.3 The Parties, together with the other Project Participants, shall review and, if necessary, revise the Digital Data protocols at appropriate intervals as required by the conditions of the Project.

§ 3.3 The Parties shall transmit, use, store and archive Digital Data in accordance with the Digital Data protocols set forth in the latest version of AIA Document G201–2013 agreed to by the Project Participants.

§ 3.4 Unauthorized Use

§ 3.4.1 Prior to Establishment of Digital Data Protocols

If a Party receives Digital Data prior to the agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, that Party is not authorized to use or rely on the Digital Data. Any use of, or reliance on, such Digital Data is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 3.4.2 Following Establishment of Digital Data Protocols

Following agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, if a Party uses Digital Data inconsistent with the Authorized Uses identified in the Digital Data protocols, that use shall be at the sole risk of the Party using the Digital Data.

§ 3.5 Digital Data Management

§ 3.5.1 Centralized electronic document management system use on the Project shall be:

(Check the appropriate box. If the Parties do not check one of the boxes below, the default selection shall be that the Parties will not utilize a centralized electronic document management system on the Project.)

The Parties intend to use a centralized electronic document management system on the Project.

The Parties do not intend to use a centralized electronic document management system on the Project.

§ 3.5.2 If the Project Participants intend to utilize a centralized electronic document management system on the Project, the Project Participants identified in Section 3.5.3 shall be responsible for managing and maintaining such system. The Project Participants responsible for managing and maintaining the centralized electronic document management system shall facilitate the establishment of protocols for transmission, use, storage and archiving of the centralized Digital Data and assist the Project Participants identified in Section 3.2.1 above in preparing Digital Data protocols. Upon agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, the Project Participants identified in Section 3.5.3 shall manage and maintain the centralized electronic document management system consistent with the management protocols set forth in the latest version of G201–2013 approved by the Project Participants.

§ 3.5.3 Unless responsibility is assigned to another Project Participant, the Architect shall be responsible for managing and maintaining the centralized electronic document management system. If the responsibility for management and maintenance will be assigned to another Project Participant at an identified Project milestone, indicate below the Project Participant who shall assume that responsibility, and the Project milestone.

(Identify the Project Participant responsible for management and maintenance only if the Parties intend to utilize a centralized electronic document management system on the Project.)

Responsible Project Participant	Project Milestone
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ARTICLE 4 BUILDING INFORMATION MODELING PROTOCOLS

§ 4.1 If the Parties indicate in Section 3.1 that Building Information Modeling will be used on the Project, specify below the extent to which the Parties intend to utilize Building Information Modeling and identify the provisions of this Article 4 governing such use:

- [] The Parties shall utilize Building Information Modeling on the Project for the sole purpose of fulfilling the obligations set forth in the Agreement without an expectation that the Model will be relied upon by the other Project Participants. Unless otherwise agreed in writing, any use of, transmission of, or reliance on the Model is at the receiving Party's sole risk. The remaining sections of this Article 4 shall have no force or effect.
- [X] The Parties shall develop, share, use and rely upon the Model in accordance with Sections 4.2 through 4.10 of this Exhibit.

§ 4.2 **Anticipated Building Information Modeling Scope.** Indicate below the portions of the Project for which Modeling will be used and the anticipated Project Participant responsible for that Modeling.

Project Portion for Modeling	Responsible Project Participant
------------------------------	---------------------------------

§ 4.3 **Anticipated Model Authorized Uses.** Indicate below the anticipated Authorized Uses of the Model for the Project, which Authorized Uses will be agreed upon by the Project Participants and further described for each LOD in AIA Document G202–2013.

Authorized Uses of the Model for the Project are defined in Article 7 of AIA B101-2017.

§ 4.4 **Ancillary Modeling Activities.** Indicate additional Modeling activities agreed upon by the Parties, but not to be included in AIA Document G202–2013, if any.

(Describe any Modeling activities, such as renderings, animations, performance simulations, or other similar use, including the anticipated amount and scope of any such Modeling activities.)

Defined in EXH-B Project Design Milestones & Deliverables to AIA B101-2017.

§ 4.5 **Modeling Protocols.** As soon as practical following execution of the Agreement, the Parties shall, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, further describe the Authorized Uses of the Model and establish necessary protocols governing the development of the Model utilizing AIA Document G202–2013.

§ 4.5.1 The Modeling protocols shall address the following:

- 1 Identification of the Model Element Authors;
- 2 Definition of the various LOD for the Model Elements and the associated Authorized Uses for each defined LOD;
- 3 Identification of the required LOD of each Model Element at each identified Project milestone;
- 4 Identification of the construction classification systems to be used on the Project;
- 5 The process by which Project Participants will exchange and share the Model at intervals not reflected in Section 3.3, Model Element Table, of AIA Document G202–2013;
- 6 The process by which the Project Participants will identify, coordinate and resolve changes to the Model;
- 7 Details regarding any anticipated as-designed or as-constructed Authorized Uses for the Model, if required on the Project;

Init.

- .8 Anticipated Authorized Uses for facilities management or otherwise, following completion of the Project; and
- .9 Other topics to be addressed by the Modeling protocols: *(Identify additional topics to be addressed by the Modeling Protocols.)*

§ 4.5.2 Unless responsibility is assigned to another Project Participant identified below, the Architect shall prepare and distribute Modeling protocols to the other Project Participants for review, revision and approval. *(If a Project Participant other than the Architect shall be responsible for preparing draft and final Modeling protocols, identify that Project Participant.)*

§ 4.5.3 The agreed upon Modeling protocols shall be set forth in AIA Document G202–2013 and each Project Participant shall memorialize their agreement in writing to such Modeling protocols.

§ 4.5.4 The Parties, together with the other Project Participants, shall review, and if necessary, revise the Modeling protocols at appropriate intervals as required by the conditions of the Project.

§ 4.6 The Parties shall develop, use and rely on the Model in accordance with the Modeling protocols set forth in the latest version of AIA Document G202–2013, which document shall be included in or attached to the Model in a manner clearly accessible to the Project Participants.

§ 4.7 Unauthorized Use

§ 4.7.1 Prior to Establishment of Modeling Protocols

If a Party receives any Model prior to the agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, that Party is not authorized to use, transmit, or rely on the Model. Any use, transmission or reliance is at that Party’s sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 4.7.2 Following Establishment of Modeling Protocols

Following agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, if a Party uses or relies on the Model inconsistent with the Authorized Uses identified in the Modeling protocols, such use or reliance shall be at the sole risk of the Party using or relying on the Model. A Party may rely on the Model Element only to the extent consistent with the minimum data required for the identified LOD, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 4.8 Model Management

§ 4.8.1 The requirements for managing the Model include the duties set forth in this Section 4.8. Unless assigned to another Project Participant, the Architect shall manage the Model from the inception of the Project. If the responsibility for Model management will be assigned to another Project Participant, or change at an identified Project milestone, indicate below the identity of the Project Participant who will assume that responsibility, and the Project milestone.

Responsible Project Participant	Project Milestone
---------------------------------	-------------------

§ 4.8.2 **Model Management Protocol Establishment.** The Project Participant responsible for managing the Model, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, shall facilitate the establishment and revision of Model management protocols, including the following:

- .1 Model origin point, coordinate system, precision, file formats and units. The Model shall be accurately geo-located.
- .2 Model file storage location(s)
- .3 Processes for transferring and accessing Model files
- .4 Naming conventions as defined in the Owner's Revit and Drafting Standards.
- .5 Processes for aggregating Model files from varying software platforms

- .6 Model access rights
- .7 Identification of design coordination and clash detection procedures.
- .8 Model security requirements
- .9 Other: *(Identify additional Model management protocols to be addressed.)*

The Project Participant responsible for managing the Model shall use the issued MPS Revit template and conform to MPS Revit and Drafting Standards as defined in EXH-C.2 Quality Performance and Owner Provisions of AIA B101-2017.

§ 4.8.3 Ongoing Responsibilities. The Project Participant responsible for managing the Model shall do so consistent with the Model management protocols, which shall also include the following ongoing responsibilities:

- .1 Collect incoming Models:
 - .1 Coordinate submission and exchange of Models
 - .2 Create and maintain a log of Models received
 - .3 Review Model files for consistency with Sections 4.8.2.1 through 4.8.2.5
 - .4 Maintain a record copy of each Model file received
- .2 Aggregate Model files and make them available for Authorized Uses
- .3 Maintain Model Archives and backups consistent with the requirements of Section 4.8.4 below
- .4 Manage Model access rights
- .5 Other: *(Identify additional responsibilities.)*

§ 4.8.4 Model Archives. The individual or entity responsible for Model management as set forth in this Section 4.8 shall compile a Model Archive at the end of each Project milestone and shall preserve it without alteration as a record of Model completion as of that Project milestone.

§ 4.8.4.1 Additional Model Archive requirements, if any, are as follows:

§ 4.8.4.2 The procedures for storing and preserving the Model(s) upon final completion of the Project are as follows:

§ 4.9 Post-Construction Model. The services associated with providing a Model for post-construction use shall only be required if specifically designated in the table below as a Party’s responsibility. *(Designate below any anticipated post-construction Model and related requirements, the Project Participant responsible for creating or adapting the Model to achieve such uses, and the location of a detailed description of the anticipated scope of services to create or adapt the Model as necessary to achieve such uses.)*

Post-Construction Model	Applicability to Project <i>(Applicable or Not Applicable)</i>	Responsible Project Participant	Location of Detailed Description of Requirements and Services <i>(Section 4.10 below or in an attachment to this exhibit and identified below)</i>
§ 4.9.1 Remodeling	Applicable	Owner	
§ 4.9.2 Wayfinding and Mapping	Applicable	Architect	
§ 4.9.3 Asset/FF & E Management	Applicable	Owner	
§ 4.9.4 Energy Management	Applicable	Owner	
§ 4.9.5 Space Management	Applicable	Owner	
§ 4.9.6 Maintenance Management	Applicable	Owner	

§ 4.10 Insert a detailed description of the requirements for each Post-Construction Model identified in Section 4.9 and the anticipated services necessary to create each Post-Construction Model, if not further described in an attachment to this Exhibit.

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As part of basic services, the Architect shall produce wayfinding floor plans for use of the Owner. Floor plans shall be provided in PDF format to be printed on letter, 11x17 and 24x36 paper.

ARTICLE 5 OTHER TERMS AND CONDITIONS

Other terms and conditions related to the transmission and use of Digital Data are as follows:



Init.

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This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

This Exhibit dated the 13 day of March in the year 2018 is incorporated into the agreement (the “Agreement”) between the Parties for the following Project:

PAGE 4

The Parties intend to use a centralized electronic document management system on the Project.

PAGE 5

The Parties shall develop, share, use and rely upon the Model in accordance with Sections 4.2 through 4.10 of this Exhibit.

...

Authorized Uses of the Model for the Project are defined in Article 7 of AIA B101-2017.

...

Defined in EXH-B Project Design Milestones & Deliverables to AIA B101-2017.

PAGE 6

.1 Model origin point, coordinate system, precision, file formats and ~~units~~units. The Model shall be accurately geo-located.

...

.4 Naming conventions as defined in the Owner's Revit and Drafting Standards.

PAGE 7

The Project Participant responsible for managing the Model shall use the issued MPS Revit template and conform to MPS Revit and Drafting Standards as defined in EXH-C.2 Quality Performance and Owner Provisions of AIA B101-2017.

...

§ 4.9.1 Remodeling	<u>Applicable</u>	<u>Owner</u>	
§ 4.9.2 Wayfinding and Mapping	<u>Applicable</u>	<u>Architect</u>	
§ 4.9.3 Asset/FF & E Management	<u>Applicable</u>	<u>Owner</u>	

§ 4.9.4	Energy Management	<u>Applicable</u>	<u>Owner</u>	
§ 4.9.5	Space Management	<u>Applicable</u>	<u>Owner</u>	
§ 4.9.6	Maintenance Management	<u>Applicable</u>	<u>Owner</u>	

PAGE 8

As part of basic services, the Architect shall produce wayfinding floor plans for use of the Owner. Floor plans shall be provided in PDF format to be printed on letter, 11x17 and 24x36 paper.



Certification of Document's Authenticity

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(Signed)

(Title)

(Dated)



AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

THE OWNER:
(Name, legal status and address)

Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

THE ARCHITECT:
(Name, legal status and address)

TABLE OF ARTICLES

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- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
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- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES

ADDITIONS AND DELETIONS:

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

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For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or Suppliers who provide labor and/or materials for the Work.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2017.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an" but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.2

In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. The Owner/Contractor Agreement;
2. All Addenda to the Agreement with those of later date having precedence over those of earlier date;
3. The Supplementary Conditions;
4. The General Conditions of the Contract for Construction;
5. Specifications;
6. Drawings, with larger scale drawings having precedence over smaller scale drawings.

In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit or other form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form or other form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within thirty (30) days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract

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Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1 and other obligations, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor, not the Owner, is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a

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Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.2

The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on site. This shall not relieve Contractor from obligations under 3.2.2.1.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 The Contractor

shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Subparagraph 2.2.3 and shall immediately report to the Architect errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover.

§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the contract documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

§ 3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may

discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's

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warranty under Paragraph 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Paragraph 3.12.

§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Field Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

§ 3.3.7 The Contractor shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's operations.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent

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and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the project substitute materials, products, or equipment approved by Owner during the bidding period.

§ 3.4.5 The Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available cash discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

§ 3.4.6 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such
Substitutions.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

§ 3.5.3 Manufacturers' warranties and warranties by others shall not relieve the Contractor of any of its

responsibilities.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

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- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. All communications given to the superintendent shall be confirmed in writing to the Contractor upon written request of either or both the superintendent and Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If requested by the Owner, the Contractor shall preplace the Superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted by the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and updated daily to indicate field changes and selections made during construction, and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner as required to complete routine inspections by Architect and Owner prior to any approval of payments to the Contractor, and delivered to the Architect for submittal to the Owner upon completion of the Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

§ 3.11.1 No review or receipt of such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been accepted by the Architect.

§ 3.12.8 The Work shall be in accordance with accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued

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authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's acceptance thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's acceptance of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this paragraph. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this paragraph.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when required by the Contract Documents, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorney's fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within 60 days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys' fees.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 In the event the employment of the Architect is terminated, the Owner may employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 4.1.4 Disputes arising under Subparagraphs 4.1.2 and 4.1.3 shall be subject to action at law as provided in Paragraph 15.3.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's consultant (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Architect will advise and consult with the Owner. The Architect will have the authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect will keep the Owner informed of progress of the Work and will endeavor to guard the Owner against defects and deficiencies in the Work.

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor.

§ 4.2.3 The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.3. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect and the Contractor to comply with Owner requirements in regards to public communications and site signage.

§ 4.2.5 Based on the Architect's observations and valuations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect will have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will and the Owner may review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's or Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals by the Architect or the Owner is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's or the Owner's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's or the Owner's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's or Owner's acceptance of a specific item shall not indicate acceptance of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under the requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract

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Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any subcontractor or use any material to which the Architect or Owner may object as incompetent or unfit, or where there is reason to assume the Work will not be accomplished in accordance with the Contract Documents. Prior to the employment of the named subcontractors, the Contractor must obtain the Owner's approval of such subcontracts for the designated portion of the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.2.1 The right to reject any Subcontractor or Sub-subcontractor will be exercised by the Owner or the Architect when in the reasonable opinion of either of them the proposed Subcontractor or Sub-subcontractor:

1. cannot provide (or proposes unacceptable deviations in) materials, equipment, systems, methods, facilities, or other work as required by the Contract Documents;
2. cannot provide labor and skill necessary to accomplish the part of the Work for which it is proposed, including but not limited to quality of craft;
3. lacks experience appropriate to the proper execution and completion for that part of the Work for which the Subcontractor or Sub-subcontractor is proposed;
4. has previously failed to perform satisfactorily with respect to other projects, including cooperation and necessary services after project completion;
5. cannot satisfactorily perform the part of the Work for which the Subcontractor or Sub-subcontractor is proposed within the time schedule, due to financial status, size of organization, existing workload or other considerations;
6. cannot demonstrate ability, through examples of representative work, to perform the part of the Work for which the Subcontractor or Sub-subcontractor is being considered; or
7. exhibits other factors bearing on the probability of unsatisfactory performance.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference, in cost occasioned by such change, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution. Any proposed substitution or a subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the Owner and the Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the

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Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor, not the Owner, is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised. The Contractor shall schedule, coordinate, and cooperate fully with all other contractors. The

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Contractor shall take all reasonable steps necessary to assure scheduling, coordination, and cooperation among the contractors.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not reasonably discoverable.

§ 6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

§ 6.2.6 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Architect determines to be just.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The amount of credit to be allowed by the contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after

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consultation with the Owner. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

§ 7.1.5 In Paragraph 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

1. For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost,
2. For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor.
3. For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost.
4. For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor.
5. Costs to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.6.
6. In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over \$500 be approved without such itemization.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Orders shall be prepared on AIA Document G701.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (at rates approved by the Owner);
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment up to and not exceeding \$25,000. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

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§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term “day” shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents..

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

§ 8.2.5 Timely final Completion of the Project being of critical importance to the Owner, Contractor agrees that they shall substantially complete all Work under the Contract documents within the time established herein and that they shall finally complete the Work in the detail required and in the time required by the Contract Documents.

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

1. Require the Contractor to substantiate their capability to get back on schedule within two (2) days;
2. Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);
3. Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;
4. Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or
5. Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: 1) planning for the next two weeks; 2) work completed for the previous week; 3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor

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disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by other causes that the Contractor asserts, and the Architect determines, justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect only under the following conditions:

1. Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their subcontractors and suppliers.
2. In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;
3. Any unusual delay in deliveries will not be considered unless it is solely due to transportation. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;
4. With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given for unseasonably favorable weather;
5. Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;
6. A delay in the overall Project progress actually occurred and clearly disrupted the total Project programs as a result of one of the valid causes for time extension. An extension of time for parts, phases, or stages may be granted where a valid delay indicated such partial time extension is justified;
7. No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or
8. Delays by subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Subparagraph 8.3.1.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum. This is subject to the right of either party to disagree and assert a claim in accordance with Article 15.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. The schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G702, Application and Certification for Payment, supported by AIA Document G703, Continuation Sheet.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Such applications shall not include requests for payment of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason.

§ 9.3.1.2 Following certification of the Application for Payment by the Architect, the Owner shall pay 95% of its value, retaining 5% until Final Completion.

§ 9.3.1.3 Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the previous payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Paragraph shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

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§ 9.3.4 In each Application for Payment, the contractor shall certify as follows: "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's observations at the site, evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statute 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10.00. For an unpaid balance of less than \$100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statute 471.425, Subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorney's fees incurred in bringing the action.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If

approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Architect, then the Contractor may, upon ten (10) additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, which shall be accomplished as provided in Article 7.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use and when the Architect issues a certificate of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list.

Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

§ 9.8.6 Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

§ 9.8.6.1 The retainage is for the performance of the Contractor. Nothing in this Agreement connects the retainage to the Subcontractors. Upon satisfactory completion of the Project, and full payment by the Owner to the Contractor for the Work of any Subcontractor, the Subcontractor is to be paid in full. The Owner, at its sole discretion, may continue or make adjustments of the full retainage for the performance of the Contractor.

§ 9.8.6.2 Prior to requesting a reduction of retainage, the Contractor shall obtain in writing an agreement from the Surety agreeing to such a reduction. In reducing retainage, the Contractor shall use the retainage to make full payment to Subcontractors who have completed 100% of their work. The Contractor shall provide to the Owner documentation of payment to Subcontractors and an agreement for retainage deduction from the Surety of the Subcontractor.

§ 9.8.7 The Architect shall make inspection(s) for Substantial Completion and Final Completion in accordance with the AIA Document B101 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least sixty (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties,

such as manufacturers' warranties or specific Subcontractor warranties, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 DAMAGES FOR DELAY

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule.

§ 9.11.2 If the Contractor is delayed by the Owner, Architect, or any agent or employee of any of the foregoing, the Contractor's sole and exclusive remedy for the delay shall be the right to a time extension for completion of the Contract and not damages. This paragraph does not preclude Contractor's recovery of damage for contractor-caused delays under other provisions of the Contract Documents.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Paragraphs 15.1.4 and 15.1.5.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCV) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

1. Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.
2. The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or

contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

§ 10.3.2 The Contractor shall not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB)

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.3.

§ 10.3.4 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. The Owner, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes Section 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

§ 10.4 The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were required by the Contract Documents.

§ 10.5 MISCELLANEOUS GENERAL PROVISIONS

§ 10.5.1 In occupied facilities from the time the Work is begun until the Contract is completed, the Contractor shall be responsible for coordinating care and control of their contracted responsibilities with the Owner on the construction premises. The Contractor shall maintain all the Contractor's Work areas on the Project site in first class condition during term of operation under this Contract.

§ 10.5.2 The Contractor shall give full protection to existing adjacent buildings and occupants. The Contractor shall replace or repair, at the Contractor's own expense, all damage to existing buildings, sidewalks, curbs, drives, fences, planters, signage, monuments, lawns, plants, trees, and shrubbery arising as a result of Work performed under the Contract.

§ 10.5.3 Utilities encountered, whether shown on Project Drawings or not, shall be protected and maintained in service until moved or abandoned. The Contractor shall exercise care in the excavation around such utilities as may be shown on the Project Drawings or otherwise found, and which are not to be moved, replaced, or abandoned, and shall restore any damaged items or Work to the same conditions (or better) as existed prior to starting Work. Utilities or other service shown to be abandoned shall be maintained in service until facilities are provided, tested, and ready to use. The Contractor shall take all reasonable precautions in working in the area of excavation to avoid personal injury or property damage resulting from interception or interruption of electrical, telephone, sewer, water, gas, or other services, and shall also cause all Subcontractors, Sub-subcontractors material suppliers, laborers, and other persons on the construction premises to take such precautions. The location and nature of such concealed or buried services is not guaranteed or completely indicated by Owner or Architect.

§ 10.5.4 The Contractor shall at all times take reasonable and adequate precautions to protect the Work from damage by the elements, including flooding, rainstorms, windstorms, and any other elements or natural events, etc., and shall not expose the Work of any other contractor to such damages. Where the Contractor, any Subcontractor, or any Sub-subcontractor prepares or erects any material during any season of the year when freezing weather may be anticipated, the Contractor shall employ (and shall cause such Subcontractor or Sub-subcontractor to employ) such methods as may be necessary to render such Work equal in every respect to similar Work done under favorable conditions and the Contractor shall exercise (and shall cause any such Subcontractor or Sub-subcontractor to exercise) reasonable care and diligence to prevent its damage or deterioration. The Contractor shall be responsible for maintaining the building in a dry condition until acceptance. The Contractor shall be responsible for any damage from water, as well as for damage, collapse, or failure of any part of the building caused by excess water undermining or creating pressures on the structures.

§ 10.5.5 The Contractor shall not sue any internal combustion machinery that causes noxious, harmful, or toxic fumes inside an enclosed building. When use of internal combustion machinery is unavoidable inside enclosed buildings, the Contractor shall obtain written approval from the Owner prior to use of the machinery and shall provide full ventilation to the outside of the enclosed building for the exhaust of the internal combustion machinery. The Contractor shall locate internal combustion machinery outside an enclosed building so that the exhaust fumes will not enter the building through vent ducts, doors, windows, or other openings in the building.

§ 10.5.6 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all reasonable costs and expenses thereby incurred.

§ 10.6 EMERGENCIES

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C.3 Owner Insurance, or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C.3 Owner Insurance and shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from

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an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph Deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company must hold a "Certificate of Authority" acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Architect within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

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§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 If, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner and/or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner and/or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner and/or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation from the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

§ 12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.6 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the contract documents. Establishment of the time period of one year as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give a minimum of two (2) working days' notice to the Architect of when and where tests and inspections are to be made so that the Architect may observe procedures. The Owner shall bear such costs, except as provided in Subparagraph 13.4.3.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 NON-DISCRIMINATION

§ 13.5.1 All contracts between the Owner and companies providing goods and services under the Contract Documents (including the Architect and Contractor) shall contain the following equal opportunity and civil right clause:

"During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the provider shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The provider shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The provider acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.5.2 During the completion of the work and all other services required by the Contract Documents, the Architect and Contractor agree that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Architect and Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Architect and Contractor acknowledge that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the

representations of the Owner or Architect, or by inspections, tests, or approvals required or performed by the Owner or Architect or anyone else.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

(Paragraph Deleted)

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the claimant first recognizes the

condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.2 Initial Decision

§ 15.2.1 Claims, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for action. A decision by the Architect, as provided by Subparagraph 15.2.2, shall be required as a condition precedent to action at law or litigation of a Claim between the Contractor and Owner as to all such matters arising prior to the date final payment is due, regardless if (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to action at law or litigation in the event (1) the position of
(Paragraph Deleted)

Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 15.2.2 within the ten (10) days after the Claim is made, (4) ten (10) days, which decision shall be final subject to action at law as provided in paragraph 15.3. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Architect will review Claims and take one or more of the following preliminary actions within ten (10) days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part stating reasons for the rejection, (4) recommend approval of the Claim by the other party, or (5) suggest a compromise. If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or

Init.

requested by the Architect, the Architect shall notify the parties in writing that the Architect's decision will be made within ten (10) days, which decision shall be final subject to action at law as provided in Paragraph 15.3.

§ 15.2.3 If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.

§ 15.2.4 If a Claim has not been resolved, the party making the Claim shall, within ten (10) days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim, or (3) notify the Architect that the initial Claim stands.

§ 15.2.5 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven (7) days, which decision shall be final and binding on the parties but subject to action at law. Upon expiration of such time period, the Architect will render to the parties

the Architect's written decision relative to the

Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.6 in the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

(Paragraph Deleted)

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

Additions and Deletions Report for AIA® Document A201™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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Minneapolis Public Schools Special School District #1
1250 West Broadway Avenue
Minneapolis, MN 55411

PAGE 2

EXH-A Project Charter

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EXH-C.3 Owner Insurance

PAGE 10

§ 1.1.1.1 Notwithstanding the foregoing, it is understood and agreed that the Owner is an intended third-party beneficiary of all contracts between the Contractor and Subcontractors or Suppliers who provide labor and/or materials for the

...

§-Work.

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§ 1.1.2 The Contract

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The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. ~~The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~ Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2017.

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§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated-intended~~ results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

In the interest of brevity the Contract Documents frequently omit modifying words such as ~~"all" and "any,"~~ "all" and "any" and articles such as ~~"the" and "an,"~~ "the" and "an" but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either ~~statement.~~ statement.

...

§ 1.4.2

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In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. The Owner/Contractor Agreement;
2. All Addenda to the Agreement with those of later date having precedence over those of earlier date;
3. The Supplementary Conditions;
4. The General Conditions of the Contract for Construction;
5. Specifications;
6. Drawings, with larger scale drawings having precedence over smaller scale drawings.

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In the case of inconsistency between Drawings and Specifications or within Contract Documents not clarified by Addenda, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

...

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. The Owner retains rights to the Instruments of Service pursuant to Article 7 of AIA Document B101-2017.

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§ 1.5.3 The Architect shall furnish to the Contractor a version of the Instruments of Service in electronic form for the sole purpose of the construction of the Project for which the Instruments of Service were created.

...

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties ~~will~~ may use AIA Document E203™–2013, Building Information Modeling and Digital Data ~~Exhibit, Exhibit or other form,~~ to establish the protocols for the development, use, transmission, and exchange of digital data.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol ~~Form, Form or other form,~~ shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

...

§ 2.1.2 The Owner shall furnish to the Contractor, within ~~fifteen~~ thirty (30) days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

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§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section ~~3.7.1, 3.7.1 and other obligations,~~ the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

...

§ 2.3.4 ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

...

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor, not the Owner, is responsible for the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the Contractor.

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If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the

Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.2

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The Contractor shall hire a professional utilities locator to investigate and verify all private utility locations prior to excavation and cutting into of existing Work. The Contractor is responsible for locating, terminating, and reinstallation of all private utilities. Private site utilities may not be in the Drawings and Project Manual and as such, verification of private utilities is the sole responsibility of the Contractor. Costs associated with moving and repairing of unknown and undocumented utilities will be by appropriate Change Order. The Contractor shall comply with Gopher State One Call, or other public utility service locator to locate all public utilities prior to any work on site. This shall not relieve Contractor from obligations under 3.2.2.1.

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~~§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.~~The Contractor

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~~§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made Subparagraph 2.2.3 and shall immediately report to the Architect errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover.~~

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known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the contract documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

...

~~§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.~~3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may

PAGE 15

~~§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Paragraph 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.~~

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~~Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor~~§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Paragraph 3.12.

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~~shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Field Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.

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§ 3.3.4 The Contractor shall at all times staff the Project adequately to allow the Project to be managed and completed in a timely and professional manner. The Contractor shall have competent supervision on the job during work hours and readily available at all times upon call.

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§ 3.3.5 The Contractor shall at all times make reasonable provisions to protect any work performed by any separate contractors, adjacent property, and the existing building (if any) from damage due to the Work or due to the weather.

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§ 3.3.6 The Owner or its approved representative (heretofore referred to as Owner's Representative) shall have access to the Work site and all Work. No supervision or inspection by the Owner or the Owner's Representative, nor the authority to act nor any other actions taken by the Owner's Representative shall relieve the Contractor of any of its obligations under the Contract Documents or give rise to any duty on the part of the Owner.

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§ 3.3.7 The Contractor shall take appropriate precautions to ensure that the Work does not materially disrupt any ongoing operation by the Owner at the Project (if any) except to the extent any such disruption is a necessary result of performing a particular portion of the Work, in which case the contractor shall provide the Owner with reasonable advanced written notice and shall take all commercially reasonable measures to minimize the impact on the Owner and the Owner's

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§-operations.

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§ 3.4 Labor and Materials

PAGE 16

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the contractor.

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§ 3.4.4 The Contractor shall be responsible for all additional costs incurred to incorporate into the project substitute materials, products, or equipment approved by Owner during the bidding period.

...

§ 3.4.5 The Contractor shall exercise reasonable efforts, consistent with the provisions of the Contract Documents to obtain the maximum available cash discounts on all materials, provided that, in doing so, the Contractor shall not accept or use materials for incorporation into the Project which are of a type or quality not reasonably contemplated under the terms of the Contract Documents.

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§ 3.4.6 After award of the Contract, a request for substitution of a material, product, or piece of equipment at no change in the Contract Sum will not be approved by the Owner or the Architect, unless the specified item is no longer manufactured, the specified item is unavailable as a result of an act of government such as a declaration of a national emergency, or delivery of the specified items is substantially delayed as a result of labor disputes affecting the manufacturer, unusual delay in transportation, or any other cause beyond control of the Contractor or a Subcontractor or material supplier which the Architect determines justified the delay. Requests will not be approved where the delay in delivery results from failure to promptly place subcontracts and material orders. Requests for substitution shall be submitted in writing to the Architect and shall clearly describe the proposed substitution, state

the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

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§ 3.4.6 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed Substitutions and for changes made to the Contract Documents as a result of Owner's acceptance of such

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§ Substitutions.

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§ 3.5 Warranty

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§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor shall arrange for the Owner to have the benefit of and right to enforce all warranties by Subcontractors, Sub-subcontractors, suppliers, and manufacturers.

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§ 3.5.3 Manufacturers' warranties and warranties by others shall not relieve the Contractor of any of its

PAGE 17

§ responsibilities.

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§ 3.6 Taxes

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§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall be responsible for the Sewer Access (SAC) and Water Access (WAC) fees for the Project. The Contractor shall pay the SAC/WAC costs to the authorities having jurisdiction from the Allowance in the Base Bid for such charges as defined in the Construction Documents.

...

§ 3.7.3 If the Contractor performs Work knowing or believing it to be contrary to applicable laws, statutes, ordinances, building codes, rules and regulations, or lawful orders of public authorities, without such notice to the Architect and Owner, the Contractor shall assume appropriate full responsibility for such Work and shall bear the costs attributable to correction. attributable costs, delays, and damages resulting from such failure to immediately notify the Architect and Owner of any such violation.

...

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than ~~14~~ten (10) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the ~~Work.~~Work including that performed by all Subcontractors. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications including and not limited to communications regarding design changes, alterations, substitutions, clarifications, cost changes, etc. shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. All communications given to the superintendent shall be confirmed in writing to the Contractor upon written request of either or both the superintendent and Contractor.

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§ 3.9.3 The Contractor shall not employ a proposed superintendent or any other management personnel to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

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§ 3.9.4 If requested by the Owner, the Contractor shall preplace the Superintendent at no additional cost to the Owner. No other change in this position shall be made without notice to and written consent of the

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§-Owner.

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§ 3.10 Contractor's Construction and Submittal Schedules

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§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, critical path schedule milestones, major construction milestones including and not limited to Civil, Demolition, Structural, Mechanical, Electrical, and Plumbing, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the

Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

...

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted by the Owner and Architect.

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The Contractor shall make available, at the Project site, one record copy of the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and ~~marked currently~~ updated daily to indicate field changes and selections made during construction, ~~and the~~ and in addition accepted and approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and ~~Owner,~~ Owner as required to complete routine inspections by Architect and Owner prior to any approval of payments to the Contractor, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record-Work. The Architect and Contractor must verify that all "as-built" Drawings, Specifications, Addenda, Change Orders, and other Modifications are up-to-date before Contractor's Application for Payment is acceptable and before the Owner incurs any duty to pay Contractor in accordance with the Contract. The record documents shall be a separate set of documents labeled "Record Documents" and used only for record purposes and kept clean and undamaged.

...

§ 3.11.1 No review or receipt of the Work as constructed, such records by the Architect or Owner shall be considered a waiver of any deviation from the Contract Documents or approved shop drawings, or any way relieve the Contractor from its responsibility to perform the Work in accordance with the Contract Documents.

...

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved-accepted by the Architect.

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§ 3.12.8 The Work shall be in accordance with approved-accepted submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval-acceptance of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval-acceptance to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval-acceptance thereof.

...

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval-acceptance of a resubmission shall not apply to such revisions.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor

except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. the Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

...

§ 3.15.1 The Contractor shall keep the premises and surrounding area continuously free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, Contractor generated waste materials, the Contractor's generated hazardous waste materials, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

PAGE 21

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity ~~that which~~ would otherwise exist as to a party or person described in this Section 3.18. The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this paragraph. The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this paragraph.

...

§ 3.18.3 To the fullest extent permitted by law and without limiting any other indemnification obligations of the Contractor, except to the extent caused by the uncured failure of the Owner to make payment when required by the Contract Documents, the Contractor shall indemnify and defend the Owner, its officers, directors, assigns, lenders, agents, and employees from any liens, charges (including attorney's fees) or encumbrances (including but not limited to mechanic's and materialmen's liens or bond claims) arising out of or in connection with the performance of the Work by Contractor, its Subcontractors, or its material suppliers. Upon request of the Owner, the Contractor shall within 60 days remove any liens filed against the Owner or its property. If the Contractor fails to do so, the Owner is authorized by the Contractor to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred by the Owner to do so, including attorneys'

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ARTICLE fees.

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ARTICLE 4 ARCHITECT

PAGE 22

§ 4.1.3 In the event the employment of the Architect is terminated, the Owner may employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

...

§ 4.1.4 Disputes arising under Subparagraphs 4.1.2 and 4.1.3 shall be subject to action at law as provided in Paragraph 15.3.

...

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have the Owner's consultant (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Architect will advise and consult with the Owner. The Architect will have the authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

...

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, of the Work completed, to endeavor to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect will keep the Owner informed of progress of the Work and will endeavor to guard the Owner against defects and deficiencies in the Work.

...

§ 4.2.2.2 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor.

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~~Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the~~ **§ 4.2.3** The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

...

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. Contractor's responsibility as provided in Paragraph 3.3. The Architect will not be responsible for the Contractor's failure to perform carry out the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

...

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the ~~Owner.~~ Owner unless otherwise provided. The Contract Documents may specify other communication protocols. The Owner may require the Architect and the Contractor to comply with Owner requirements in regards to public communications and site signage.

...

§ 4.2.5 Based on the Architect's ~~evaluations~~ observations and valuations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

...

§ 4.2.6 The Architect ~~has~~ will have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or ~~advisable,~~ advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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§ 4.2.7 The Architect will and the Owner may review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's ~~action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness or~~ Owner's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals ~~by the Architect or the Owner~~ is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's ~~or the Owner's~~ review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's ~~or the Owner's~~ review shall not constitute approval precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's ~~approval or Owner's acceptance~~ of a specific item shall not indicate ~~approval~~ acceptance of an assembly of which the item is a component.

...

§ 4.2.11 The Architect will interpret and decide matters concerning performance ~~under, and under the~~ requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made ~~in writing within any time limits agreed upon or otherwise with reasonable promptness, with reasonable promptness and within any time limits agreed upon.~~ If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) days after written request is made to them.

...

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations

and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.

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§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall not employ any subcontractor or use any material to which the Architect or Owner may object as incompetent or unfit, or where there is reason to assume the Work will not be accomplished in accordance with the Contract Documents. Prior to the employment of the named subcontractors, the Contractor must obtain the Owner's approval of such subcontracts for the designated portion of the Work.

...

§ 5.2.2.1 The right to reject any Subcontractor or Sub-subcontractor will be exercised by the Owner or the Architect when in the reasonable opinion of either of them the proposed Subcontractor or Sub-subcontractor:

1. cannot provide (or proposes unacceptable deviations in) materials, equipment, systems, methods, facilities, or other work as required by the Contract Documents;
2. cannot provide labor and skill necessary to accomplish the part of the Work for which it is proposed, including but not limited to quality of craft;
3. lacks experience appropriate to the proper execution and completion for that part of the Work for which the Subcontractor or Sub-subcontractor is proposed;
4. has previously failed to perform satisfactorily with respect to other projects, including cooperation and necessary services after project completion;
5. cannot satisfactorily perform the part of the Work for which the Subcontractor or Sub-subcontractor is proposed within the time schedule, due to financial status, size of organization, existing workload or other considerations;
6. cannot demonstrate ability, through examples of representative work, to perform the part of the Work for which the Subcontractor or Sub-subcontractor is being considered; or
7. exhibits other factors bearing on the probability of unsatisfactory performance.

...

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. ~~If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time~~ The Contract Sum shall be increased or decreased by the difference, if any, in cost occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum ~~or Contract Time~~ shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required. Notwithstanding the foregoing, the Contractor shall have a continuing duty to the Owner and Architect to find and propose such persons or entities as shall not result in material increase in the Contract Sum, or a material decrease in the quality of Work contemplated under the Contract Documents.

...

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution. Any proposed substitution or a subcontractor, person, or entity for one previously selected shall be made in a separate writing to the Owner and Architect. No substitution shall be deemed approved/accepted without written confirmation from the Owner and Architect. Neither acceptance of, nor objection to a Subcontractor or Sub-subcontractor, material supplier, or other person or organization by the

Owner and the Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

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§ 5.3.2 The Contractor, not the Owner, is responsible for the performance of, the actions of, the timeliness of, or interference caused by, Subcontractors, Sub-subcontractors (of any tier), and others directly or indirectly under contract to the

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§-Contractor.

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§ 5.4 Contingent Assignment of Subcontracts

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§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised. The Contractor shall schedule, coordinate, and cooperate fully with all other contractors. The Contractor shall take all reasonable steps necessary to assure scheduling, coordination, and cooperation among the contractors.

...

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible

for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not ~~apparent~~ reasonably discoverable.

...

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction. Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.~~

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§ 6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Article 15 provided the separate contractor has reciprocal obligations.

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§ 6.2.6 ~~The Owner and each Separate Contractor~~ separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section-Paragraph 3.14.

...

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and ~~rubbish~~, rubbish as described in Paragraph 3.15, the Owner may clean up and the Architect will allocate the cost among those responsible ~~responsible as the Architect determines to be just.~~

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

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§ 7.1.4 The amount of credit to be allowed by the contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect after consultation with the Owner. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for both overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

...

§ 7.1.5 In Paragraph 7.3.6, the allowance for the combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

1. For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost,
2. For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor.
3. For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost.
4. For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor.

5. Costs to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.6.
6. In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over \$500 be approved without such itemization.

...

§ 7.2.2 Change Orders shall be prepared on AIA Document G701.

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- 3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others; others~~ (at rates approved by the Owner);

...

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

...

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. Payment up to and not exceeding \$25,000. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

...

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in ~~writing; writing~~ and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

...

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined; shall mean calendar day of 24 hours beginning at 12:00 midnight. Calendar days as stated in the Contract Documents, shall include all days of a seven (7) day week including Saturdays, Sundays, and holidays. The term "Milestone Date" is, in each instance, the date established in the Contract Documents for the Substantial completion of all or a designated portion of the Work.

...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and shall achieve specific contractual Milestone Dates (if any), Substantial Completion and final Completion within the time stated in the Contract Documents..

...

§ 8.2.4 Contractor understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Substantial Completion, Final Completion, and Milestone Dates (if any) may be met by the Contractor.

...

§ 8.2.5 Timely final Completion of the Project being of critical importance to the Owner, Contractor agrees that they shall substantially complete all Work under the Contract documents within the time established herein and that they shall finally complete the Work in the detail required and in the time required by the Contract Documents.

...

§ 8.2.6 To the extent that the Contract Documents contain or provide for specific contractual Milestone Dates in addition to Final and Substantial Completion dates, such dates shall be adhered to and shall be the last acceptable dates for those milestones and completions, unless modified by the Owner.

...

§ 8.2.7 Notwithstanding anything to the contrary contained in the Contract Documents, in the event that any Contractor fails, or appears likely, in the reasonable opinion of the Owner, to fail to complete a critical portion of their Work on time or to complete any dates for Substantial Completion, Final Completion, or Milestone Dates as evidenced by the latest update of the CPM Schedule Report, the Owner shall have the right to select and require Contractor's performance under any or all of the following operations:

1. Require the Contractor to substantiate their capability to get back on schedule within two (2) days;
2. Require the Contractor, at no additional cost to the Owner, to increase their work force, work overtime and/or extra shifts and do whatever else is required by the Owner until the Contractor gets back on schedule as established by the CPM Schedule Report (including any updates thereto);
3. Withhold progress payments or portions thereof until such time as the contractor returns to schedule, but only related to Substantial Completion or Final Completion;
4. Contact or visit the factory, plant, or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work and expedite such production delivery at Contractor's expense; or
5. Require the Contractor to complete, in detail, and submit weekly a Short Interval Schedule (SIS) showing: 1) planning for the next two weeks; 2) work completed for the previous week; 3) sufficient detail to evaluate daily milestone (if any) and manpower/equipment loading, and shall identify/tie into the monthly updated CPM Schedule Report.

...

Any costs incurred by the Contractor in fulfilling the option(s) selected by the Owner shall be at the Contractor's expense.

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) or (4) by other causes that the Contractor asserts, and the Architect determines, justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect only under the following conditions:

1. Only those conditions enumerated above over which the Contractor has no control will be considered. The burden of proof to substantiate the claim for an extension shall rest with the Contractor, including evidence that the cause was beyond their control. It shall be deemed the Contractor has control over the supply of labor, materials, equipment, methods, techniques, and over their subcontractors and suppliers.
2. In the event of Changes in the Work, any consideration for a time extension will be made only at the time of authorizing the changes, and no later than when the Change Order is prepared, and only if the Change Order significantly affects the time and progress of the entire Work. For changes which do not affect the entire Work, time extension may be granted only for the area, phase, unit, or element affected by the change, if due to a valid reason for a time extension;
3. Any unusual delay in deliveries will not be considered unless it is solely due to transportation. An extension of time will not be granted for delays in deliveries where said delivery was not properly scheduled or when orders were not promptly and properly placed;
4. With respect to a claim for an extension of time as a result of climatic conditions, the Contractor shall recognize the location of the site and the existence, as normal, or variations from "average" conditions. Foul weather in itself will not be a valid reason for a time extension. Requests for time extensions because of delay resulting from weather extremes will not be considered unless a substantial variation from usual weather conditions occurs for a significant period of time, during phases of the Work when operation necessarily were suspended to a significant degree when they would otherwise have been in progress. In considering the time extension, the weather conditions both before and after the period in which the delay is claimed will be evaluated with credit given for unseasonably favorable weather;
5. Delays resulting from a labor dispute will not result in a time extension of a longer period than the dispute, plus a reasonable time for mobilization if justified and necessary as approved by the Architect, and may be less depending on the impact of the dispute, including what operations were suspended or curtailed;
6. A delay in the overall Project progress actually occurred and clearly disrupted the total Project programs as a result of one of the valid causes for time extension. An extension of time for parts, phases, or stages may be granted where a valid delay indicated such partial time extension is justified;
7. No time extension will be granted as a result of improper scheduling or for failure to have shop drawings or samples submitted in ample time for review under a reasonable and agreed upon schedule; or
8. Delays by subcontractors or suppliers will not be considered justification for a time extension, except for the same valid reasons and conditions enumerated under Subparagraph 8.3.1.

...

§ 8.3.4 The Contractor shall be responsible for all Owner incurred costs associated with a Contractor related to delay in completion of the Project. These costs may include, but are not limited to, Owner staff overtime, Consultant additional fees, additional testing, and/or additional rental or storage costs. A Change Order or Construction Change Directive will be issued to cover these costs. If a Change Order is not agreed to by the Contractor, the Owner, after presenting documentation to the Contractor, may deduct these amounts without a Change Order from the Contract Sum. This is subject to the right of either party to disagree and assert a claim in accordance with Article

...

ARTICLE 15.

...

ARTICLE 9 PAYMENTS AND COMPLETION

PAGE 31

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. ~~The schedule of values shall be~~ Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This ~~The schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Contractor, after receipt of Notice to Proceed, shall meet with the Owner and the Architect for the purpose of reviewing the Project CPM Schedule and the Contract Schedule of Values. The Contractor shall develop a CPM Schedule for completing their portion of the Work, in conjunction with all other Contractors or Bid Packages, at the Pre-Construction Meeting(s). The Schedule of Values is to be broken down into specification sections and by labor and materials.~~

...

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G702, Application and Certification for Payment, supported by AIA Document G703, Continuation Sheet.

...

§ 9.3.1.2 Applications for Payment ~~Such applications shall not include requests for payment for portions of the Work for which of amounts the Contractor does not intend to pay a Subcontractor or supplier because of a dispute or other reason.~~

...

§ 9.3.1.2 Following certification of the Application for Payment by the Architect, the Owner shall pay 95% of its value, retaining 5% until Final Completion.

...

~~or supplier, unless such Work has been performed by others whom the Contractor intends to~~

~~pay.~~ **§ 9.3.1.3** Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the pervious payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Paragraph shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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§ 9.3.4 In each Application for Payment, the contractor shall certify as follows: "That there are no known mechanics' or materialmen's liens or stop notice claims outstanding by the application or any of its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers, or laborers at the date of this application, that all due and payable bills with respect to the Work have been paid or are included in the amount requested in current application, and that, except for such bills, not paid by Owner, but so included, there is no known basis for the filing of any mechanics' or materialmen's liens or stop notice claims on the Work, and that waivers from Contractor, its subcontractors of any tier, or any of the applicant's or subcontractor's material suppliers and laborers have been obtained in such form as to constitute an effective waiver of liens or stop notice claims, under the laws of the State of Minnesota to the extent of payments made by Owner to Contractor."

...

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's observations at the site, evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment within thirty (30) days of receipt by Owner of Certificate of Payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

...

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Per Minnesota Statute 471.425, within ten (10) days of Contractor's receipt of payment from Owner, the Contractor must pay any Subcontractor for any undisputed services provided by the Subcontractor. The Contractor shall pay interest of one and one-half percent (1-1/2%) per month, or any part of a month, to the Subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10.00. For an unpaid balance of less than \$100, the Contractor shall pay the actual interest penalty due to the Subcontractor. Contractor is advised that by reason of Minnesota Statute 471.425, Subd. 4a, if a Subcontractor prevails in a civil action to collect interest penalties from a prime contractor, the Subcontractor must be awarded its costs and disbursements, including attorney's fees incurred in bringing the action.

...

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven-thirty (30)~~ days after the date established in the Contract Documents, the amount certified by the Architect ~~awarded by binding dispute resolution,~~ then the Contractor may, upon ~~seven-ten (10)~~ additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, ~~plus interest as provided for in the Contract Documents.~~ which shall be accomplished as provided in Article 7.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use ~~and when the Architect issues a certificate of Substantial Completion.~~

...

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected ~~prior to final payment.~~ The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item, upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Document shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

...

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

...

~~Upon such acceptance, and consent of surety if any,~~ **§ 9.8.6** Upon Substantial completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

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§ 9.8.6.1 The retainage is for the performance of the Contractor. Nothing in this Agreement connects the retainage to the Subcontractors. Upon satisfactory completion of the Project, and full payment by the Owner to the Contractor for the Work of any Subcontractor, the Subcontractor is to be paid in full. The Owner, at its sole discretion, may continue or make adjustments of the full retainage for the performance of the Contractor.

...

~~shall make payment of retainage applying to the Work or designated portion thereof. Such payment~~ **§ 9.8.6.2** Prior to requesting a reduction of retainage, the Contractor shall obtain in writing an agreement from the Surety agreeing to such a reduction. In reducing retainage, the Contractor shall use the retainage to make full payment to Subcontractors who have completed 100% of their work. The Contractor shall provide to the Owner documentation of payment to Subcontractors and an agreement for retainage deduction from the Surety of the Subcontractor.

...

~~shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.~~ **§ 9.8.7** The Architect shall make inspection(s) for Substantial Completion and Final Completion in accordance with the AIA Document B101 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's observations, on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

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§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, ~~effect and will not be canceled or allowed to expire until at least sixty (60) days' prior written notice has been given to the Owner,~~ (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6) if required by the Owner, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.~~

...

§ 9.11 DAMAGES FOR DELAY

...

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule.

...

§ 9.11.2 If the Contractor is delayed by the Owner, Architect, or any agent or employee of any of the foregoing, the Contractor's sole and exclusive remedy for the delay shall be the right to a time extension for completion of the Contract and not damages. This paragraph does not preclude Contractor's recovery of damage for contractor-caused delays under other provisions of the Contract

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ARTICLE Documents.

...

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

...

§ 10.1.1 Safety Precautions and Programs

...

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone

...

§-else.

...

§ 10.2 Safety of Persons and Property

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If either party suffers injury or ~~damaged~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery, ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Paragraphs 15.1.4 and 15.1.5.

...

~~§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not~~

~~addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCV) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect in writing. The Work in the~~

...

~~§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor. By Change Order, the Contract Time~~

- ~~1. Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.~~
- ~~2. The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.~~

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~~§ 10.3.2 The Contractor shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB)~~

...

~~§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.3.~~

...

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. The Owner, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

...

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

...

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes Section 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

...

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

...

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

...

§ 10.4 The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were required by the Contract Documents.

...

§ 10.5 MISCELLANEOUS GENERAL PROVISIONS

...

§ 10.5.1 In occupied facilities from the time the Work is begun until the Contract is completed, the Contractor shall be responsible for coordinating care and control of their contracted responsibilities with the Owner on the

construction premises. The Contractor shall maintain all the Contractor's Work areas on the Project site in first class condition during term of operation under this Contract.

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§ 10.5.2 The Contractor shall give full protection to existing adjacent buildings and occupants. The Contractor shall replace or repair, at the Contractor's own expense, all damage to existing buildings, sidewalks, curbs, drives, fences, planters, signage, monuments, lawns, plants, trees, and shrubbery arising as a result of Work performed under the Contract.

...

§ 10.5.3 Utilities encountered, whether shown on Project Drawings or not, shall be protected and maintained in service until moved or abandoned. The Contractor shall exercise care in the excavation around such utilities as may be shown on the Project Drawings or otherwise found, and which are not to be moved, replaced, or abandoned, and shall restore any damaged items or Work to the same conditions (or better) as existed prior to starting Work. Utilities or other service shown to be abandoned shall be maintained in service until facilities are provided, tested, and ready to use. The Contractor shall take all reasonable precautions in working in the area of excavation to avoid personal injury or property damage resulting from interception or interruption of electrical, telephone, sewer, water, gas, or other services, and shall also cause all Subcontractors, Sub-subcontractors material suppliers, laborers, and other persons on the construction premises to take such precautions. The location and nature of such concealed or buried services is not guaranteed or completely indicated by Owner or Architect.

...

§ 10.5.4 The Contractor shall at all times take reasonable and adequate precautions to protect the Work from damage by the elements, including flooding, rainstorms, windstorms, and any other elements or natural events, etc., and shall not expose the Work of any other contractor to such damages. Where the Contractor, any Subcontractor, or any Sub-subcontractor prepares or erects any material during any season of the year when freezing weather may be anticipated, the Contractor shall employ (and shall cause such Subcontractor or Sub-subcontractor to employ) such methods as may be necessary to render such Work equal in every respect to similar Work done under favorable conditions and the Contractor shall exercise (and shall cause any such Subcontractor or Sub-subcontractor to exercise) reasonable care and diligence to prevent its damage or deterioration. The Contractor shall be responsible for maintaining the building in a dry condition until acceptance. The Contractor shall be responsible for any damage from water, as well as for damage, collapse, or failure of any part of the building caused by excess water undermining or creating pressures on the structures.

...

§ 10.5.5 The Contractor shall not sue any internal combustion machinery that causes noxious, harmful, or toxic fumes inside an enclosed building. When use of internal combustion machinery is unavoidable inside enclosed buildings, the Contractor shall obtain written approval from the Owner prior to use of the machinery and shall provide full ventilation to the outside of the enclosed building for the exhaust of the internal combustion machinery. The Contractor shall locate internal combustion machinery outside an enclosed building so that the exhaust fumes will not enter the building through vent ducts, doors, windows, or other openings in the building.

...

§ 10.5.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by

the Contract Documents, the Owner shall ~~reimburse~~ indemnify the Contractor for all cost and expense thereby incurred. reasonable costs and expenses thereby incurred.

...

§ ~~10.4 Emergencies~~ 10.6 EMERGENCIES

...

In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C.3 Owner Insurance, or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C.3 Owner Insurance and shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

...

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

...

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

...

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

...

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

...

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

...

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

...

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

...

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

...

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

PAGE 41

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

...

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

...

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

...

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company must hold a "Certificate of Authority" acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

...

§ 11.6.3 The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

...

§ 11.6.4 The Contractor shall furnish two (2) originals of the Bonds to the Architect within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. ~~Costs~~ The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense thereby.

...

§ 12.2.2.1 ~~In addition to the Contractor's obligations under Section 3.5, if, If,~~ within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it ~~promptly~~ promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner and/or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner and/or Architect shall give such notice promptly after discovery of the condition. During the one year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5. This period of

...

§ 12.2.2.2 ~~The one year period for correction of Work one year shall be extended with respect to portions of Work first performed after Substantial Completion completion by the period of time between Substantial Completion and the actual completion of that portion of the Work completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner and/or Architect shall give such notice promptly after discovery of the~~

...

§ 12.2.2.3 ~~The one year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2. condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.~~

...

§ 12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after

deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

...

~~§ 12.2.5~~ The Contractor shall bear the cost of correcting destroyed or damaged ~~construction of the Owner or Separate Contractors, construction,~~ whether completed or partially completed, ~~caused by the Contractor's or the Owner or separate contractors caused by the Contractor's~~ correction or removal of Work ~~that which~~ is not in accordance with the requirements of the Contract Documents.

...

~~§ 12.2.5~~ **12.2.6** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the ~~Contract Documents. Establishment of the one-year period for correction of Work as described in Section contract documents. Establishment of the time period of one year as described in Subparagraph 12.2.2~~ relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to ~~the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's Contractor's~~ liability with respect to the ~~Contractor's Contractor's~~ obligations other than specifically to correct the Work.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, ~~and shall bear all related costs of tests, inspections, and approvals authority.~~ The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may ~~be present for observe~~ such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

...

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely a minimum of two (2) working days'~~ notice to the Architect of when and where tests and inspections are to be made so that the Architect may ~~be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense observe~~ procedures. The Owner shall bear such costs, except as provided in Subparagraph 13.4.3.

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§ 13.5 InterestNON-DISCRIMINATION

...

~~Payments due and unpaid under the Contract Documents shall bear interest~~ **§ 13.5.1** All contracts between the Owner and companies providing goods and services under the Contract Documents (including the Architect and Contractor) shall contain the following equal opportunity and civil right clause:

...

"During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from the date payment full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

...

Upon request, the provider shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The provider shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

...

The provider acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

...

~~due at~~ This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

...

the rate the parties agree upon **§ 13.5.2** During the completion of the work and all other services required by the Contract Documents, the Architect and Contractor agree that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Architect and Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

...

Architect and Contractor acknowledge that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

...

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

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in writing or, ~~in the absence thereof~~, at the legal rate prevailing ~~from time to time~~ at the place where the Project is located. § 13.6 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner or Architect, or by inspections, tests, or approvals required or performed by the Owner or Architect or anyone else.

PAGE 47

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent

...

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

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§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within ~~21~~ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ten (10) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

...

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. -Subject to paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

...

§ 15.1.7 Waiver of Claims for Consequential Damages 15.2 Initial Decision

...

~~The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~ § 15.2.1 Claims, including those alleging an error or omission by the Architect, shall be referred initially to

...

- ~~1~~ damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and the Architect for action. A decision by the Architect, as provided by Subparagraph 15.2.2, shall be required as a condition precedent to action at law or litigation of

...

- ~~2~~ damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work. a Claim between the Contractor and Owner as to all such matters arising prior to the

...

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents. date final payment is due, regardless if (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to action at law or litigation in the event (1) the position of~~

...

§ 15.2 Initial Decision

...

~~§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 15.2.2 within the ten (10) days after the Claim is made, (4) ten (10) days, which decision shall be final subject to action at law as provided in paragraph 15.3. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the~~

Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

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~~§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: Architect will review Claims and take one or more of the following preliminary actions within ten (10) days of receipt of a Claim: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim, part stating reasons for the rejection, (4) recommend approval of the Claim by the other party, or (5) suggest a compromise. If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect shall notify the parties in writing that the Architect's decision will be made within ten (10) days, which decision shall be final subject to action at law as provided in Paragraph 15.3.~~

...

~~§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense. If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.~~

...

~~§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part. If a Claim has not been resolved, the party making the Claim shall, within ten (10) days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim, or (3) notify the Architect that the initial Claim stands.~~

...

~~§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven (7) days, which decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution to action at law. Upon expiration of such time period, the Architect will render to the parties~~

...

~~§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1. the Architect's written decision relative to the~~

...

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision. Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

...

§ 15.2.7 ~~In 15.2.6~~ in the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a ~~Contractor's~~ Contractor's default, the Owner may, but is not obligated to, notify the surety and request the ~~surety's~~ surety's assistance in resolving the controversy.

...

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

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§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

...

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

...

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

...

§ 15.4 Arbitration

...

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

...

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

...

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

...

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

...

§ 15.4.4 Consolidation or Joinder

...

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

...

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not

~~constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

...

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Minneapolis Public Schools, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:38:16 ET on 11/28/2018 under Order No. 8259021829 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
AMERICAN INDIAN OIC- TAKODA PREP**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and AMERICAN INDIAN OIC- TAKODA PREP dated 6/1/2020 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and AMERICAN INDIAN OIC- TAKODA PREP (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and AMERICAN INDIAN OIC- TAKODA PREP (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: **SRM: 4400000548**

- 1. Original contract amount: \$270,006.45**
- 2. Accumulative contract amount: \$439,961.65**

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: Accounts for Comp Ed and Title I. In addition, accounts for Increased Title I funding to support distance learning needs.

Description: Exhibit A - MEMORANDUM OF AGREEMENT BETWEEN THE MINNEAPOLIS PUBLIC SCHOOLS AND AMERICAN INDIAN OIC- TAKODA PREP TO SPECIFY THE AMOUNT OF SUPPORT IN ACCORDANCE WITH FORMULA SPECIFIED IN MINN. STAT. 124.D.69

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

American Indian OIC SCHOOL:

Signature: _____ 

Name: Joe Hobot

Title: President & CEO

Date: 10/15/2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
EAST SIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and EASTSIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL dated 6/1/2020 ("Contract") is made and entered into by and between Special School District No.1 ("District") and EASTSIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and EASTSIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000542

1. *Original contract amount: \$687,281.77*
2. *Accumulative contract amount: \$691,581.77*

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: Exhibit A - MEMORANDUM OF AGREEMENT BETWEEN THE MINNEAPOLIS PUBLIC SCHOOLS AND EASTSIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL TO SPECIFY THE AMOUNT OF SUPPORT IN ACCORDANCE WITH FORMULA SPECIFIED IN MINN. STAT. 124.D.69

Description: Increased Title I funding to support distance learning needs

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

MENLO HIGH SCHOOL:

Signature: Kristine Martin

Name: Kristine Martin

Title: President

Date: 10/2/2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
NAWAYEE CENTER SCHOOL**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and NAWAYEE CENTER SCHOOL dated NAWAYEE CENTER SCHOOL ("Contract") is made and entered into by and between Special School District No.1 ("District") and NAWAYEE CENTER SCHOOL ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and NAWAYEE CENTER SCHOOL ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: **SRM: 4400000544**

- 1. Original contract amount: \$498,651.00**
- 2. Accumulative contract amount: \$502,751.68**

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: Exhibit A - MEMORANDUM OF AGREEMENT BETWEEN THE MINNEAPOLIS PUBLIC SCHOOLS AND NAWAYEE CENTER SCHOOL TO SPECIFY THE AMOUNT OF SUPPORT IN ACCORDANCE WITH FORMULA SPECIFIED IN MINN. STAT. 124.D.69

Description: Increased Title I funding to support distance learning needs

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

NAWAYEE CENTER SCHOOL:

Signature: Joseph C Rice

Name: Joseph C. Rice

Title: Executive Director

Date: 10/5/20

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
PLYMOUTH CHRISTIAN YOUTH CENTER- PYC HIGH SCHOOL**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and PLYMOUTH CHRISTIAN YOUTH CENTER- PYC HIGH SCHOOL dated 6/1/2020 ("Contract") is made and entered into by and between Special School District No.1 ("District") and PLYMOUTH CHRISTIAN YOUTH CENTER- PYC HIGH SCHOOL ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and PLYMOUTH CHRISTIAN YOUTH CENTER- PYC HIGH SCHOOL ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: **SRM: 4400000543**

- 1. Original contract amount: 1,326,759.82**
- 2. Accumulative contract amount: \$1,334,060.82**

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: Exhibit A - MEMORANDUM OF AGREEMENT BETWEEN THE MINNEAPOLIS PUBLIC SCHOOLS AND PLYMOUTH CHRISTIAN YOUTH CENTER TO SPECIFY THE AMOUNT OF SUPPORT IN ACCORDANCE WITH FORMULA SPECIFIED IN MINN. STAT. 124.D.69

Description: Increase in Title I funding to support Distance learning needs

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

PLYMOUTH CHRISTIAN YOUTH CENTER- PYC HIGH SCHOOL:

Signature: Anne L. Long

Name: Anne L. Long

Title: Executive Director

Date: 10-6-2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL dated 6/1/2020 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: **SRM: 4400000554**

- 1. *Original contract amount: \$423,334.92***
- 2. *Accumulative contract amount: \$496,503.52***

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: Exhibit A - MEMORANDUM OF AGREEMENT BETWEEN THE MINNEAPOLIS PUBLIC SCHOOLS AND PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL TO SPECIFY THE AMOUNT OF SUPPORT IN ACCORDANCE WITH FORMULA SPECIFIED IN MINN. STAT. 124.D.69

Description: Accounts for Comp Ed and Title I funds. Also accounts for Increased Title I funding to support distance learning needs

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

LNAS HIGH SCHOOL:

Signature: _____ 

Name: Paul D. Williams

Title: President & CEO

Date: 10/6/2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
PROJECT FOR PRIDE IN LIVING- MERC HIGH SCHOOL**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and PROJECT FOR PRIDE IN LIVING- MERC HIGH SCHOOL dated 6/1/2020 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and PROJECT FOR PRIDE IN LIVING- MERC HIGH SCHOOL (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and PROJECT FOR PRIDE IN LIVING- MERC HIGH SCHOOL (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: **SRM: 4400000550**

- 1. Original contract amount: \$449,365.49**
- 2. Accumulative contract amount: \$655,709.41**

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: Exhibit A - MEMORANDUM OF AGREEMENT BETWEEN THE MINNEAPOLIS PUBLIC SCHOOLS AND PROJECT FOR PRIDE IN LIVING- MERC HIGH SCHOOL TO SPECIFY THE AMOUNT OF SUPPORT IN ACCORDANCE WITH FORMULA SPECIFIED IN MINN. STAT. 124.D.69

Description: Accounts for Comp Ed and Title I funds. Also accounts for Increased Title I funding to support distance learning needs

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)


SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

MERC HIGH SCHOOL:  _____

Name: Paul D. Williams

Title: President & CEO

Date: 10/6/2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
VOA HIGH SCHOOL**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and VOA HIGH SCHOOL dated 6/1/2020 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and VOA HIGH SCHOOL (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and VOA HIGH SCHOOL (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: **SRM: 4400000551**

- 1. Original contract amount: \$845,768.79**
- 2. Accumulative contract amount: \$1,224,687.35**

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: Exhibit A - MEMORANDUM OF AGREEMENT BETWEEN THE MINNEAPOLIS PUBLIC SCHOOLS AND VOA HIGH SCHOOL TO SPECIFY THE AMOUNT OF SUPPORT IN ACCORDANCE WITH FORMULA SPECIFIED IN MINN. STAT. 124.D.69

Description: Accounts for Comp Ed and Title I. Also accounts for Increased Title I funding to support distance learning needs

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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SPECIAL SCHOOL DISTRICT NO. 1

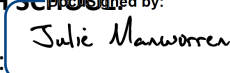
Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

VOA HIGH SCHOOL

Signed by:
Signature:  _____
7DB711E781EC4F2...

Name: Julie Manworren

Title: President & CEO

Date: 10/5/2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
English Learning Center**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and English Learning Center dated 9/10/2020 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and English Learning Center (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and English Learning Center (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2023 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000630

1. *Original contract amount: \$95,000*
2. *Cumulative contract amount: 212,546*

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: 3.1 Total Obligation

Description: District’s total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$212,546. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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AMD#1 4400000630

Updated January, 2020

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

English Learning Center:

Signature:  _____

Name: David Fey

Title: Interim Executive Director, Our Saviour's Community Services

Date: September 21, 2020



AIA[®] Document G802[™] – 2017

Amendment to the Professional Services Agreement

PROJECT: *(name and address)*
FY20 MULTI site COVID HVAC
System Review

AGREEMENT INFORMATION:
Date: July 9, 2020

AMENDMENT INFORMATION:
Amendment Number: 001

Date: 9/21/2020

OWNER: *(name and address)*
Minneapolis Public Schools
1250 W Broadway, Minneapolis, MN

ARCHITECT: *(name and address)*
KFI Engineers
670 County Road B W., St Paul, MN

The Owner and Architect amend the Agreement as follows:
Amendment to the contract to extend the time of completion and the total amount of compensation

The Architect’s compensation and schedule shall be adjusted as follows:

Compensation Adjustment:
\$150,000 (increase from \$4000 per building to approximately \$6000 per building) and add in the Davis Center, Transportation Center, M&O Center and Nutrition Center to the analysis. Summary of change request is attached.

Schedule Adjustment:
Adjust from September 4th completion to October 2nd completion

SIGNATURES:

KFi Engineers
ARCHITECT *(Firm name)*

SIGNATURE
James A. Faulconbridge, P.E.

PRINTED NAME AND TITLE
September 22, 2020

DATE

Minneapolis Public Schools
OWNER *(Firm name)*

SIGNATURE

PRINTED NAME AND TITLE

DATE



September 14, 2020

Mr. Curtis Hartog, P.E.
Executive Director, Capital Planning, Construction & Maintenance
Minneapolis Public Schools
1250 West Broadway Avenue
Minneapolis, MN 55411

via email: Curtis.Hartog@mpls.k12.mn.us

**RE: Proposal for Mechanical, Electrical, and Plumbing (MEP) Engineering Services
Minneapolis Public Schools Covid19 HVAC Assessment Additional Services
KFI Proposal # P20-0699**

Dear Curt:

KFI Engineers (KFI) is pleased to provide this proposal for additional Mechanical Engineering services on the above referenced project. This proposal outlines our scope of work and associated compensation. This proposal is valid for 45 days from the proposal date.

PROJECT UNDERSTANDING

Minneapolis Public Schools (MPS) has requested individual facility studies for all occupied elementary, middle school, and high school buildings. The Study shall identify COVID 19 protocols and improvements with the air handling units (AHUs) and ventilation in the buildings.

KFI is requesting additional services to complete the individual school assessments. KFI proposal P20-0576 MPS Covid 19 HVAC Assessment assumed 21 hours per facility to complete the scope of work. As we progressed into the effort, the actual completion of scope has averaged 34 hours per facility. In addition to the time, MPS has requested KFI evaluate additional facilities that do not contain classrooms.

As before, we will continue on conducting and participating in weekly check in meetings (virtually).

ADDITIONAL SCOPE OF WORK

KFI has or will perform the following additional scope of work:

1. Additional investigation into existing plans.
 - a. System tags are often different in BAS, TAB, Building Start, design documents, and on unit.
2. Reporting time increased significantly.
 - a. Design data not readily available in test and balance and Building Start.
 - i. Required more investigation into design documents to find brake horse power and design static pressures in those documents.
 - ii. It was found that the design MERV rating filters were not always installed (i.e. MERV8 installed, MERV11 designed) – this led to more time spent researching through design documents to find expected pressure drops.
 - iii. Required looking through specifications to find mechanical schedules on some facilities.

- b. A breakdown of the time expended per site can be provided if requested by MPS.
3. MPS requested additional sites to be added to reporting, which include:
 - a. Davis Center
 - b. Culinary/Nutrition Center
 - c. Transportation Center
 - d. Maintenance and Operations Center
4. Conducting and participating in weekly check in meetings (virtually).
5. Extension of the Project Schedule to October 2, 2020.

PROJECT SCHEDULE

Pricing is based upon completion of the remaining reporting by October 2, 2020.

COMPENSATION

Basic Services Fee

For the Basic Services Scope of Work described above, the Client shall compensate KFI as follows:

Additional Fixed Fee in the amount of \$150,000. Included in the Fixed Fee amount are travel and production expenses.

Invoicing will occur on a monthly basis, payment terms are net 30 days, no retainage.

If you find this proposal acceptable, please send a purchase order. Please contact Larry at (651) 254-6933 or Maria at (651) 254-6891 if you have any questions.

Thank you for the opportunity to provide engineering services for this project.

Respectfully submitted,

KFI Engineers



Larry Justin, P.E.
Senior Project Manager

KFI Engineers



Maria D. Pfeffer, P.E.
Senior Project Manager

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
Learning In Style**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Learning In Style dated 9/10/2020 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Learning In Style ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Learning In Style ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2023 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000631

1. *Original contract amount:* \$95,000
2. *Cumulative contract amount:* 146,421

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: 3.1 Total Obligation

Description: District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$146,421. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

AMD#1 - 4400000631

Updated January, 2020

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

Learning In Style:

Signature: Martha Nemesi

Name: Martha Nemesi

Title: Director, Learning In Style

Date: September 23, 2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
Riverside Plaza Tenants Association**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Riverside Plaza Tenants Association dated 9/10/2020 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Riverside Plaza Tenants Association ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Riverside Plaza Tenants Association ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2023 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000629

1. *Original contract amount: \$95,000*
2. *Accumulative contract amount: \$314,215*

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: 3.1 Total Obligation

Description: District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$314,215. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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AMD#1 4400000629

Updated January, 2020

SPECIAL SCHOOL DISTRICT NO. 1

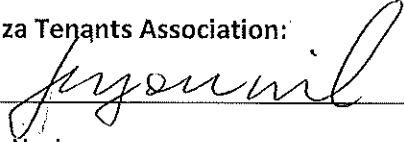
Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

Riverside Plaza Tenants Association:

Signature: 

Name: Seyou Nurie

Title: Program Coordinator, Education

Date: 09.21.2020

Contract Summary of Approval

Contract Group: IT Services

Contract Type: Purchase Goods

VENDOR DETAILS

Vendor Name: SAP Public Services Inc.
 Reason Vendor Selected: Niche or Specialty
 Vetted/State/Cooperatives
 End Date:

CONTRACT INFORMATION

Contract Purpose: Software licensing maintenance renewal for SAP.
 Contract Description: **Board Approved 4400000289 – SAP licensing maintenance (BI, BO, SRM, R3, EP).**
 Amendment Description:
 Deliverables/Outcomes: Renewal of SAP software licensing maintenance up to 3-year term. Yearly renewal with 10% contingency.
 Site(s) Affected: All
 Effective Start Date: 10/01/2020
 Effective End Date: 09/30/2023
 Contract Manager: Justin Hennes

FUNDING INFORMATION

Shopping Cart No.: 1000154758
 Contract Value: \$391,206.28 is for 20-21. Similar amounts with 10% contingency will be paid from each year's budget until 2023.
 Original Contract Amount:
 Accumulative Contract Value: \$1,320,000.00 (3-year with 10% contingency estimate)
 Primary Fund Source: Referendum

APPROVED BY

Kim Ellison	Board, Chair		
LEVEL 1 APPROVER	TITLE	SIGNATURE	DATE
Justin Hennes	Senior Information Officer		
LEVEL 2 APPROVER	TITLE	SIGNATURE	DATE

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
Somali Success School**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Somali Success School dated 9/10/2020 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Somali Success School ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Somali Success School ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2023 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000632

1. *Original contract amount: \$95,000*
2. *Cumulative contract amount: \$549,497*

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: 3.1 Total Obligation

Description: District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$549,497. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

AMD#1 4400000632

Updated January, 2020

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

Somali Success School:

Signature:  _____

Name: Amal Abdalla

Title: CEO, Somali Success School

Date: 9/23/2020

Exhibit A:

Deliverables/ Service Outcome:

Providing adult education and English language services to the significant adult immigrant population, English language learners (level 0-6), and native speakers without a secondary credential. Services are provided year-round, as soon as the contract becomes active. Results are measured by the contractor/vendor who will use a state approved student information database to record student attendance and test scores.

Method of Evaluation:

The contractor/vendor will use a state-approved student information database to record and track student attendance and test scores (CASAS and/or TABE). Testing schedules will vary by site but are given multiple times throughout the year. Students are given evaluations upon entering the program, and every 40 student-contact hours thereafter, in accordance with state Adult Basic Education guidelines.

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**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
Summit Academy OIC**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Summit Academy OIC dated 9/10/2020 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Summit Academy OIC ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Summit Academy OIC ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2023 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000633

1. *Original contract amount:* \$95,000
2. *Cumulative contract amount:* \$237,612

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: 3.1 Total Obligation

Description: District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$237,612. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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AMD #1 4400000633

Updated January, 2020

SPECIAL SCHOOL DISTRICT NO. 1

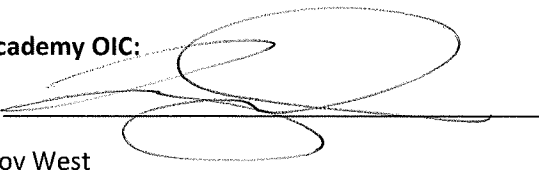
Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

Summit Academy OIC:

Signature:  _____

Name: Leroy West

Title: CAO, Summit Academy OIC

Date: Sept. 23, 2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND
The Mental Health Collective**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and The Mental Health Collective (dba Watercourse Counseling Center) dated 7/1/2020 ("Contract") is made and entered into by and between Special School District No.1 ("District") and The Mental Health Collective (dba Watercourse Counseling Center) ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and The Mental Health Collective (dba Watercourse Counseling Center) ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 44000000524 for \$10,000.00

1. *Original contract amount:* \$160,000
2. *Accumulative contract amount:* \$170,000

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

Section: 3.1 Total Obligation. District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed \$170,000.00. The District will provide monetary payment for services described in Contract for the following schools: Transition Plus, Justice Page, Sheridan and Edison. Guadalupe Alternative Programs will provide services described in the Contract at no cost to the District as they are funded by the MN DHS School Linked Mental Health grant at the following schools: Jefferson, Green, Folwell, Marcy, Hmong Academy, NorthEast, Waite Park, Pillsbury. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Description: Supplemental funds to cover increased costs.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Board Chair

Date: _____

The Mental Health Collective dba [Watercourse Counselling Center]:

Signature:  _____

Name: Martha Olsen

Title: Administrative Director

Date: 9/24/20 _____

CONTRACT FOR SERVICES

(\$25,000+)

This Contract is entered into between Special School District No. 1, “District”, a special school district created and existing under the laws of Minnesota, and Titan School Solutions Inc, “Contractor” (collectively “parties”) to provide Comprehensive Child Nutrition Software to D-Ops-Culinary and Nutrition Services.

1 *TERM OF CONTRACT*

1.1 This Contract is effective on 10/14/2020 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2021, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District’s protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District’s Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor’s OWN RISK and as a volunteer.

2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as Exhibit A (“Scope of Work”). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 *Total Obligation.*

District’s total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed \$138,446.66. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment.*

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable Exhibit B. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 *Taxes.*

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 *Fund Availability; Federal Funds Contingency.*

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C. Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

10 INDEPENDENT CONTRATOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except

as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than \$1,500,000 each claim and \$1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above \$1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than \$1,500,000 each claim and \$1,500,000 each occurrence covering claims that arise out of its acts and operations in

providing services to the District, but shall not name the District as an additional insured to the coverage.

13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract, and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

15 LIMITATION ON LIABILITY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contractor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

19 RETURN OF DATA

19.1 Within ten (10) days of the completion, termination of this Contract, or upon request of the District, whichever occurs first; Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Or, Contractor, upon the request of the

District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

19.2 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1
D-Ops-Culinary and Nutrition Services
Attn: Joseph Ostlund (on behalf of COO)
1250 W Broadway
Minneapolis, MN 55411
Email: Joseph.Ostlund@mpls.k12.mn.us
Fax:

Titan School Solutions Inc

Attn: _____

Address: _____

Email: _____

Fax: _____

22 ACKNOWLEDGMENT

22.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

22.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

23 NON-WAIVER

23.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

24 ASSIGNMENT

24.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment,

shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

25 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

25.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

26 WARRANTY

26.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

27 SEVERABILITY

27.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

28 SURVIVABILITY

28.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

By: _____

Name: Jennifer (on behalf of BOE) Lindquist (on behalf of BOE)
(Printed)

Title: _____

Date: _____

Titan School Solutions Inc

By: _____

Name: _____
(Printed)

Title: _____

Date: _____

EXHIBIT A: SCOPE OF WORK

Description of Services and Service Delivery

Titan school Solutions software will allow Culinary and Wellness Services to operate in on comprehensive system. Modules include: Student Management w/Application Processing, Point of Service, Central Kitchen, Inventory, Purchasing, Accounts Receivable, Accounts Payable, General Ledger, Menu Planning w/Nutritional Analysis, Production Records, Nutrition Label Scanner, Professional Standards, Sales Order and Family Portal, along with customer support.

Service Outcome

1. Implement and train the Culinary and Wellness department staff on the specific modules offered, in delivering a specific solution for CWS business, delivering an end to end, unified system that improves our operating process in a comprehensive way.
2. Titan will ensure cost for effort by accelerating time to value when applicable, and guaranteeing fixed price, fixed scope and fixed timeline.
3. Titan will provide proven, time efficient time-to-market implementation and deployment processes.
4. Titan shall utilize performance-based benchmarking and viability testing after initial implementation to ensure proper operation.
5. Titan shall utilize performance-based benchmarking after go-live date to maximize solution viability and proficiency.

Method of Evaluation

1. End user score card evaluation for measuring the requirements for their module meets their needs.
2. End to end viability testing.

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

The payment terms are as follows: Net 30 upon receiving invoice.

T-Mobile for Education EmpowerED Agreement (with Device Subsidy) 2-year Term

This T-Mobile for Education Agreement which will be effective as of the date the second Party signs this Agreement below (“**Agreement Effective Date**”), is by and between T-Mobile USA, Inc., a Delaware corporation (“**T-Mobile**” or “**Contractor**”), and Minneapolis Public Schools, a Minneapolis Public School District, with its principal place of business at 1250 West Broadway Avenue, Minneapolis, MN 55411 (“**Customer**”).

1. Term. The term of this Agreement is for 24 months from Agreement Effective Date and each line of Service will have a 2-year term from date of activation (“**Term**”).

2. Underlying Agreement. Customer agrees to purchase wireless mobile Services and Devices from T-Mobile and T-Mobile agrees to provide the Services and Devices to Customer based on the prices listed below. The terms of Customer’s purchase and use of the Services will be governed by this Agreement and by this Agreement and the NASPO ValuePoint Contract No. 1907 and applicable Participating Addendum (“**Master Agreement**”).

(a) **NASPO 1907 Agreement.** The NASPO Wireless Voice Service, Wireless Broadband Service, Accessories and Equipment Agreement No. 1907 (“**NASPO 1907 Agreement**”) will expire on December 31, 2020. If Customer elects NASPO 1907 Agreement as the Master Agreement in Section 2 above, Customer agrees that this Agreement will be governed by the NASPO ValuePoint Wireless Data, Voice and Accessories Master Agreement No. MA176 and applicable Participating Addendum (“**NASPO MA176 Agreement**”) effective on or before January 1, 2021.

(b) The terms and conditions of this Agreement or the Master Agreement will not be modified or superseded by any terms and conditions in a Customer generated Purchase Order. Purchase Orders will have no force or effect other than to denote quantity, the products or services purchased, delivery destinations, requested delivery dates and any other information required by this Agreement.

3. Offer/Pricing. Mobile Rate Plans include Mobile Device as listed below:

- Discounted or free mobile Internet devices dependent on rate plan as described below.

Rate Plan	Monthly Recurring Charge/Line*	Features	Device Subsidy/line**
2GB	\$0	Up to 2GB of high-speed data, followed by data at reduced speeds up to 128kbps.	\$0 subsidy
2GB	\$10	Up to 2GB of high-speed data, followed by data at reduced speeds up to 128kbps.	\$100 subsidy/line
Government Unlimited LTE	\$20	Unlimited on device 4G LTE data	\$200 subsidy/line

**This internet connectivity device offer is subject to inventory availability;

* Prices above do not include applicable taxes and surcharges; not qualified for any further aggregate volume discount.

4. Total Order. Customer agrees to order the following lines of Service and, if applicable, Devices. Amounts below do not include any applicable taxes and surcharges:

Total # of Lines of Service	Rate Plan (check applicable rate plan)	Term Length (months)	Total Service Charge for Term	Pre-Subsidy Cost per Device	Total Pre-Subsidy Cost of Devices	Total Subsidy Amount to Customer under T-Mobile EmpowerED Program (Subsidy from Section 3 x # of Lines)	Total Customer Commitment for Service and Device for the Term of the Agreement ¹
2000	<input type="checkbox"/> \$0* <input type="checkbox"/> \$10 <input checked="" type="checkbox"/> \$20	24	\$960,000	\$84	\$168,000	\$400,000	\$728,000

¹Total Customer Commitment for Service and Device is equal to the Total Service Charge for Term added to the Total Pre-Subsidy Cost of Device subtracted from the Total Subsidy Amount to Customer under the T-Mobile EmpowerEd Program.

5. (a) Requirements to qualify for Device Discount/Subsidy:

- For the Device Discount/Subsidy to be effective, Customer must purchase a Device from T-Mobile with an activated line of Service based on the rate plan listed above under its Master Account. Each line of Service must be activated and maintained for at least the Term without any suspension or termination of any line of Service that received the Device Discount/Subsidy (the “**Device Discount/Subsidy Term**”);
- Customer agrees that it cannot change or move the lines of Service with a Device Discount/Subsidy to a rate plan with a different or lower Rate Plan during the Device Discount/Subsidy Term and if it does, Customer will reimburse T-Mobile for the Device Discount/Subsidy received, as set forth in Section (c) below;
- Each line of Service and each Device purchased must be activated in accordance with the terms of the Master Agreement;
- This Device Discount/Subsidy cannot be combined with any other discount or promo offers;
- Customer’s account must remain in good standing with T-Mobile to receive the Device Discount/Subsidy; and
- Lines of Service that are terminated or suspended (without reactivation) within the Device Discount/Subsidy Term will be subject to repayment of the Device Discount/Subsidy as set forth below in Section (c). Customer may suspend lines during the summer months while Customer is not in session; however, the terms for those lines will be extended to qualify for the Device Discount/Subsidy Term, and the months while the lines are suspended will not qualify to meet the Device Discount/Subsidy Term.

(b) Device Discount/Subsidy on Customer’s Master Account. Subject to the requirements in the Section above, T-Mobile will issue the Device Discount/Subsidy when Customer submits an order to T-Mobile under its Master Account.

(c) Device Discount/Subsidy Term/Termination; Device Discount/Subsidy Repayment. If any line of Service that received a Device Discount/Subsidy is terminated or suspended (without reactivation) prior to the end of the Device Discount/Subsidy Term, then Customer agrees to reimburse T-Mobile a pro rata portion of the Device Discount/Subsidy equal to 1/24th of the discounted or subsidized amount for each month remaining in the Device Discount/Subsidy Term. T-Mobile will charge Customer the repayment amount of the Device Discount/Subsidy for each line of Service terminated before the end of the Device Discount/Subsidy Term on Customer’s monthly bill.

6. Primary Contacts: The primary contact individuals for this Agreement are as follows (or their named successors):

T-Mobile/Contractor

Name:	David Bezzant, Vice President, T-Mobile For Government
Address:	c/o T-Mobile USA, Inc., 12920 SE 38 th Street, Bellevue, WA 98006
Telephone:	(480) 638-2608
Email:	David.Bezzant@T-Mobile.com



For Legal Notice – send a copy to:

Name:	Legal Department – Sales & Distribution, T-Mobile USA, Inc.
Address:	12920 SE 38 th Street, Bellevue, WA 98006

Customer:

Name of School/ Contact Name:	Minneapolis Public Schools / Justin Hennes
Address:	1250 West Broadway Avenue, Minneapolis, MN 55411
Telephone:	(612) 668-0245
Email:	Justin.Hennes@mpls.k12.mn.us

This Agreement is executed by each Party’s authorized representative as of the Agreement Effective Date.

Customer: Minneapolis Public Schools	Contractor: T-Mobile USA, Inc.
Signature:	Signature:  <small>DocuSigned by: 8F686CC9343743C</small>
Printed Name:	Printed Name: David Bezzant
Title:	Title: Vice President
Date:	Date: 9/2/2020
	Reviewed and Acknowledged:  <small>DocuSigned by: 6B48388F24354D0</small> 9/3/2020 T-Mobile USA, Inc. CSCA Representative



Contract Summary of Approval

Contract Group: **IT Services**

Contract Type: **Purchase Goods and services**

VENDOR DETAILS

Vendor Name:	T-Mobile
Reason Vendor Selected:	State, Cooperative or Joint Power Contract
Vetted/State/Cooperatives End Date:	Click or tap to enter a date.

CONTRACT INFORMATION

Contract Purpose:	Contract Amendment for T-Mobile hot spots to provide internet access for students during Distance Learning.
Contract Description:	Contract Amendment for T-Mobile Hot Spots for Students during Distance Learning
Amendment Description:	AMD #3 – 4400000624 – Additional hot spot devices for Distance Learning.
Deliverables/Outcomes:	T-Mobile Hot Spots
Site(s) Affected:	All
Effective Start Date:	10/20/2020
Effective End Date:	10/20/2022
Contract Manager:	Justin Hennes

FUNDING INFORMATION

Shopping Cart No.:	Click or tap to enter text
Contract Value:	\$728,000.00
Original Contract Amount:	\$1,346,865.00
Accumulative Contract Value:	\$2,074,865.00
Primary Fund Source:	Bonding

APPROVED BY

Kim Ellison	Board, Chair		
LEVEL 1 APPROVER	TITLE	SIGNATURE	DATE
Justin Hennes	Senior Information Officer		
LEVEL 2 APPROVER	TITLE	SIGNATURE	DATE



MINNEAPOLIS
PUBLIC SCHOOLS

Urban Education. Global Citizens.

CONTRACT FOR GOODS – above \$50,000

This Contract is entered into between Special School District No. 1, “District”, a special school district created and existing under the laws of Minnesota, and Total Filtration Services, “Contractor” (collectively “parties”) to provide MERV11 or 14 filters which are funded by CRF. COVID19.

1 TERM OF CONTRACT

- 1.1 This Contract is effective on 10/01/2020, or the date of the last signature of the parties, whichever is later, and shall remain in effect until 12/31/2020, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District’s protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.
- 1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District’s Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor’s OWN RISK and as a volunteer.

2 SCOPE OF WORK

- 2.1 Contractor shall perform all of the services/delivery of goods set forth herein and any exhibits attached hereto as **Exhibit A** (“Scope of Work”). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed \$142,000.00. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 *Taxes.*

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any

governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

8.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

9.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

10 DATA PRIVACY

10.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

11 USE OF DISTRICT NAME OR LOGO

11.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

12 INDEPENDENT CONTRACTOR

12.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

12.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

13 WORKER HEALTH, SAFETY AND TRAINING

13.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

14 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

- 14.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

15 INSURANCE

- 15.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than \$1,500,000 each claim and \$1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above \$1,000,000 per occurrence through umbrella or excess coverage.
- 15.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than \$1,500,000 each claim and \$1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.
- 15.3 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract, and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

16 INDEMNIFICATION

- 16.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

17 LIMITATION ON LIABILITY

17.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

18 CONFLICT OF INTEREST/CODE OF ETHICS

18.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

19 COMPLIANCE WITH LAWS AND DEBARMENT

19.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

20 TERMINATION

20.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

20.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall,

without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contractor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

21.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

22 RECORDS MANAGEMENT AND MAINTENANCE

22.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

23 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1Division: **Senior Financial Officer**

Attn: Ibrahima Diop

1250 W Broadway

Minneapolis, MN 55411

Email: Ibrahima.Diop@mpls.k12.mn.us

CONTRACTOR

NAME: TFS - Minneapolis

Address: 5775 12th Avenue East, Suite 130

Phone: 952-988-9600

Email:

ACKNOWLEDGMENT

23.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to backup withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

23.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

24 NON-WAIVER

24.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

25 ASSIGNMENT

MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

1250 West Broadway Ave. Minneapolis, MN 55411-2533

Phone: 612.668.0000

www.mpls.k12.mn.us

MAS-

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25.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

26.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

27 WARRANTY

27.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

28 SEVERABILITY

28.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and

each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

29 SURVIVABILITY

29.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Kim Ellison

Title: Chair, MPS Board of Directors

Date: _____

TOTAL FILTRATION SERVICES, INC.

Signature: _____

Name: Jeffrey T. Orlando
(Printed)

Title: General Manager.

Date: October 5, 2020

EXHIBIT A: SCOPE OF WORK

Deliverables:

Prompt delivery of material goods

Service Outcome:

Quality of material goods

Quick resolutions to issues at hand

Method of Evaluation

Prompt invoicing

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

[The remainder of this page intentionally left blank.]

ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement ("Agreement") between United HealthCare Services, Inc. Special School District #1 dba Minneapolis Public School ISD 1 ("Customer") is effective January 1, 2021 ("Effective Date"). This Agreement covers the services United is providing to Customer, either directly or in conjunction with one of United's affiliates, for use with Customer's Self-Funded employee benefit plan.

United identifies this arrangement as Contract No.: 921693 and FSA Contract No.: 921694.

By signing below, each party agrees to the terms of this Agreement.

Special School District #1 dba Minneapolis Public
School ISD 1
1250 West Broadway Ave
Minneapolis, MN 55413

United HealthCare Services, Inc.
185 Asylum Street
Hartford, CT 06103-3408

By: _____

By: _____

Authorized Signature

Authorized Signature

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____

ASA 2Q 2020

Section 1 – Definitions

When these terms are capitalized in the Agreement, they have the meanings set forth below. The words may be singular or plural.

Bank Account: Bank Account maintained for the payment of Plan benefits, expenses, fees, and other Customer financial obligations.

Confidential Information: Includes without limitation the following, regardless of form or the manner in which it is furnished: (a) pricing, discounts, reimbursement terms, payment methodologies and payment processes, compensation arrangements and any similar commercial information (“Rate Information”) and (b) data, information, statistics, trade secrets and any information about business, costs, operations, techniques, know-how or intellectual property. Any material that is derived from or developed from Confidential Information will be deemed Confidential Information for purposes of this Agreement, regardless of the person creating, disclosing or making available such material. Any Confidential Information included in preparations, proposals, scope documents, discussions, findings, summaries, reports and conclusions remain Confidential Information.

Employee: A current or former employee of Customer or its affiliated employer.

ERISA: Employee Retirement Income Security Act of 1974, as amended from time to time.

HSA or Health Savings Account: A tax-advantaged account established by Customer’s Employees principally to fund certain qualified medical expenses.

IRC: The United States Internal Revenue Code of 1986, as amended from time to time.

IRS: The United States Internal Revenue Service.

Medical Benefit Drug Rebate: Any discount, price concession, or other direct or indirect remuneration United receives from a drug manufacturer under a rebate agreement that is contingent upon and related directly to Participant use of a prescription drug under the Plan’s medical benefit during the Term. Medical Benefit Drug Rebate does not include any discount, price concession, administration fees, or other direct or indirect remuneration United receives from a drug manufacturer for direct purchase of a prescription drug.

Medicare Part D Retiree Drug Subsidy Program (“RDS”): The program as set forth in Section 1860D-22 of Title XVIII of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (“MMA”), Subpart R of the MMA Final Regulation, or any successor regulation promulgated by the Centers for Medicare and Medicaid Services (“CMS”), and any guidance issued by CMS, and any mandated updates of required information.

Network: The group of Network Providers United makes available to the Plan who have entered into or are governed by contractual arrangements under which they agree to provide health care services to Participants and accept negotiated fees for these services.

Network Provider: The physician, medical professional, or facility which participates in a Network. A provider is only a Network Provider if they are participating in a Network at the time services are rendered to the Plan Participant.

Overpayments: Payments that exceed the amount payable under the Plan. This term does not include overpayments caused by untimely or inaccurate eligibility information.

Participant: Employee or dependent who is covered by the Plan.

Plan: The ERISA plan to which this Agreement applies, but only with respect to those provisions of the plan relating to the Self-Funded health benefits United is administering, as described in the Summary Plan Description.

Plan Administrator: The current or succeeding person, committee, partnership, or other entity designated the Plan Administrator as defined by ERISA and who is generally responsible for the Plan’s operation.

Self-Fund or Self-Funded: Means that Customer, on behalf of the Plan, has the sole responsibility to pay, and provide funds, to pay for all Plan benefits.

Summary Plan Description or SPD: The document(s) ERISA requires Customer provides to Plan Participants describing the terms and conditions of coverage offered under the Plan.

Systems: Means the systems United owns or makes available to Customer to facilitate the transfer of information in connection with this Agreement.

Tax or Taxes: A charge imposed, assessed, or levied by any federal, state, local, or other governmental entity.

Term or Term of the Agreement: The period of twelve (12) months commencing on the Effective Date (the “Initial Term”) and automatically continuing for additional 12-month periods (each, a “Renewal Term”) until the Agreement is terminated.

Treasury Department: The United States Department of the Treasury.

Urgent Care Claims: A claim for medical services and supplies which meets ERISA’s definition of Urgent Care Claim.

Section 2 – Customer Responsibilities

Section 2.1 Responsibility for the Plan. United is not the Plan Administrator of the Plan. Any references in this Agreement to United “administering the Plan” are descriptive only and do not confer upon United anything beyond certain agreed upon claim administration duties. Except to the extent this Agreement specifically requires United to have the fiduciary responsibility for a Plan administrative function, Customer accepts total responsibility for the Plan for purposes of this Agreement, including its benefit design, the legal sufficiency and distribution of SPDs, and compliance with any laws that apply to Customer or the Plan, whether or not Customer or someone Customer designates is the Plan Administrator. The Customer represents and warrants that the Plan has the authority to pay fees due under this Agreement from Plan assets.

Section 2.2 Plan Consistent with the Agreement. Customer represents that Plan documents, including the Summary Plan Description as described in Exhibit A – Statement of Work, are consistent with this Agreement. Nevertheless, before distributing any communications describing Plan benefits or provisions to Participants or third parties, Customer will provide United with such communications which refer to United or United’s services. Customer will amend them if United reasonably determines that references to United are not accurate, or any Plan provision is not consistent with this Agreement or the services that United is providing.

Section 2.3 Plan Changes. Customer must provide United with notice of any changes to the Plan and/or Summary Plan Description within a reasonable period of time prior to the effective date of the change to allow United to determine if such change will alter the services United provides under this Agreement. Customer’s requested changes must be mutually agreed to in writing prior to implementation of such change.

United will notify Customer if (i) the change increases United’s cost of providing services under this Agreement, or (ii) United is reasonably unable to implement or administer the change. If the parties cannot agree to a new fee within (30) thirty days of the notice of the new fee, or if United notifies Customer under Section 2.3(ii) that United is unable to reasonably implement or administer the change, then (a) United shall have no obligation to implement or administer the change, and (b) Customer may terminate this Agreement upon (60) sixty days written notice.

Section 2.4 Affiliated Employers. Customer represents that together Customer and any of its affiliates covered under the Plan make up a single “controlled group” as defined by ERISA and/or the IRC. Customer agrees to provide United with a list of Customer affiliates covered under the Plan upon request.

Section 2.5 Information Customer Provides to United. Customer will tell United which of Customer’s Employees, their dependents, any other persons, or any combination of these, are Participants. This information must be accurate and provided to United in a timely manner. United will accept eligibility data from Customer in the format described in Exhibit A - Statement of Work. Customer will notify United of any change to this information as soon as reasonably possible.

United will be entitled to rely on the most current information in United’s possession regarding eligibility of Participants in paying Plan benefits and providing other services under this Agreement. United will not be required to process or reprocess claims, but if United agrees to do so, additional fees may apply.

Customer agrees to provide United, in a timely manner with all information that United reasonably requires to provide services under this Agreement. United shall be entitled to rely upon any written or oral communication from Customer, its designated employees, agents, or authorized representatives.

Section 2.6 Notices to Participants. Customer will give Participants the information and documents they need to obtain benefits under the Plan within a reasonable period of time before coverage begins. In the event this Agreement

is discontinued, Customer will notify all Participants that the services United is providing under this Agreement are discontinued.

Section 2.7 Escheat. Customer is solely responsible for complying with all applicable abandoned property or escheat laws, making any required payments, and filing any required reports.

Section 3 – Fees

Section 3.1 Fees. Customer will pay fees to United as compensation for the services provided by United. In addition to the fees specified in Exhibit B – Fees, Customer must also pay United any additional fee that is authorized by a provision elsewhere in this Agreement or is otherwise agreed to by the parties.

Section 3.2 Changes in Fees. (a) United can change the fees on each Renewal Term, subject to the provisions of Exhibit B – Fees. United will provide Customer with thirty (30) days prior written notice of the revised fees for subsequent Renewal Terms. Any such fee change will become effective on the later of the first day of the new Renewal Term or thirty (30) days after United provides Customer with written notice of the new fees. United will provide Customer with a new Exhibit B – Fees that will replace the existing Exhibit B – Fees for the new Renewal Term.

(b) United may also change the fees, if any one or more of the following occur:

- (1) any time there are changes made to this Agreement or the Plan, which affect the fees including the termination of the Shared Savings, and/or the Facility R&C Charge Determination Program;
- (2) when there are changes in laws or regulations which affect or are related to the services United is providing, or will be required to provide, under this Agreement, including the Taxes and fees noted in Section 5, Taxes And Assessments;
- (3) if the number of Employees covered by the Plan or any Plan option changes by ten percent (10%) or more or
- (4) if the average contract size, defined as the total number of enrolled Participants divided by the total number of enrolled Employees, varies by ten percent (10%) or more from the assumed average contract size, as set forth in Exhibit B – Fees. Any new fee required by such change will be effective as of the date the changes occur, even if that date is retroactive.

(c) If Customer does not agree to any change in fees, Customer may terminate this Agreement upon thirty (30) days written notice after Customer receives written notice of the new fees. Customer must still pay any amounts due for the periods during which the Agreement is in effect.

Section 3.3 Due Dates, Payments, and Penalties. For the Standard Medical Service Fees described in Exhibit B – Fees, United will provide Customer with an on-line invoice in advance of the first of each month, typically no later than the 18th of each month. The due date for payment of the invoiced amounts is on the first day of the next full calendar month (“Due Date”). Such invoices are provided on an eligibility-based format, and therefore payment must be made as billed (no adjustments are allowed to the invoice). If authorized by Customer pursuant to this Agreement or by subsequent authorization, certain fees will be paid through a withdrawal from the Bank Account.

Late Payment. If amounts owed are not paid within fifteen (15) days after their Due Date (“Grace Period”), Customer will pay United interest on these amounts at the interest rate that United charges to its self-funded customers. Customer agrees to reimburse United for any costs that United incurs to collect these amounts. United’s decision to provide Customer with a Grace Period will be based on United’s assessment of Customer’s financial condition as of the Effective Date, and Customer’s compliance with material financial obligations. If United determines, based on reasonable information and belief, that Customer’s financial condition has deteriorated, or Customer continues to fail to comply with the material financial obligations specified in this Agreement, United may remove the Grace Period upon notice to Customer and reserves the right to either charge interest on payments not received after the Due Date or terminate the Agreement if payments are not received by the Due Date.

Section 3.4 Reconciliation. For each Renewal Term, United will reconcile the total amounts Customer paid with the total amounts Customer owed. If the reconciliation indicates that United owes Customer money, Customer’s next fee invoice will be credited. If the reconciliation indicates that Customer owes United money, United will invoice Customer for the amount due. The due date for these amounts is the first day of the next calendar month. Customer

will pay United within thirty (30) days of the due date the amounts that Customer owes United. For payments made after this thirty (30) day period, Customer will pay United interest on these amounts at the interest rate that United charges to its other self-funded customers.

If the Agreement is terminated, United will pay Customer the amount owed within thirty (30) days after United performs a final reconciliation. If the final reconciliation indicates that Customer owes United money, Customer will pay United within thirty (30) days after receiving notice of the amount owed.

For payments Customer makes after thirty (30) days of receiving notice of the amounts that Customer owes United, United will charge interest at the interest rate that United charges its other self-funded customers.

Section 4 – Records, Information, Audits

Section 4.1 Records. United shall keep records relating to the services it provides under this Agreement for as long as United is required to do so by law.

Section 4.2 Use of Confidential Information. Each party will limit the use of the other's Confidential Information to only the information required to administer the Plan, to perform under this Agreement, or as otherwise permitted under this Agreement. Neither party will disclose the other's Confidential Information to any person or entity other than to the receiving party's employees, subcontractors, or authorized agents needing access to such information to administer the Plan, to perform under this Agreement, or as otherwise permitted under this Agreement. Notwithstanding the foregoing, United's Rate Information cannot be disclosed to Customer or to any third party without United's express written consent and, if required by United, a mutually agreed upon confidentiality agreement. Customer may not sell, license or grant any other rights to Confidential Information."

If Customer needs access to United's Confidential Information, United, at its discretion, may allow Customer to use United's Confidential Information subject to the following conditions:

- (1) The information requested must relate to United's services under this Agreement;
- (2) The Customer must give United reasonable advance notice and an explanation of the need for United's Confidential Information;
- (3) It must be legally permissible for United to release such information;
- (4) The release and use must be consistent with United's provider contractual obligations; and
- (5) The release and use must be consistent with United's data use and release policies.

Such use is subject to the terms of this Agreement and as required by United, a mutually agreed upon confidentiality agreement.

If Customer is subject to a Freedom of Information Act (FOIA) request and the request includes United's Confidential Information, Customer will contact United prior to releasing any information and give United the opportunity to review, respond, and/or object to the FOIA request.

United also will provide reasonable access to information to an entity providing Plan administrative services to Customer, such as a consultant or vendor, if Customer requests it. Such access is subject to the conditions in this Section. Before United provides Confidential Information to that entity, the parties must sign a mutually agreed-upon confidentiality agreement, and the parties must agree as to what information is minimally necessary to accomplish the Plan administrative service.

United will provide information only while this Agreement is in effect and for a period of twelve (12) months after the Agreement terminates, unless Customer demonstrates that the information is in response to a subpoena, legal process, or other release of information required by applicable law.

Customer is responsible for entering into any and all legally required agreements with consultant or vendor to ensure protection of the PHI, including but not limited to, a Business Associate Agreement, as defined under the Health Insurance Portability and Accountability Act and its implementing regulations, as amended from time to time.

This provision shall survive the termination of this Agreement.

DATA PRIVACY

Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all applicable state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

Customer will comply with MN Chapter 13, Et. Seq., and MN Stat. 16C.05(5).

Section 4.3 Audits. During the term of the Agreement, and at any time within twelve (12) months following its termination, a mutually agreeable entity may conduct an annual medical claims audit of United's performance under the Agreement once each calendar year. Prior to the commencement of this audit, United must receive a signed, mutually agreeable confidentiality agreement. As part of the annual medical claims audit, United will also support either a small targeted audit of appeals, member calls, or clinical transactions (not to exceed 25 transactions).

Customer must advise United in writing of its intent to audit. The place, time, type, duration, and frequency of all audits must be reasonable and agreed to by United. All audits will be limited to information relating to the calendar year in which the audit is conducted, and/or the immediately preceding calendar year.

With respect to United's claims processing services, the audit scope and methodology will be consistent with generally acceptable auditing standards, including a statistically valid random sample not to exceed 400 claims transactions) as approved by United ("Scope"). United will not support any external audits a) where the audit firm is paid on a contingency basis, and b) that do not use a statistically valid random selection methodology (other than as provided for in this section); this includes electronic/data mining audits that are used for purposes of recovery discovery.

RECORDS MANAGEMENT AND MAINTENANCE

District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

Customer will pay any expenses that it incurs in connection with the audit. In addition, Customer will be charged a reasonable per claim charge and a per day charge for any on-site audit visit that is not completed within five (5) business days or for sample sizes exceeding the Scope specified above. The additional fees cover the additional resources, facility fees, and other incremental costs associated with an audit that exceeds the Scope. In addition to Customer's expenses and any applicable fees, Customer will also pay any extraordinary expenses United incurs due to a Customer request related to the audit, such fees to be reviewed and approved by the Customer in advance. For any audit initiated after this Agreement is terminated or for any audit in addition to those provided for in this section (if approved by United), Customer will pay all expenses incurred by United.

Customer will provide United with a copy of any audit reports within thirty (30) days after Customer receives the audit report(s) from the auditor.

Section 4.4 Service Auditor Reports. United may make its Type II service auditor report ("Report") available to United's self-funded customers each year for Customer's review in connection with Plan administrative purposes only. The Report will be issued under the guidance of Statement on Standards for Attestation Engagements #18 (SSAE18). Should new guidelines covering service auditor reports be issued, United may make the equivalent of, or any successor to, the SSAE18 Type II Report available to United's self-funded customers. The Report is United's Confidential Information and shall not be shared with any third parties without United's prior written approval, except that Customer can share the Report with: (i) Customer's independent public accounting firm; and/or (ii) Customer's consultants, on the condition that such consultants are not in any way a competitor of United's and that Customer

informs its consultants that the Report was not prepared for their use. To the extent that Customer does provide the Report to its independent public accounting firm or a consultant as permitted in this Section, Customer shall require that they retain the Report as confidential and that they not disclose such Report to any other persons or entities.

Section 4.5 PHI. The parties' obligations with respect to the use and disclosure of PHI are outlined in the Business Associate Agreement Addendum attached to this Agreement.

Section 5 – Taxes And Assessments

Section 5.1 Payment of Taxes and Expenses. In the event that any Taxes are assessed against United as a claim administrator in connection with United's services under this Agreement, including all topics identified in Section 5.3 Customer will reimburse United through the Bank Account for the Customer's proportionate share of such Taxes (but not Taxes on United's net income). United has the authority and discretion to reasonably determine whether any such Tax should be paid or disputed. Customer will also reimburse United for a proportionate share of any cost or expense reasonably incurred by United in disputing such Tax, including costs and reasonable attorneys' fees and any interest, fines, or penalties relating to such Tax, unless caused by United's unreasonable delay or unreasonable determination to dispute such Tax.

Section 5.2 Tax Reporting. In the event that the reimbursement of any benefits to Participants in connection with this Agreement is subject to Plan or employer based tax reporting requirements, Customer agrees to comply with these requirements.

Section 5.3 State and Federal Surcharges, Fees and Assessments. The Plan is responsible for state or Federal surcharges, assessments, or similar Taxes imposed by governmental entities or agencies on the Plan or United, including but not limited to those imposed pursuant to The Patient Protection and Affordable Care Act of 2010 ("PPACA"), as amended from time to time. This includes the funding, remittance, and determination of the amount due for PPACA required Taxes and fees.

Section 6 – Indemnification

Section 6.1 Customer Indemnifies United. (a) Customer will indemnify United and hold United harmless against any and all losses, liabilities, penalties, fines, costs, damages, and expenses United incurs, including reasonable attorneys' fees and costs, which arise out of:

- (1) Customer or its vendors', subcontractors', or authorized agents' gross negligence or willful misconduct in the performance of (A) Customer or its vendors', subcontractors', or authorized agents' obligations under this Agreement, or (B) Customer's or Customer's vendors' subcontractors', or authorized agents' performance under any other agreements entered into by United with those third parties on Customer's behalf;
- (2) Customer's material breach of (A) this Agreement, or (B) any other agreements entered into by United with third parties on Customer's behalf;
- (3) a breach by a third party of any other agreements United enters into with such third parties on Customer's behalf;
- (4) third party claims brought against United as the claims administrator (e.g. a claim raised by the federal government based on the federal Medicare Secondary Payor laws), and;
- (5) Customer's operation of the HSA as an ERISA plan; failure to act in accordance with applicable provisions of the IRC and associated guidance issued by the IRS/Treasury Department with respect to Customer's HSA; and/or, claims against United relating to an HSA utilized by Customer's enrolling Employees.

(b) If the parties are unable to mutually resolve the matter, or are unable to resolve it through mediation, the indemnification obligations set forth in this Section are enforceable against Customer only as determined by a court or other tribunal having jurisdiction of the matter.

(c) This provision shall survive the termination of this Agreement.

Section 6.2 United Indemnifies Customer. (a) United will indemnify Customer and hold Customer harmless against any and all losses, liabilities, penalties, fines, costs, damages, and expenses that Customer incurs, including reasonable attorneys' fees and costs, which arise out of:

(1) United's or its vendors' subcontractors' or authorized agents' gross negligence or willful misconduct in the performance of United's or its vendors', subcontractors', or authorized agents' obligations under this Agreement; and

(2) United's material breach of this Agreement.

(b) If the parties are unable to mutually resolve the matter, or are unable to resolve it through mediation, the indemnification obligations set forth in this Section are enforceable against United only as determined by a court or other tribunal having jurisdiction of the matter.

(c) Customer shall remain responsible for payment of benefits and United's indemnification will not extend to indemnification of Customer or the Plan against any claims, liabilities, damages, judgments, or expenses that constitute payment of Plan benefits.

(d) This provision shall survive the termination of this Agreement.

Section 6.3 Non-appropriation of Funds. In the event no funds or insufficient funds are appropriated by the Customer for any payments due hereunder, Customer will promptly notify United of such occurrence, and this Agreement shall terminate on the date sufficient funds will cease to be available. Customer shall remain responsible for payment for services received and benefits paid prior to termination, and for any applicable run-out claims administration services.

Section 7 – Plan Benefits Litigation

Section 7.1 Litigation Against United. If a demand is asserted, or litigation or administrative proceedings are begun by a Participant or health care provider against United to recover Plan benefits, related to its duties under this Agreement (“Plan Benefits Litigation”), United will select and retain defense counsel to represent its interest.

Section 7.2 Litigation Against Customer. If Plan Benefits Litigation is begun against Customer and/or the Plan, Customer will select and retain counsel to represent its interest.

Section 7.3 Litigation Against United and Customer. If Plan Benefits Litigation is begun against the Plan and United jointly, and provided no conflict of interest arises between the parties, the parties may agree to joint defense counsel. If the parties do not agree to joint defense counsel, then each party will select and retain separate defense counsel to represent their own interests.

Section 7.4 Litigation Fees and Costs. All reasonable legal fees and costs United incurs will be paid by Customer (except as provided in Section 6.2) if United gives Customer reasonable advance notice of United's intent to charge Customer for such fees and costs, and United consults with Customer in a manner consistent with United's fiduciary obligations under ERISA on United's litigation strategy.

Section 7.5 Litigation Cooperation. Both parties will cooperate fully with each other in the defense of Plan Benefits Litigation.

Section 7.6 Payment of Plan Benefits. In all events, Customer is responsible for the full amount of any Plan benefits paid as a result of Plan Benefits Litigation.

Section 7.7 Survival. This provision shall survive the termination of this Agreement.

Section 8 – Mediation

Except in the case of United's termination due to Customer's failure to provide funds for benefits or fees, in the event that any dispute, claim, or controversy of any kind or nature relating to this Agreement arises between the parties, the parties agree to meet and make a good faith effort to resolve the dispute. If the dispute is not resolved within thirty (30) days after the parties first met to discuss it, and either party wishes to pursue the dispute further, that party will

refer the dispute to non-binding mediation under the Commercial Mediation Rules of the American Arbitration Association (“AAA”). In no event may the mediation be initiated more than one year after the date one party first gave written notification of the dispute to the other party. A single mediator engaged in the practice of law, who is knowledgeable about ERISA and employee benefit plan administration, will conduct the mediation under the then current rules of the AAA. The mediation will be held in a mutually agreeable site. Nothing in this Section is intended to prevent either party from seeking any other remedy available at law including seeking redress in a court of competent jurisdiction. This provision shall survive the termination of this Agreement.

Section 9 – Termination

Section 9.1 Services End. United’s services under this Agreement stop on the date this Agreement terminates, regardless of the date that claims are incurred. However, United may agree to continue providing certain services beyond the termination date, as provided in Exhibit A – Statement of Work.

Section 9.2 Termination Events. This Agreement will terminate under the following circumstances:

- (1) The Plan terminates;
- (2) Both parties agree in writing to terminate the Agreement;
- (3) After the Initial Term, either party gives the other party at least sixty (60) days prior written notice;
- (4) United gives Customer notice of termination because Customer did not pay the fees or other amounts Customer owed United when due under the terms of this Agreement,
- (5) United gives Customer notice of termination if Customer fails to provide the required funds for payment of benefits under the terms of this Agreement;
- (6) Either party is in material breach of this Agreement, other than by non-payment or late payment of fees owed by Customer or the funding of Plan benefits, and does not correct the breach within thirty (30) days after being notified in writing by the other party;
- (7) United may terminate this Agreement in the event of a filing by or against the Customer of a petition for relief under the Federal Bankruptcy Code;
- (8) Any state or other jurisdiction prohibits a party from administering the Plan under the terms of this Agreement or imposes a penalty on the Plan or United and such penalty is based on the administrative services specified in this Agreement. In this situation, the party may immediately discontinue the Agreement’s application in such state or jurisdiction. Notice must be given to the other party when reasonably practical. The Agreement will continue to apply in all other states or jurisdictions; or
- (9) As otherwise specified in this Agreement.

Section 10 – Miscellaneous

Section 10.1 Subcontractors. United can use its affiliates or subcontractors to perform United’s services under this Agreement. United will be responsible for those services to the same extent that United would have been had it performed those services without the use of an affiliate or subcontractor.

Section 10.2 Assignment. Except as provided in this paragraph, neither party can assign this Agreement or any rights or obligations under this Agreement to anyone without the other party’s written consent. That consent will not be unreasonably withheld. Nevertheless, United can assign this Agreement, including its rights and obligations to United’s affiliates, to an entity controlling, controlled by, or under common control with United, or a purchaser of all or substantially all of United’s assets, subject to notice to Customer of the assignment.

Section 10.3 Governing Law. This Agreement is governed by ERISA and, if applicable, the applicable laws of the State of Minnesota. This provision shall survive the termination of this Agreement.

Section 10.4 Entire Agreement. This Agreement, with its exhibits, constitutes the entire agreement between the parties governing the subject matter of this Agreement. This Agreement replaces any prior written or oral communications or agreements between the parties relating to the subject matter of this Agreement. The headings and titles within this Agreement are for convenience only and are not part of the Agreement.

Section 10.5 Amendment. Except as may otherwise be specified in this Agreement, the Agreement may be amended only by both parties agreeing to the amendment in writing, executed by a duly authorized person of each party.

Section 10.6 Waiver/Estoppel. Nothing in this Agreement is considered to be waived by any party, unless the party claiming the waiver receives the waiver in writing. No breach of the Agreement is considered to be waived unless the non-breaching party waives it in writing. A waiver of one provision does not constitute a waiver of any other. A failure of either party to enforce at any time any of the provisions of this Agreement, or to exercise any option which is provided in this Agreement, will in no way be construed to be a waiver of such provision of this Agreement.

Section 10.7 Notices. Any notices, demands, or other communications required under this Agreement will be in writing and may be provided via electronic means or by United States Postal Service by certified or registered mail, return receipt requested, postage prepaid, or delivered by a service that provides written receipt of delivery.

Section 10.8 Use of Name. The parties agree not to use each other's name, logo, service marks, trademarks, or other identifying information without the written permission of the other, except that Customer grants United permission to use Customer's name, logo, service marks, trademarks or other identifying information to the extent necessary for United to carry out its obligations under this Agreement (e.g. on SPDs and ID cards).

Section 10.9 Compliance with Laws and Regulations. The parties agree to comply with all applicable federal, state and other laws and regulations with respect to this Agreement.

Section 10.10 No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

Section 10.11 Severability. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision. However, it is intended that a court of competent jurisdiction construe any invalid or unenforceable provision of this Agreement by limiting or reducing it so as to be valid or enforceable to the extent compatible with applicable law.

Section 10.12 Acceptance. Following the Effective Date and after Customer has provided three (3) months' worth of funds for the processing of claims and/or the payment of administrative fees, this Agreement is deemed executed by the parties.

EXHIBIT A – STATEMENT OF WORK

The following are the administrative services United has agreed to provide to Customer. Customer may request that United provide services in addition to those set forth in this Agreement. If United agrees to provide them, those services will be governed by the terms of this Agreement and any amendments to this Agreement. Customer will pay an additional fee, determined by United, for these additional services. The services described in this Exhibit will be made available to Customer's eligible Participants consistent with the Summary Plan Description under which the Participant is covered.

Section A1 Network

Network Access, Management and Administration. United will provide access to Networks and Network Providers, as well as related administrative services including physician (and other health care professional) relations, clinical profiling, contracting and credentialing, and network analysis and system development. The make-up of the Network can change at any time. Notice will be given in advance or as soon as reasonably possible.

United generally does not employ Network Providers and they are not United's agents or partners, although certain Network Providers are affiliated with United. Otherwise, Network Providers participate in Networks only as independent contractors. Network Providers and the Participants are solely responsible for any health care services rendered to Participants. United is not responsible for the medical outcomes or the quality or competence of any provider or facility rendering services, including Network Pharmacies and services provided through United's affiliates' networks, or the payment for services rendered by the provider or facility.

Value Based Contracting Program. United's contracts with some Network Providers may include withholds, incentives, and/or additional payments that may be earned, conditioned on meeting standards relating to utilization, quality of care, efficiency measures, compliance with United's other policies or initiatives, or other clinical integration or practice transformation standards. Customer shall fund these payments due the Network Providers as soon as United makes the determination the Network Provider is entitled to receive the payment under the Network Provider's contract, either upfront or after the standard has been met. For upfront funding, if United makes the determination that the Network Provider failed to meet a standard, United will return to Customer the applicable amount. United shall provide Customer reports describing the amount of payments made on behalf of Customer's Plan.

Only the initial claims based reimbursement to Network Providers will be subject to the Participant's copayment, coinsurance or deductible requirements. Customer will pay the Network Provider the full amount earned or attributable to its Participants, without a reduction for copayments or deductibles and agree that there will be no impact from these payments on the calculation of the Participant's satisfaction of their annual deductible amount.

Section A2 Recovery Services

United will provide recovery services for Overpayments and other Plan recovery opportunities as described herein.

Overpayments. United utilizes generally accepted auditing protocols to identify Overpayments. United will attempt to recover Overpayments by employing appropriate outreach to Participants and/or providers to request reimbursement.

Fraud, Waste, and Abuse Management. United will provide services related to detection, and recovery of wasteful, abusive, and/or fraudulent claims. United's Fraud, Waste, and Abuse Management processes will be based upon United's proprietary and confidential procedures, modes of analysis, and investigations. United will use these procedures and standards in delivering Fraud, Waste, and Abuse Management services to Customer and to United's other customers. Services include all work to identify recovery opportunities, research, data analysis, investigation, and initiation of all Recovery Processes set forth below. United does not guarantee or warranty any particular level of prevention, detection, or recovery. United agrees to perform Fraud, Waste, and Abuse Management services pursuant to the industry standards for such services.

Credit Balance Recovery. United utilizes on-site resources to perform hospital and/or facility audits to review, validate, and recover credit balances (dollars) existing on patient accounts to identify any recoverable amounts.

Hospital Bill Audit. United utilizes on-site resources (registered/licensed nurses and/or certified coders) to perform in-depth reviews of hospital bills. Auditors will conduct line by line comparisons of itemized bills to the medical records to ensure billing accuracy and identify any recoverable amounts.

Subrogation. United will provide services to recover Plan benefits that were paid and are recoverable by the Plan because payment was or should have been made by a third party for the same medical expense (other than in connection with coordination of benefits, Medicare, or other Overpayments). This is referred to as “Third Party Liability Recovery” or “Subrogation”. Customer will not engage any entity except United to provide the services described in this Section without United’s prior approval.

Advanced Analytic Recovery Services. United will use large scale analytics, information, and analysis to identify post-adjudication claims for additional recovery opportunities.

Recovery Process – Non-Class Action Recoveries. Customer delegates to United the discretion and authority to develop and use standards and procedures for any recovery opportunity, including but not limited to, whether or not to seek recovery, what steps to take if United decides to seek recovery, whether to initiate litigation or arbitration, the scope of such litigation or arbitration, which legal theories to pursue in such litigation or arbitration, and all decisions relating to such litigation or arbitration, including but not limited to, whether to compromise or settle any litigation or arbitration, and the circumstances under which a claim may be compromised or settled for less than the full amount of the potential recovery. In all instances where United pursues recovery through litigation or arbitration, Customer, on behalf of itself and on behalf of its Plan(s), will be deemed to have granted United an assignment of all ownership, title and legal rights and interests in and to any and all claims that are the subject matter of the litigation or arbitration.

Customer acknowledges that use of United’s standards and procedures may not result in full or partial recovery for any particular claim or for any particular Customer. United will not pursue any recovery if it is not permitted by any applicable law, or if recovery would be impractical, as determined in United’s discretion. While United may initiate litigation or arbitration to facilitate a recovery, United has no obligation to do so. If United initiates litigation or arbitration, Customer will cooperate with United in the litigation or arbitration.

If this Agreement terminates, in whole or in part, United can continue recovery activities for any claims paid when the Agreement was in effect pursuant to the terms of this Section A2.

Recovery Process – Class Action Recoveries. Where a class action purports to affect Customer’s (or the Plan(s) it sponsors or administers) right to and interest in any Overpayment, United has the right to determine whether to seek recovery of the Overpayment on the Customer’s (or the Plan(s) it sponsors or administers) behalf through litigation, arbitration, or settlement. If United elects to seek recovery of such an Overpayment that is at issue in a class action, United will provide written notice to Customer of its intention. If Customer does not want United to seek recovery of the Overpayment, Customer shall notify United in writing within thirty (30) days of receiving notice from United. If Customer does not so notify United, Customer, on behalf of itself and on behalf of the Plan(s) it sponsors and administers, assigns to United all ownership, title and legal rights and interests in and to any and all Overpayments that are the subject matter of the class action. In such cases, Customer will cooperate with United in any resulting litigation or arbitration that United may file to pursue the Overpayments.

If Customer provides United with written notice that it does not want United to seek recovery of an Overpayment related to a class action (whether putative or certified) then, pursuant to its standard procedures, United will provide Customer with related Overpayment claims information, at Customer’s request. Customer is then solely responsible for determining whether it (or the Plan(s) it sponsors or administers) will participate in the class action (whether putative or certified), participate in any class action settlement, pursue recovery of the relevant Overpayment outside of the class action, or take any other action with respect to any cause of action the Customer (or the Plan(s) it sponsors or administers) might have.

If this Agreement terminates, in whole or in part, United can continue recovery activities for any claims paid when the Agreement was in effect pursuant to the terms of this Section A2.

Offsetting Process. In some instances, United may be able to obtain an Overpayment recovery by applying (or offsetting) the Overpayment against future payments to the provider made by United. In effectuating Overpayment recoveries through offset, United will follow its established Overpayment recovery rules which include, among other

things, prioritizing Overpayment credits based on: (1) the age of the Overpayment for electronic payments and (2) the funding type and the age of the Overpayment for check payments. United may recover the Overpayment by offsetting, in whole or in part, against: (1) future benefits that are payable under the Plan in connection with services provided to any Participants; or (2) future benefits that are payable in connection with services provided to individuals covered under other self-insured or fully-insured plans for which United processes payments. In addition to permitting United to recover Overpayments on behalf of the Plan from benefits payable under other plans, United will enable other plans (including plans fully insured by United) to recover their Overpayments from benefits payable under the Plan. Customer understands and agrees that in doing so, the Plan is participating in a cooperative overpayment recovery effort with other plans for which United acts as the claims administrator. Reallocations pursuant to this process in no way impact the decision as to whether or not a benefit is payable under the Plan. In United's application of Overpayment recovery through offset, timing differences may arise in the processing of claims payments, disbursement of provider checks, and the recovery of Overpayments. As a result, the Plan may in some instances receive the benefit of an Overpayment recovery before United actually receives the funds from the provider. Conversely, United may receive the funds before the Plan receives the credit for the Overpayment. It is hereby understood that the Parties may retain any interest that accrues as a result of these timing differences. Details associated with Overpayment recoveries made on behalf of the Plan through offset will be identified in the monthly reconciliation report provided to the designated representative for the Customer's Plan. The monthly reconciliation report will contain information relating only to Customer's Plan and will not contain information relating to other plans for which United acts as the claims administrator.

Recovery Fees. Customer will be charged a fee for the services described in this Section A2. That fee is set forth in Exhibit B-Fees. No fees will be charged (a) if the Overpayment is solely the result of United's acts, or (b) for recoveries obtained through a class action where United does not file an opt-out case on behalf of Customer. United will not be responsible for reimbursement of any unrecovered Overpayment nor attorneys' fees and costs related to litigation or arbitration associated with recoveries except to the extent an arbitrator, arbitration panel, or court of competent jurisdiction determines that the Overpayment was due to United's gross negligence or willful misconduct. Under no circumstances will United be responsible for reimbursement of unrecovered Overpayments resulting from a third party's fraud.

Section A3 Providing Funds

Responsibility for Payment of Plan Benefits. The Plan is Self-Funded. Customer is solely responsible for providing funds for payment for all Plan benefits. United has no liability or responsibility to provide these funds. This is true even if United or its affiliates provide stop loss insurance to Customer.

Bank Account. United, on Customer's behalf, will open and maintain a Bank Account at a bank under United's sole control (the "Bank") to provide United the means to access Customer's funds for the purpose of payment of Plan benefits, Plan expenses (such as state surcharges or assessments), or other Customer financial obligations and, when authorized by Customer, fees. The Bank Account will be a part of the network of accounts that have been established at the Bank for United's self-funded customers. The funds in the Bank Account are Customer's and will not be comingled with any other customer funds.

Balance In Account. Customer will maintain a minimum balance in the Bank Account in an amount equal to not less than 6 day(s) of expected Bank Account activity. United will establish this amount based on expected Plan payment obligations, with appropriate adjustments for anticipated non-daily activity (e.g., prescription drug benefits and fee payments) as determined by United. United will notify Customer if and when the required minimum balance changes.

The required minimum balance is based on Customer's financial condition as assessed by United. In the event United determines, based on reasonable information and belief, that Customer's financial condition has deteriorated or Customer continues to fail to comply with the material financial obligations specified in this Agreement, United may revise the required balance effective five (5) days from the date of notice to Customer.

Issuing and Providing Funds for Checks and Non-Draft Payments. Checks and/or non-draft payments will be written on and/or issued from one or more common accounts that are a part of the network of accounts maintained at the Bank for United's self-funded customers. When the checks for Plan benefits are presented to the Bank, the Bank

will notify United and United will direct the Bank to either reject the checks or to withdraw funds from the Bank Account to fund the checks that are cashed.

Transfers of Funds. Funds will also be withdrawn from the Bank Account when a transfer of funds has been made electronically. United will direct the Bank to withdraw funds from the Bank Account to fund the non-draft payments or expenses as they are issued.

Calls for Funds. The withdrawals from the Bank Account are paid for by the balance Customer maintains in the Bank Account. This balance will be drawn down each banking day to satisfy the previous day's liability.

Customer will authorize United to initiate Automated Clearing House (ACH) from Customer's own designated funding bank account to the Bank Account for amounts that are due. Every 5 business day(s), United will notify Customer of the amount due, and United will, within one business day, transfer the amount due from Customer's own designated funding bank account to the Bank Account.

The number of days between transfers and the method of transfer are based on Customer's financial condition as of the Effective Date as assessed by United, as well as Customer's compliance with material financial obligations. United reserves the right to increase the frequency of such fund transfers and/or change the method of transfer if United determines, based on reasonable information and belief, that Customer financial condition has deteriorated, or Customer continues to fail to comply with the material financial obligations specified in this Agreement.

Underfunding. If Customer does not provide the amounts sufficient to maintain the required minimum balance in the Bank Account, or to cover Bank Account withdrawals: (1) Customer must immediately correct the deficiency and provide prompt notice to United. (2) If United learns of the funding deficiency, United will notify Customer within one business day so Customer can correct the deficiency. (3) United may stop issuing checks and non-draft payments and suspend any of its other services under this Agreement for the period of time Customer does not provide the required funding. (4) If Customer does not correct the funding deficiency within three banking days of United's notice to Customer, United may terminate this Agreement as otherwise set forth in this Agreement, such termination to be effective the first day such funding deficiency began. Customer will pay interest on the amount of underfunding at the standard rate that United charges to its self-funded customers for underfunding of bank accounts.

Stop Payments on Outstanding Checks. At Customer's expense, United may place stop payments on checks if United determines that Customer has insufficient funds in Customer's own designated funding bank account to honor such checks. United will send a search letter to the payee on all checks that have not been cashed within six (6) months. United will automatically stop payment on all checks that have not been cashed within twelve (12) months and provide Customer with reports Customer needs for the purposes of performing escheat. Customer is solely responsible for determining to file and/or filing unclaimed property once notified, or for making unclaimed payee payments directly.

Funding After Termination. When this Agreement terminates, the funding method will remain in place to fund all outstanding checks and Customer's other funding obligations, including credit refunds due to the Customer, for the length of the run-out period. Following the run-out period, to ensure a minimally sufficient balance is maintained to cover the Customer's funding obligations the required minimum balance may be adjusted through mutual agreement of the parties. United will stop payment on all checks that remain uncashed at the end of this period and Customer will request in writing to close the Bank Account and recover any funds remaining in it. United will provide bank statements and Bank Account reconciliation reports, including reports Customer needs for the purposes of performing escheat.

Flexible Spending Account ("FSA"). United, on Customer's behalf, will open and maintain a bank account at the Bank to provide United the means to access Customer's funds for the sole purpose of payment of reimbursement of FSA Plan benefits, expenses and, when authorized by Customer, fees ("FSA Bank Account"). The FSA Bank Account will be a part of the network of accounts that have been established at the Bank for United's self-funded customers. The funds in the FSA Bank Account are Customer's and will not be comingled with any other customer funds.

Customer will maintain a minimum balance in the FSA Bank Account United determines appropriate based upon Participant enrollment and projected benefit reimbursement requests. United will determine if circumstances warrant

increasing this minimum balance and will notify Customer if and when the required balance or the amount identified changes.

Every 5 business day(s), Customer will transfer to the FSA Bank Account the amount of funds which have been withdrawn from the FSA Bank Account over the past 5 business day(s). Customer will transfer that amount via ACH. This transfer will replenish the Customer's balance in the FSA Bank Account. Customer will initiate the fund transfers unless United determines that Customer's financial condition as of the Effective Date, as assessed by United, has deteriorated or Customer fails to comply with the material funding and financial obligations specified in this Agreement. If either condition occurs, Customer agrees to authorize United to initiate the transfers. The number of days between transfers and the method of transfer are based on Customer's financial condition as of the Effective Date as viewed by United, and Customer's compliance with material financial obligations. In the event United determines, based on reasonable information and belief, that Customer's financial condition has deteriorated, or Customer continues to fail to comply with material financial obligations set forth in this Agreement, United reserves the right to increase the frequency of such fund transfers and/ or change the method of transfer.

Section A4 Medical Benefit Drug Rebate Payments

Allocation and Payment of Medical Benefit Drug Rebates. From time to time, United or a subcontractor may negotiate with drug manufacturers regarding the payment of Medical Benefit Drug Rebates on applicable prescription drug products dispensed to Participants under the Plan's medical benefit. Customer will receive of the Medical Benefit Drug Rebates United receives. United will retain the balance of such Medical Benefit Drug Rebates as part of United's compensation. When United negotiates directly with drug manufacturers for the payment of Medical Benefit Drug Rebates to United, United will pay Customer the agreed upon Medical Benefit Drug Rebates within thirty (30) calendar days of United's receipt of such Medical Benefit Drug Rebates from the drug manufacturer. If United is not able to make payment to Customer within thirty (30) calendar days, United will pay interest on such Medical Benefit Drug Rebates from the date of receipt until United makes payment to Customer, less approximately thirty (30) days for processing. United will retain interest earned during this processing timeframe. Interest will be paid at the one month London Interbank Offered Rate (LIBOR) in effect on the first business day of each applicable month.

Customer will only receive Customer's Medical Benefit Drug Rebates to the extent that Medical Benefit Drug Rebates are actually received by United. Thus, for example, if a government action or a major change in pharmaceutical industry practices prevents United from receiving Medical Benefit Drug Rebates, the amount Customer receives may be reduced or eliminated.

Customer agrees that during the term of this Agreement, neither Customer nor the Plan will negotiate or arrange or contract in any way for Medical Benefit Drug Rebates on or the purchase of prescription drug products from any manufacturer under the Plan's medical benefit. If Customer or the Plan does, United may, without limiting United's right to other remedies, immediately terminate Customer's and Plan's entitlement to Medical Benefit Drug Rebates (including forfeiture of any Medical Benefit Drug Rebates earned but not paid). In addition, Customer agrees to reasonably cooperate with United in order to obtain Medical Benefit Drug Rebates.

Subcontractor Compensation. If a subcontractor is involved in negotiating with drug manufacturers regarding the payment of Medical Benefit Drug Rebates, it may retain a portion of the gross amounts received from drug manufacturers in connection with such products. United will provide information on the amount, if any, retained by the subcontractor as compensation for its services, in advance of Customer's execution of this Agreement. In addition, United will provide Customer with thirty (30) days advance notice of any material increase in or method for subcontractor compensation. If at any time Customer does not find the subcontractor compensation acceptable, Customer may terminate the Medical Benefit Drug Rebates services after thirty (30) days advance written notice to United.

Section A5 Claims Determinations and Appeals

Claim Procedures. Customer appoints United a named fiduciary under the Plan with respect to (i) performing initial benefit determinations and payment, (ii) performing the fair and impartial review of first level internal appeals and

(iii) performing the fair and impartial review of second level internal appeals. As such, Customer delegates to United the discretionary authority to (i) construe and interpret the terms of the Plan, (ii) to determine the validity of charges submitted to United under the Plan, and (iii) make final, binding determinations concerning the availability of Plan benefits under the Plan's internal appeal process, all in compliance with applicable law and regulation. If United denies a Plan benefit claim, in whole or in part, United will notify the claimant of the adverse benefit determination and the claimant shall have the appeal rights set forth in the Summary Plan Description, and/or those which are required under applicable law. If after the exhaustion of the two levels of internal appeal United determines that the Plan benefit is still not payable, United will notify the claimant that the adverse benefit determination has been upheld. This determination will be final and binding on the claimant, and all other interested parties except as otherwise provided under the external review program described in below.

Appeals of Urgent Care Claims. Notwithstanding the foregoing, with respect to Urgent Care Claims, United will conduct one review of a denied Urgent Care Claim and issue a final determination as soon as possible, in accordance with applicable law.

External Review Program. United will notify claimants of the option to request an external review of adverse benefit determinations following the required internal appeal process. United will, in accordance with applicable law: (i) provide claimant with the necessary procedures to obtain the review (ii) coordinate submission of the claimant's case to an independent review organization, and (iii) direct the independent review organization to notify the claimant of the final external review decision. A fee will apply beyond the maximum number of free reviews, as listed in Exhibit B – Fees. Customer acknowledges that the independent review organizations are independent contractors and not subcontractors of United, and that United is not responsible for the decisions of the independent review organizations as subcontractors.

Catastrophic Events. During such time as a government agency declares a state of emergency or otherwise invokes emergency procedures with respect to Participants who may be affected by severe weather or other catastrophic events (a "Catastrophic Event Timeframe"), Customer directs United to implement certain changes in its claim procedures for affected Participants, including, for example: (a) exemption from the application of prior authorization requirements and/or penalties; (b) waiver of out-of-network restrictions (e.g., out-of-network providers paid at the Network Provider level), (c) extension of time frames for timely claims filing and/or appeals, (d) early replacement of lost or damaged durable medical equipment, and (e) other protocols reasonably required to provide Participants with access to health plan and pharmacy benefits as applicable. Such protocols are applicable to Participants whose place of residency falls within impacted areas of the Catastrophic Event, and for dates of service that fall within the Catastrophic Event Timeframe.

Section A6 System Access

Access. United grants Customer the nonexclusive, nontransferable right to access and use the functionalities contained within the Systems, under the terms specified in this Agreement. Customer agrees that all rights, title, and interest in the Systems and all rights in patents, copyrights, trademarks, and trade secrets encompassed in the Systems will remain United's. To obtain access to the Systems, Customer will obtain, and be responsible for maintaining, at no expense to United, the hardware, software, and Internet browser requirements United provides to Customer, including any amendments thereto. Customer will be responsible for obtaining an Internet Service Provider or other access to the Internet. Customer will not (i) access Systems or use, copy, reproduce, modify, or excerpt any Systems documentation provided by United in order to access or utilize Systems, for purposes other than as expressly permitted under this Agreement or (ii) share, transfer or lease Customer's right to access and use Systems, to any other person or entity which is not a party to this Agreement. Customer may designate any third party, with prior approval from United, to access Systems on Customer's behalf, provided the third party agrees to these terms and conditions of Systems access and Customer assumes joint responsibility for such access.

Security Procedures. Customer will use commercially reasonable physical and software-based measures to protect the passwords and user IDs provided by United for access to and use of any web site provided in connection with the services. Customer shall use commercially reasonable anti-virus software, intrusion detection and prevention system, secure file transfer and connectivity protocols to protect any email and confidential communications provided to United, and maintain appropriate logs and monitoring of system activity, Customer shall notify United within a

reasonable timeframe of any (a) unauthorized access or damage, including damage caused by computer viruses resulting from direct access connection, and (b) misuse and/or unauthorized disclosure of passwords and user IDs provided by United which impact the System.

Termination. United reserves the right to terminate Customer's System access (i) on the date Customer fails to accept the hardware, software and browser requirements provided by United, including any amendments thereto or (ii) immediately on the date United reasonably determines that Customer has (i) breached, or allowed a breach of, any applicable provision of this Section or (ii) materially breached or allowed a material breach of, any other applicable provision of this Agreement. Customer's System Access will also terminate upon termination of this Agreement, provided however that if run-out is provided in accordance with Exhibit A - Statement of Work, Customer may continue to access applicable functionalities within the Systems during the run-out period. Upon any of the termination events described in this Agreement, Customer agrees to cease all use of Systems, and United will deactivate Customer's identification numbers, passwords, and access to the System.

Section A7 Pharmacy Benefit Services

Definitions Specific to Pharmacy Benefit Services:

Average Wholesale Price (AWP): The average wholesale price, as reflected on the Medi-Span Prescription Pricing Guide (with supplements) ("Medi-Span"), of a Prescription Drug based on the eleven (11) digit NDC of the Drug on the date dispensed. United will rely on Medi-Span as updated by United no less frequently than every seven days to determine AWP for purposes of establishing the pricing provided to Customer under this Agreement. United will not establish AWP, and United will have no liability to Customer arising from use of Medi-Span.

Brand Drug: A single-source or multi-source Prescription Drug product as designated by the Medi-Span Prescription Pricing Guide (with supplements) or other available data resources that identify as a Brand product.

Dispensing Fee: The contracted rate of compensation paid to a Network Pharmacy for the processing and filling of a prescription claim.

Prescription Drug List (PDL): The list of Prescription Drugs as developed by United and approved and adopted by Customer for use with the Plan.

Generic Drug: A Prescription Drug product, whether identified by its chemical, proprietary or non-proprietary name, that is therapeutically equivalent and interchangeable with a Prescription Drug having an identical amount of the same active ingredient(s). For purposes of this Agreement, the Generic Drug determination is made based upon factors including indicators included in the Medi-Span Prescription Pricing Guide (with supplements) or other available data resource that identify as a Generic product.

MAC: The maximum allowable cost of a Prescription Drug as specified on a list established by United. United may have multiple MAC lists, each of which is subject to United's periodic review and modification in its sole discretion.

Mail Order Pharmacy: A facility that is duly licensed to operate as a pharmacy at its location and to dispense Prescription Drugs via postal or commercial courier delivery to individuals, including Participants. Mail Order Pharmacy includes pharmacies that are affiliates of United.

Network Pharmacy: A retail pharmacy, Mail Order Pharmacy, Specialty Pharmacy or other facility that is duly licensed to operate as a pharmacy at its location and to dispense Prescription Drugs to Participants and has entered into a Network Pharmacy agreement. An affiliate of United, in its capacity as a Mail Order Pharmacy or Specialty Pharmacy is a Network Pharmacy of the Customer.

Prescription Drug: An FDA approved drug required to be dispensed or administered only by prescription from a licensed health care professional in accordance with laws.

Rebate: Any discount, manufacturer administration fees, price concession or other remuneration United receives from a drug manufacturer under a rebate agreement that is contingent upon and related directly to Participant use

of a Prescription Drug under the Plan's pharmacy benefit or the medical benefit during the Term. Rebate does not include any discount, price concession or other direct or indirect remuneration United receives from a drug manufacturer for direct purchase of a Prescription Drug.

Rebate: Any discount, price concession or other remuneration United receives from a drug manufacturer under a rebate agreement that is contingent upon and related directly to Participant use of a Prescription Drug under the Plan's pharmacy benefit or the medical benefit during the Term. Rebate does not include any, discount, price concession, manufacturer administration fees or other direct or indirect remuneration United receives from a drug manufacturer for direct purchase of a Prescription Drug.

Single-Source Generic: A Generic Drug that has only one generic manufacturer.

Specialty Drugs: Prescription Drugs available at United's Specialty Pharmacy, including: (a) biotechnology drugs; (b) orphan drugs used to treat rare diseases; (c) typically high-cost drugs; (d) drugs administered by oral or injectable routes, including infusions in any outpatient setting; (e) drugs requiring on-going frequent patient management or monitoring; and (f) drugs that require specialized coordination, handling and distribution services for appropriate medication administration

Specialty Pharmacy: A facility that is duly licensed to operate as a pharmacy to dispense Specialty Drugs. Specialty Pharmacy includes pharmacies that are affiliates of United.

Pharmacy Network. United or its affiliate will provide the Pharmacy Benefit Services described in this Section. United will make Network Pharmacies available to Customer Participants, through United's affiliate. United will determine which pharmacies are Network Pharmacies. Network Pharmacies can change at any time. United will make a reasonable effort to provide Customer with advance notice if any material changes occur to the network. Upon request, United will provide Customer information on the reimbursement rate to United's affiliated Network Pharmacies.

Mail Order Pharmacy Services. United will provide, through its affiliate, mail order pharmacy services for Customer's Participants. Customer's pricing terms for mail order pharmacy services are based on the actual package dispensed and at least a 46 day supply. Prescriptions filled through the mail order pharmacy that are less than a 46 day supply will be processed at retail pricing and will be counted with retail utilization.

Prescription Drug List (PDL). Customer has adopted one or more of United's PDLs for use with Customer's benefit plans. Customer agrees not to copy, distribute, sell, or otherwise provide the PDL to another party without United's prior written approval, except to Participants as described below. On termination of this Agreement or if Customer terminates the Pharmacy Benefit Services portion of this Agreement, Customer will stop all use of the PDL.

While Customer is the ultimate decision-maker on selecting the design of Customer's PDL(s), Customer has requested that United supply and assist Customer with, certain PDL development and management functions including but not limited to drug tiering decisions. United's intent is to provide Customer with the same PDL and management strategies that United develops and employs in the management of United's fully insured business.

United makes the final classification of an FDA-approved Prescription Drug product to a certain tier of the PDL by considering a number of factors including, but not limited to, clinical and economic factors. Clinical factors may include, but are not limited to, evaluations of the place in therapy, relative safety or relative efficacy of the Prescription Drug product, as well as whether supply limits or notification requirements should apply. Economic factors may include, but are not limited to, the Prescription Drug product's acquisition cost including, but not limited to, available Rebates, and assessments on the cost effectiveness of the Prescription Drug product.

United may periodically down-tier the placement of a prescription drug product among the tiers. These changes may occur without prior notice. Once a year, United may also up-tier the placement of a Prescription Drug product among the tiers and/or recommend specific Prescription Drug product exclusions from coverage. United will provide notice to Customer of material changes to the PDL, United's drug tier classification procedures, coverage exclusions, and clinical programs. If Customer chooses not to implement a particular coverage exclusion or clinical program change, Customer needs to inform United in writing sixty (60) days prior to the effective date of the exclusion or change. Current drug placement and related information may be obtained from the member website, or by calling customer service.

Claims Processing. United will process the claims received from a Network Pharmacy in accordance with the Summary Plan Description, as well as the pricing and other terms of the Network Pharmacy’s participation agreement. On mail order and retail pharmacy services, United will retain the difference between what United reimburses the Network Pharmacy and Customer payment for a Prescription Drug product or service. United maintains systems for processing pharmacy claims and may receive access fees as compensation for services United provides to Network Pharmacies.

Pharmacy Audits. During the term of the Agreement, and at any time within six (6) months following its termination, a mutually agreeable entity (“Auditor”) may conduct an annual pharmacy claims audit of United’s performance under the Agreement once each calendar year. Prior to the commencement of this audit, United must receive a signed, a mutually agreeable confidentiality agreement.

Customer must advise United in writing of its intent to audit. The place, time, type, duration, and frequency of all audits must be reasonable and agreed to by United. No audits may be initiated or conducted during the months of December and January due to the demands of annual renewals and the implementation period. All audits will be limited to information relating to the calendar year in which the audit is conducted, and/or the immediately preceding calendar year. The audit scope and methodology will be consistent with generally acceptable auditing standards, including a statistically valid random sample as approved by United. United will not support any external audits a) where the audit firm is paid on a contingency basis, or b) that do not use a statistically valid random selection methodology; this includes electronic/data mining audits that are used for purposes of recovery discovery.

Customer will pay any expenses that it or its Auditor incurs in connection with the audit. In addition to Customer’s expenses and any applicable fees, Customer will also pay any extraordinary expenses United incurs due to a customer request related to the audit, such fees to be reviewed and approved by the Customer in advance. For any audit initiated after this Agreement is terminated or for any audit in addition to those provided for in this Section (if approved by United), Customer will pay all expenses incurred by United.

United will provide Auditor with access to prescription claims data, subject to the provisions of the confidentiality agreement. Additional documentation (e.g. policies and procedures) requested during the course of an audit, other than that needed to determine the accuracy of pharmacy claims payments, may be provided at United’s reasonable discretion. After reviewing the claims for the audit period, Auditor may provide a sample size of claims, not to exceed 300 prescription claims per audit, for United to perform additional research.

A final audit report shall be provided by Customer or Auditor in writing to United forty-five (45) days after the end of the audit. Such final audit report will contain a representative sample of prescription claims or the entire suspected error population, as well as the dollar amount associated with any suspected errors. If the entire suspected error population is provided, then United will review a statistically valid sample of the prescription claims and provide Customer or Auditor with its response within forty-five (45) days of United’s receipt of the final audit report. Customer or its Auditor shall have thirty (30) calendar days to reply to United’s response. If Customer or its Auditor fail to provide either the initial final audit report or fail to reply to United’s audit response within the timeframes provided, then the audit will be considered closed. Any payment made, whether by United or Customer, based upon audit findings will be made within thirty (30) days following Customer and United agreeing to the audit results and payment of any amounts due as reflected in an executed audit settlement agreement.

Without limiting the foregoing, with respect to audits regarding the payment of Rebates by pharmaceutical manufacturers, the audit must be conducted solely by a “big four” public accounting firm that maintains a separate and stand-alone audit department and is not providing support in conjunction with any litigation pending against United or United’s affiliates. However, if no “big four” public accounting firm is qualified to perform the audit due to the above requirements, another mutually agreeable firm meeting such requirements may be used. Rebate audits are to be conducted separate from claims audits, must be conducted on site at United, and are limited to five (5) Rebate agreements.

Section A8 Pharmacy Benefit Rebates

Allocation and Payment of Rebates. United will negotiate with drug manufacturers for the payment of Rebates to United. United will retain 100% of the Rebates paid to United and any related interest and Customer has received an administrative fee credit as outlined in Exhibit B – Fees. The amount of Rebates retained depends on many factors, including whether Customer has an incentive benefit design, arrangements with drug manufacturers, the volume of Prescription Drug claims and the structure of the PDL.

If a government action or a major change in pharmaceutical industry practices eliminates or materially reduces manufacturer Rebate programs, Customer’s payment amount may be reduced or eliminated. In such event, United shall promptly notify Customer and revise or eliminate such payment effective with the date of the reduction or elimination in Rebate payments. In addition, reduction or elimination of Rebates in this event shall constitute a change in the Agreement as described in the Fees Section such that United has the right to propose a change to the fees as provided for in the Fees Section or increase the percentage of Rebate dollars retained by United.

Payments to Pharmacies. In connection with Prescription Drug claims, there may be a timing difference between when United withdraw funds from Customer claims account and when United issues payments to pharmacies and other payees. United may retain interest earned on these amounts during this time. Interest is expected to be paid at overnight deposit rates by United’s banking institution.

Customer Compliance. Customer agrees that during the term of this Agreement, neither Customer nor the Plan will negotiate or arrange or contract in any way for Rebates on or the purchase of Prescription Drug products from any manufacturer with respect to the pharmacy benefits. If Customer or the Plan does, United may, without limiting United’s right to other remedies, immediately terminate Customer and Plan's entitlement to Rebates (including forfeiture of any Rebates earned but not paid) and/or terminate the pharmacy benefit services. Termination of pharmacy benefit services shall constitute a change in the Agreement as described in the Fees Section such that United has the right to increase the fees for medical management services under this Agreement. In addition, Customer agrees to reasonably cooperate with United in order to obtain Rebates. Customer will encourage Customer Participants to use a Network Pharmacy. Customer will also encourage Customer Participants to electronically access the PDL on United’s website, and encourage Participants to share the PDL with their physicians or refer their physicians to the PDL on United’s website.

Coordination of Pharmacy Benefits with Medicare Part D. If elected by Customer, Customer delegates the discretion and authority to United to develop and use policies and procedures to coordinate claims for retiree pharmacy benefits claims with Customer Part D Prescription Drug plan in accordance with Customer Plan design and applicable law.

Section A9 Health Savings Account (HSA)

Health Savings Account (HSA). United will provide Customer with an HSA in accordance with Exhibit A - Statement of Work. The HSA is not subject to ERISA, and accordingly, any provisions of this Agreement which reference ERISA or which establish upon United an obligation to provide reporting or other services standardly associated with an ERISA plan shall not apply to the HSA and any services relating thereto.

Customer acknowledges that HSAs are subject to contribution limits and other requirements imposed by the IRC and associated guidance issued by the IRS/Treasury Department. Customer acknowledges and agrees that United shall have no obligation to ensure compliance with any requirements or limitations pertaining to HSAs, their establishment and/or use. To the extent that Customer has established contribution amounts and other HSA program requirements applicable to Customer Enrolling Employees, Customer will advise United of such requirements. United will not verify that distributions from Customer’s Enrolling Employees’ HSAs are for qualified medical expenses.

Schedule of Services

A. ACCOUNT MANAGEMENT SERVICES

Service	Comments
Implementation and maintenance of account.	

Service	Comments
Enrollment meetings and support for locations that meet United's criteria.	Minimum six weeks' notice of meeting.
Standard initial enrollment kit.	
Bulk mailing of initial enrollment kits to Customer based on United's criteria.	
Ongoing account management including: <ul style="list-style-type: none"> • Designated account resources. • Ongoing management and review of benefits and data. 	
Standard accounting structure based on United's criteria: <ul style="list-style-type: none"> • Suffixes to accommodate separate claims reporting for different benefit plans. • Claim accounts to accommodate separate claims data for different locations and groups. 	
Maintenance benefit plans.	
Electronic Bill Presentment and Payment (EBPP) , which provides capabilities to: <ul style="list-style-type: none"> • View invoices online. • Sort and search enrollee information. • Download billing information. • Remit payment online. 	
Online administration services accessed through United's Employer eServices Web site including online eligibility maintenance and claim status inquiry.	Customer reporting is included to the extent indicated in Section D. eServices Customer Reporting Services.
Summary Plan Description (SPD) Assistance. United will prepare a customized draft of an SPD, either for each plan or multiple plans, as mutually agreed upon with one additional draft, in response to Customer's comments, and a final draft SPD. "Plan", for purposes of this paragraph, means each individual plan design administered by United. The SPD will be in English.	If the SPD is not finalized sufficiently in advance of the Effective Date of United's services, United will either (i) utilize the summary of Plan benefits and exclusions that United has created based on its understanding of Customer's Plan design and which Customer has reviewed and approved or (ii) create, at United's discretion, an operational SPD which will be based upon the summary of Plan benefits that Customer has reviewed and approved. United will administer claims and otherwise provide United's services in accordance with this summary of Plan benefits and exclusions or operational SPD, as the case may be, and it will govern and remain in full force and effect until a final SPD is provided to United. Printing of SPDs is available at an additional cost.
Summary of Benefits and Coverage: <ul style="list-style-type: none"> • Electronic version in United's standard format. • For medical Plans administered by United. • Initial request and up to 1 amendment per year. 	

B. ELIGIBILITY MANAGEMENT SERVICES

Service	Comments
Standard ID Card production and issuance.	United has assumed the addition of Customer's logo in an acceptable format to the ID card.
Alternative member ID numbers generated by United (not based on SSN).	Customer has two options: Standard Alt ID processing where United generates the alternate ID for the Subscriber/Family or Non- Standard Alt Id processing where the Customer passes the Non-SSN ID to be used for the Subscriber/family
Electronic Eligibility Processing	
Electronic Enrollment processing: <ul style="list-style-type: none"> • Each submission to be a single consolidated file. Separate eligibility submissions for COBRA. • Initial load of primary physician data (when applicable) to be supplied electronically 	A separate COBRA file is only required if it being administered by an external COBRA vendor and cannot be included on the Active file.

Service	Comments
<p>Submission format:</p> <ul style="list-style-type: none"> UnitedHealth Group® Standard GSF (Gateway Standard Format); or HIPAA 834 Compliant Format;. Single data source required. <p>Submission frequency:</p> <ul style="list-style-type: none"> Changes file daily in combination with a full population file on a monthly schedule. <p>Or</p> <ul style="list-style-type: none"> Changes file weekly or bi-weekly in combination with a full population file on a monthly or quarterly schedule. <p>Or</p> <ul style="list-style-type: none"> Full file weekly or bi-weekly. <p>Transmission method:</p> <ul style="list-style-type: none"> SFTP used for receiving files. . 	

C. UNDERWRITING AND FINANCIAL SERVICES

Service	Comments
Overall program accounting (year-end reconciliation).	
Claim projections.	
Annual Projection of cost impact for benefit design changes.	
Annual Projection of conventional premium equivalent rates.	
Annual Reserve estimates.	
Annual government filings of 1099 reports to the IRS regarding payments made to physicians and other health care professionals.	
Provide required data necessary to enable Customer to file Form 5500.	

D. eSERVICES® CUSTOMER REPORTING SERVICES

Service	Comments
An online customer reporting system including up to five customer IDs.	
<p>Reporting Access Levels:</p> <ul style="list-style-type: none"> Standard – Basic report package of “subscription” financial and utilization information produced on a pre-scheduled basis. Select – In addition to the Standard features, interactive access to eCR tools allowing the user to customize report parameters to facilitate detailed views of the data. Includes a broad array of membership and utilization reports. Expanded – In addition to the Select features, allows the user greater ad-hoc and customizable capabilities to obtain detailed performance information. 	<p>Customer’s access level is based upon its election.</p> <p>Expanded Level reports are available to customers with Select Level reporting on an ad hoc basis for an additional charge per report.</p>
Non-standard or ad hoc reports	Fees are determined on a report-specific basis
United reserves the right, from time to time, to change the content, format and/or type of United’s reports.	

E. CLAIMS ADMINISTRATION SERVICES

Service	Comments
Claims for Plan benefits must be submitted in a form that is satisfactory to United in order for United to determine whether a benefit is payable under the Plan’s provisions. Customer delegates to United the discretion and authority to use United’s claim procedures and standards for Plan benefit claim determination.	

Service	Comments
Implementation of Customer's benefit plans.	
Claim history load from one prior carrier using United's standard process.	
Standard claims processing including: <ul style="list-style-type: none"> • Re-pricing and payment of claims. • Auto and manual adjudication using proprietary software. • Claim edit/review and cost containment program. • Pending and subsequent claim review. 	
Standard claim forms (when applicable).	
Medical claim review of specific health care claims to promote coding accuracy, benefit interpretation, and apply reimbursement policy.	
Standard coordination of benefits for all claims.	
Production and distribution of monthly Health Statements.	
Processing of run-out claims (meaning claims incurred prior to the termination date) for twelve (12) months following termination.	<p>If the Agreement terminates because Customer fails to pay United fees due, fails to provide the funding for the payment of benefits, or United terminates for any other material breach, run-out will not apply. Run-out fees may apply to partial terminations at United's discretion.</p> <p>The fees associated with providing run-out claims processing are included in United's monthly administrative fees as described in Exhibit B - Fees. No additional fee will apply to run-out claims processing, except if the Agreement is terminated prior to the end of the Initial Term for any reason, there will be an additional fee, determined by United, for the remaining months of the run-out claims processing term.</p> <p>Suspension of Run-out Processing If Customer does not pay the run-out fees it owes United when due as set forth above, United will notify Customer. If Customer does not make the required payment within five (5) business days of United's notice to Customer, United may stop issuing checks and non-draft payments and suspend its run-out claims processing under this Agreement, such suspension to apply to all claims regardless of dates of service and shall remain in effect until such date when Customer makes the required payment.</p> <p>Termination of Run-out Processing Run-out claims processing will terminate if Customer fails to provide the required funds for payment of benefits under the terms of this Agreement. Such termination shall apply to all claims regardless of dates of service.</p>
Recovery Services	As provided for in Section A2.

F. MEMBER SERVICES

Service	Comments
Toll-free access to a customer care unit using a dedicated number	
Employee access to a member website enabling Participants to: <ul style="list-style-type: none"> • Check claim status. • Check eligibility information. • Search for providers and online health information. 	

G. MEDICARE SERVICES

Service	Comments
<p>Medicare crossover</p> <p>Medicare Part D Subsidy Reporting Services If elected by Customer, provide to Customer or Customer's designee, or, at Customer's request, directly to CMS, information Customer has determined is necessary for Customer to comply with the requirements of the RDS program consisting of our standard reporting, in a format compliant with all applicable CMS submission procedures and deadlines.</p>	<p>If elected by Customer, Customer will provide United with any information that United reasonably requires in order to prepare these reports, including but, not limited to, Plan Variation/Reporting Code ("PV/RC") used to isolate members for whom Customer is pursuing the Retiree Drug Subsidy, members' social security numbers, or Health Information Codes, or any combination of these.</p> <p>Customer hereby represents that Customer has entered into a disclosure agreement with the Plan to allow the release of required information to CMS. Customer has informed United, and United acknowledges that information provided in connection with the services under this Agreement is used for purposes of obtaining Federal funds.</p>
<p>Medicare Secondary Payer Reporting. United shall provide to applicable parties the applicable reports in a time and manner as required according to the Medicare Secondary Payer Mandatory Reporting Provisions ("Reporting Requirements") in Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007. United shall not be responsible for any noncompliance penalties in connection with the Reporting Requirements that are related to Customer's failure to provide the required data.</p>	<p>Customer agrees to provide to United in a timely manner and in an agreed upon format any and all data that United requires to comply with the Reporting Requirements.</p>

H. NETWORK SERVICES

Service	Comments
<p>Network access, management and administrative activities</p>	<p>Standard on all network plans.</p>
<p>UnitedHealth PremiumSM Designation Program</p>	<p>Available in designated markets.</p>
<p>Shared Savings Program Enhanced Application of the Shared Savings Program Enhanced provides additional savings on select non-Network physician claims and emergent non-network facility claims that are not eligible for standard network discounts. Program provides access to discounted charges made available to United from health care providers who contract or will negotiate with, a third party to provide such discounted charges.</p>	<p>The services under this program provide access to provider discounts only and do not include credentialing of providers or other Network services. United is not responsible for the medical outcomes or the quality or competence of any provider or facility rendering services under the Shared Savings Program.</p> <p>United can terminate the Shared Savings Program at any time for any reason.</p>
<p>Outlier Cost Management Program – Non Emergent (Participant Had Choice). Offers a reimbursement methodology applicable to out of network claims. Includes an advocacy component for Participants where the Participant can access dedicated resources to explain how claims were adjudicated and/or the dedicated resources can engage with out of network providers to explain the reimbursement methodology logic.</p>	<p>Customer directs United, at United's discretion, to increase compensation for a particular claim if United reasonably concludes that the particular facts and circumstances related to a claim provide justification for reimbursement greater than that which would result from the application of the allowed amount, and United believes that it would serve the best interests of the Plan and its Participants (including interests in avoiding costs and expenses of disputes over payment of claims).</p>
<p>Access to Extended Networks (leased networks)</p>	<p>Available at an additional charge.</p>

I. CARE MANAGEMENT SOLUTIONS SERVICES

Service	Comments
<p>Personal Health Support Health advocates and concierge services, includes the following:</p> <ul style="list-style-type: none"> Central in-take point for all clinical and lifestyle Participant calls. 	

Service	Comments
<ul style="list-style-type: none"> • Access to registered nurses for symptom triage and support with decisions about health care and treatment options as applicable to the Customer’s elected products. • Health education and resource navigation. • Low to moderate health risk management. • Premium provider / facility locating and appointment scheduling. <p>Personal nurses, provide targeted support.</p> <p>Specialty nurses, provide clinical management for complex conditions.</p> <p>Personal Health Support Website</p> <p>Consumer activation and outreach campaigns, United may create consumer marketing campaigns to promote clinical, lifestyle management and advocacy services to the Customer’s Participants.</p> <p>Reporting, outlining program activity and impact. Additional services include the following:</p> <p>Disease Management</p> <ul style="list-style-type: none"> • Asthma • Chronic Obstructive Pulmonary Disease (COPD) • Coronary Artery Disease (CAD) • Diabetes • Congestive Heart Failure (HF) <p>Complex Medical Conditions:</p> <ul style="list-style-type: none"> • Cancer Resource Services • Congenital Heart Disease Resource Services • Kidney Resource Services • Orthopedic Health Support <p>Transplant Resource Services:</p> <ul style="list-style-type: none"> • Transplant Network via Centers of Excellence (COE) • Transplant Access Program (TAP) Network • Extra-Contractual Services - contracting on a case-by case basis for transplant care outside of the COE or TAP Networks for a standard negotiating fee. <p>Women’s Health:</p> <ul style="list-style-type: none"> • Maternity Program • Parent Steps Infertility Discount Program <p>Health Content: Providing members with access to online services which may include but are not limited health and wellness content, health assessments, health coaching, personal health records <u>and</u>/or automated messaging, available through myuhc.com and other online resources.</p> <p>Physical Health Solutions</p> <ul style="list-style-type: none"> • Chiropractic Network • PT/OT/ST Network • Chiropractic Clinical Support Program (CCSP) • Clinical Support Program - PT/OT <p>Complementary Alternative Medicine (CAM) Network Management</p> <p>Advocacy</p> <ul style="list-style-type: none"> • Decision Support • 	
<p>Medical policy functions, as guided by a medical director.</p>	<p>Standard on all managed plans.</p>
<p>Alternate Care Proposals (ACP) which provide appropriate and cost effective health care services and supplies alternatives that would otherwise not be covered by the Plan.</p>	<p>Customer consents to United’s use and administration of the ACP program and delegate to United the discretion and authority to develop and revise ACPs.</p>

Service	Comments
<p>Activation programs to engage Participants including, monthly health statements member call services, and access to member portal with consumer messaging</p> <p>Predictive modeling, using data from a proprietary system, to identify individuals at risk and offer proactive programs to improve their health status.</p>	<p>Additional charges apply for integrating an outside vendor's pharmacy data.</p>

J. BEHAVIORAL HEALTH SOLUTIONS — MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

Service	Comments
<p>Behavioral Health Solutions</p> <ul style="list-style-type: none"> • Network access, development and maintenance • Ongoing case management. • Outpatient care management. • Inpatient care management. • Interventions for Inpatient and Outpatient outliers. • Claims processing, adjudication and member services. • Account management and standard reporting • Interface Integration with employee assistance program (EAP) vendors • Applied Behavioral Analysis (ABA) for Autism if Customer chooses to cover ABA as a Plan benefit, including ABA clinical management • Participant referrals to licensed care manager from disease management and case management programs. • [LifeSolutions] 	

K. MANAGED PHARMACY SERVICES

Service	Comments
<p>Integrated Pharmacy Services and General Support. United to provide administrative, management, consultative and general support as it relates to Prescription Drug benefit plan services, mail order pharmacy services and specialty pharmacy services to support the Plan</p> <ul style="list-style-type: none"> • Account management and support staff • Benefits administration and support • Claims Processing • Clinical programs such as standard notification, quantity level limits, and quantity per duration. • Credentialing of Contracted Pharmacies • Customer Care Center Services - Toll-free access to customer care voice response unit (for location of network pharmacies), and a pharmacist • Eligibility management • Mail Order Pharmacy Services • Medication Adherence Savings • PDL Management • Pharmacy Network Management • Pharmacy Benefit Rebate Administration • Prior Authorization Services • Quality Assurance Program • Reporting (available through eServices) • Specialty Pharmacy Services Step Therapy • Targeted Disease Intervention Program • Utilization Management Program - Development and Support 	

Service	Comments
<ul style="list-style-type: none"> • Additional programs such as dispense as written (DAW) interventions, retail flags and edits, maximum allowable cost pricing (retail), and generic and mail order programs • Upon termination of the Agreement, United will provide transition files (open refill, prior authorization, non-financial claims history) to a successor pharmacy benefits manager 	

L. HEALTH SAVINGS ACCOUNT (HSA) SERVICES

Service	Comments
<p>Standard HSA services. United’s affiliate will be Customer’s preferred HSA custodian for eligible employees’ HSAs. United will provide the following services in relation to those HSA custodial services:</p> <ul style="list-style-type: none"> • Pre-enrollment brochures – one per employee. • Human Resources Communication Toolkit. • Provide access to bank account information through a member website for account holders enrolled in health plans administered by United. 	

M. FLEXIBLE SPENDING ACCOUNT (FSA) SERVICES

Service	Comments
<p>United will process claims for eligible Expenses (any treatment amount, service or supply paid or incurred by a Participant and eligible for reimbursement under the FSA Plan and pursuant to applicable sections of IRC). Claims for reimbursement of FSA Plan benefits must be submitted in a form that is satisfactory to United. United will determine whether a benefit claim is reimbursable under the FSA Plan provisions including an initial determination as to whether a claim is considered an Expense. Customer delegates to United the discretion and authority to use United’s claim procedures and standards for benefit claim determination and reimbursement.</p> <p>The following sections of the Agreement do not apply to FSA services:</p> <ul style="list-style-type: none"> • Claim Recovery Services • Fraud and Abuse Management • Service Auditor Reports <p>Standard FSA services including:</p> <ul style="list-style-type: none"> • Initial supply of standard employee brochures • Single claim submission with automatic roll-over from established feeds • Check minimum \$25 • Daily payment cycle • Customer care professional representation during normal business hours. 	
<ul style="list-style-type: none"> • Eligibility information processed via electronic file submission (FTP or EDT) 	Two files per month
<ul style="list-style-type: none"> • Standard FSA banking arrangements using a separate bank account for FSA plan. 	
<ul style="list-style-type: none"> • Direct deposit of payments to employee bank accounts including online administration. 	Includes direct deposit administration and auto rollover election.
<ul style="list-style-type: none"> • Online account information 	For participants enrolled in health plans administered by United.
<p>Standard FSA reports including:</p> <ul style="list-style-type: none"> • Monthly Participant Detail Reports • Monthly Customer Change Reports • Utilization Reports 	<p>Detailed account status for each participant.</p> <p>Details on all changes to program participation.</p> <p>Information on program utilization for participants with change in status.</p>

Service	Comments
Health Care Spending Card Debit MasterCard® United will retain claim fiduciary responsibility for the FSA plan.	For direct payment of out-of-pocket expenses
FSA claim administration for over-the-counter medication.	

EXHIBIT B – FEES

This exhibit lists the fees Customer must pay United for United’s services during the term of the Agreement. Unless specified otherwise, these fees apply for the period from January 1, 2021 through December 31, 2021. Customer acknowledges that the amounts paid for administrative services are reasonable. If authorized by Customer pursuant to this Agreement or by subsequent authorization, certain fees will be paid through a withdrawal from the Bank Account.

Standard Medical Service Fees

The Standard Medical Service Fees described below, excluding optional and non-standard fees, are adjusted as set forth in the applicable performance standard(s).

The Standard Medical Fees listed below are based upon an estimated minimum of 5,127 enrolled Employees.

Effective January 1, 2021 through December 31, 2025:

The Standard Medical Service Fees are the sum of the following:

- \$8.98 per Employee per month covered under the Choice portion of the Plan.
- \$8.98 per Employee per month covered under the Choice Plus portion of the Plan.
- Average Contract Size: 1.54

Pharmacy Administrative Fee Credit

The Standard Medical Services Fees reflect a credit in the amount of \$29.78 per Employee per month.

Pharmacy AWP Contract Rate

Customer’s contract rate for Prescription Drugs is as provided in Exhibit C. United uses Medi-Span’s national drug data file as the source for average wholesale price (AWP) information. United reserves the right to revise the pricing and adopt a new source or benchmark if there are material industry changes in pricing methodologies. United will not use two or more pricing sources simultaneously for a given claim.

Other Fees

Service Description	Fee
Fraud, Waste and Abuse Management	Fee equal to 22% of the gross recovery amount
Litigation and Arbitration Fees for Recoveries	Outside attorneys’ fees and costs directly incurred in connection with litigation or arbitration to recover any Overpayments and other Plan recovery opportunities will be deducted from the gross recovery prior to the assessment of any applicable United fees (as indicated in this Exhibit).
Hospital Bill Audit	Fee not to exceed 22% of the gross recovery amount
Credit Balance Recovery	Fee not to exceed ten percent (10%) of the gross recovery amount.
Subrogation	Fee equal to 33.3% of the gross recovery amount
Advanced Analytics and Recovery Services	Fee equal to twenty four percent (24%) of the gross recovery amount
Shared Savings	Customer will pay a fee equal to 35% of the Savings Obtained as a result of the Shared Savings Program. The savings used to calculate the fee per individual claim for Shared Savings shall not exceed \$50,000. Accordingly, the fee per individual claim will not exceed 35% of \$50,000. Savings Obtained means the amount that would have been payable to a health care provider, including amounts payable by both the Participant and the Plan, if no discount were

	available, minus the amount that is payable to the health care provider, again, including amounts payable by both the Participant and the Plan, after the discount is taken.
External Reviews	For each subsequent external review beyond 10 total reviews per year, a fee of \$500 will apply per review.
Pharmacy Benefit Rebates – Termination	Pursuant to the termination section of this Agreement, if Customer terminates the Pharmacy Benefit Services portion of this Agreement only during the Term of the Agreement and termination is for any reason other than for cause, United may retain all Rebates that have not been remitted to Customer as of the effective date of such termination.

Discretionary Budget Credit

United will provide a discretionary budget credit for the first year only during the term of the Agreement. If Customer terminates the Agreement prior to December 31, 2025, Customer will pay United a prorated portion of this credit.

\$400,000 Medical and Rx Carve-In Discretionary Allowance (2021 only)

Medical and Rx Carve-In Discretionary Allowance

United will provide a medical and Rx discretionary allowance each year during the term of the Agreement. If Customer terminates the Agreement prior to December 31, 2025, Customer will pay United a prorated portion of this credit.

\$100,000 Medical and Rx Carve-In Discretionary Allowance (2021, 2022, 2023, 2024, 2025)

Other

Commission Funds

Customer has requested United to pay certain broker or vendor commissions or fees (“Commission Funds”) on Customer behalf. The Commission Funds shall be set by Customer, and paid on a monthly basis until United receives written instructions from Customer to cease making the monthly payment. In connection therewith, Customer has determined to pay these Commission Funds to United monthly along with United’s monthly administration fee and authorizes United to forward payment of the Commission Funds directly to the broker or vendor. Customer will provide United with prompt notice of the amounts, the persons to pay, and whenever this arrangement changes or ends. The Commission Funds are not subject to any Performance Standards, if applicable. The decision to pay Commission Funds to a third party (i.e., broker), and responsibility for funding such payments, are Customer’s. Customer represent that the fees or commissions Customer are directing United to pay according to this Section are reasonable compensation for administrative services provided by the third party to the Plan.

Monthly Commission Payment to Customer Broker or Vendor as Directed by Customer:

\$1.50 per Employee per month for the medical benefits covered by this Agreement.

Flexible Spending Account Administrative Fees

Service Description	Fee
FSA Administration	\$2.85 Per Enrollee Per Month (PEPM)
Additional FSA Fees	
External Rollover – Set up charge per customer per vendor	\$1,765
Eligibility feeds – Per file in excess of 52 per year	\$235
Nondiscrimination testing (NDT)	\$500 per testing occurrence

COBRA Administrative Fees

EXHIBIT C – PERFORMANCE STANDARDS FOR HEALTH BENEFITS

The Standard Medical Service Fees (excluding Optional and Non-Standard Fees and that portion of the Standard Medical Service Fees attributable to Commission Funds, if applicable, as described in Exhibit B – Fees), (hereinafter referred to as “Fees” in this Exhibit) payable by Customer under this Agreement will be adjusted through a credit to its fees in accordance with the performance guarantees set forth below unless otherwise defined in the guarantee. Unless otherwise specified, these guarantees apply to medical benefits and are effective for the period January 1, 2021 through December 31, 2021 (each twelve month period is a “Guarantee Period”). With respect to the aspects of United’s performance addressed in this exhibit, these fee adjustments are Customer’s exclusive financial remedies.

These guarantees will become effective upon the later of (1) the effective date of the Guarantee Period, or (2) the date this Agreement is signed by both parties. In the event these guarantees become effective later than the effective date of the Guarantee Period: (1) quarterly guarantees will become effective beginning with the next calendar quarter following signature of this Agreement by both parties; and (2) annual guarantees will become effective commencing with the Term of the Agreement during which this Agreement is signed by both parties.

United shall not be required to meet any of the guarantees provided for in this Agreement or amendments thereto to the extent United’s failure is due to Customer’s actions or inactions or if United fails to meet these standards due to fire, embargo, strike, war, accident, act of God, acts of terrorism or United’s required compliance with any law, regulation, or governmental agency mandate or anything beyond United’s reasonable control.

Prior to the end of the Guarantee Period, and on the condition that this Agreement remains in force, United may specify to Customer in writing new performance guarantees for the subsequent Guarantee Period. If United specifies new performance guarantees, United will also provide Customer with a new Exhibit that will replace this Exhibit for that subsequent Guarantee Period.

Claim is defined as an initial and complete written request for payment of a Plan benefit made by an enrollee, physician, or other healthcare provider on an accepted format. Unless stated otherwise, the claims are limited to medical claims processed through the UNET claims systems. Claims processed and products administered through any other system, including claims for other products such as vision, dental, flexible spending accounts, health reimbursement accounts, health savings accounts, or pharmacy coverage, are not included in the calculation of the performance measurements. Also, services provided under capitated arrangements are not processed as a typical claim; therefore capitated payments are not included in the performance measurements.

Special School District #1 dba Minneapolis Public School ISD 1) UnitedHealthcare Net Cost Guarantee

Effective for Policy Year Beginning: January 1, 2021

UHC ASO Billable Admin Fee \$38.76

Annual ASO Base Fees \$2,385,000

Percent of Fees @ Risk 50%

Annual Fees @ Risk \$1,192,000

Fees @ Risk \$19.38

Number of Employees 5,127

Target Claim

Factor \$848.15

Risk Free Corridor>>	Claim PEPM		Amount at Risk	
	\$805.74	up to	\$890.56	\$0
\$890.57	up to	\$943.99	\$397,413	
\$944.00	up to	\$1,000.63	\$794,706	
\$1,000.64	up to	\$1,060.19	\$1,192,000	

UHC pays the customer

Assumptions and Caveats:

1 Guarantee is effective for the quoted plan year only.

2 Illustration assumes the following services/programs will be included in the employee benefit plan:

Experience: Real Appeal,

Clinical/RX Integration: Pharmacy Integration overall Medical and RX if Traditional PDL, PHS 3.0 High, .

Plan Design: Medical Necessity & Prior Authorization, Virtual Visits (TeleHealth), .

3 The number of covered employees assumed in this proposal is listed below by plan offering:

<u>Quoted Choice and Choice Plus Plans</u>	<u>Assumed Monthly Covered Enrollees</u>	<u>Claim Target Factors PSPM</u>
Choice	5127	\$848.15
COMPOSITE	5127	\$848.15

This guarantee only applies to employees enrolled in Choice and Choice + products.

4 Reconciliation will be based actual covered lives by plan during the plan year and the claim target factors by plan listed above.

5 Reconciliation will be based actual claims INCURRED from January 1, 2021 to December 31, 2021 and PAID from January 1, 2021 to March 31, 2022

6 Reconciliation will be performed within 180 days but no earlier than 120 days after the close of the plan year.

7 Actual claims include all Medical claims and Pharmacy claims if applicable, except for the following:

Benefits for services incurred prior to the effective date of the policy.

Losses in excess of \$300,000 per covered individual.

Losses in excess of usual and customary for out of network claims.

Losses associated with benefits not covered by the underlying employee benefit plan, but paid by the employee benefit plan.

8 Maximum guarantee payout is \$1,192,000.

9 Assumes UnitedHealthcare is the only carrier offered.

10 United Healthcare reserves the right to adjust the projected target claim factor or rescind this guarantee under any of the following circumstances:

Enrollment in total or by plan varies +/- 10% or more from the assumptions listed in this proposal.

An award is not made within 90 days of the issuance of this proposal.

Changes in federal, state or other applicable legislation or regulation require changes to this proposal

Changes to any of the included services/programs listed in item 2 above.

Any changes made to the plan of benefits offered covered by this guarantee.

In the event of a pandemic, UHC reserves the right to revisit or revoke this guarantee.

11 Guarantee is provided in lieu of any Network Discount Guarantees previously quoted.

Effective January 1, 2021 through December 31, 2023 (each 12 month period is a Guarantee Period)

Pharmacy Financials			
Definition	Contracted pharmacy rates that will be delivered to You.		
Measurement and Criteria	01/01/2021 01/01/2022 01/01/2023		
	Component Discount Guarantee - Broad Network		
-	Retail Brand, Average Wholesale Price (AWP) less	19.0%	19.2%
-	Retail Brand -- 90 Day Supply, AWP less	21.5%	21.5%
-	Retail Generic - 30 and 90 Day Supply, AWP less	82.5%	82.7%
-	Mail Order Brand, AWP less	25.0%	25.0%
-	Mail Order Generic, AWP less	85.0%	85.0%
The Guaranteed Discount amount will be determined by multiplying the AWP by the guaranteed discount off AWP by each component.			
Dispensing Fees - Broad Network			
-	Retail Brand - 30 Day	\$0.45	\$0.45
-	Retail Brand -- 90 Day Supply	\$0.05	\$0.05
-	Retail Generic - 30 Day	\$0.45	\$0.45
-	Retail Generic -- 90 Day Supply	\$0.05	\$0.05
Dispensing fee totals are calculated by multiplying the actual scripts for each type by the contracted rate for that script type.			
Fixed Rebate Guarantee (Traditional PDL)			
-	Basis, per script	Brand	Brand
-	Retail - 30 and 90 Day	\$55.27	\$50.40
-	Mail Order	\$86.48	\$90.01
-	Specialty	\$671.91	\$777.25
-	\$1,020.21		
Credits and Allowances			
-	Rebate Fee Credit (PEPM)	\$29.78	\$29.78
Fee			
Level	Customer Specific		
Period	Annually		
Payment Period	Annually		

-	<ul style="list-style-type: none"> • United will pay Fixed Rebates consistent with the Agreement. To the extent Rebates paid to United exceed the Fixed Rebate amount, We will retain the excess, including any Rebates United may earn on prescription drug products in any tiers not included in this arrangement and any related interest. • Rebate Administrative Fee: United maintains systems and processes necessary for managing and administering Rebate programs. As consideration for these efforts, pharmaceutical manufacturers pay United administrative fees in addition to Rebates. Rebate Administration fees are included in the guaranteed rebate arrangement. • If Customer terminates pharmacy benefit services with United prior to 12/31/2023, United will retain any and all pending or future Rebates payable under the Agreement as of the effective date of the termination of pharmacy benefit services. • Drugs in the following Specialty therapeutic categories are included in the retail per-Brand guarantees: Hepatitis B and Transplant. • Multisource brand drugs are excluded from the script counts. • Vaccines are excluded from the script counts. • Limited distribution drugs are excluded from the script counts <p>Credits and Allowances</p> <ul style="list-style-type: none"> • Rebate Fee Credit: In addition to the guaranteed rebates, Customer will receive a rebate fee credit. Under this arrangement, rebates retained by United are used to lower the medical administration fee. <p>General Conditions</p> <ul style="list-style-type: none"> • All pricing guarantees shall remain in effect for the entire contract period of 01/01/2021 through 12/31/2023 ("Pharmacy Pricing Term"). Each twelve month period is a Guarantee Period. • Specialty drugs typically covered under the medical benefit (administered / handled by a provider, administered in a physician's office, ambulatory or home infusion), and/or transitioned to the pharmacy benefit, are excluded from all guarantees. • In the event vaccines are covered under the pharmacy benefit, vaccines will be excluded from the discount, dispense fee and rebate guarantees. • On mail order drugs, specialty drugs, and retail pharmacy drugs and services including dispensing fees, United will retain the difference between what United reimburses the Network Pharmacy and Customer's payment for a prescription drug product or service. • Pricing and guarantees assume enrollment of 5,127 Employees and 7,886 Participants; pricing and guarantees may be revised or withdrawn if actual enrollment varies by 10% or more from assumptions. • The lesser of three logic (non-ZBL) will apply to Participant payments. Participants pay the lesser of the discounted price, the usual and customary charge or the cost share amount. • All pricing guarantees require the selection of United as the exclusive mail provider. <p>United will have no financial guarantee obligation under the Agreement for any partial Guarantee Period if Customer terminates prior to the end of the Pharmacy Pricing Term.</p> <ul style="list-style-type: none"> • United reserves the right to revise or revoke this arrangement if: a) changes in federal, state or other applicable law or regulation require modifications; b) there are material changes to the AWP as published by the pricing agency that establishes the AWP as used in these arrangements; c) Customer makes benefit changes that impact the arrangements; d) there is a material industry change in pricing methodologies resulting in a new source or benchmark; e) it is not accepted within ninety (90) days of the issuance of our initial quote; f) if Customer changes their mail service benefit; g) Customer utilizes a vendor, that facilitates steering members to different drugs or pharmacies to the extent these services impact the financial guarantees under this Agreement.
TRRX (03/2020)	

Effective January 1, 2021 through December 31, 2023 (each 12 month period is a Guarantee Period)

Specialty Pharmacy	
Specialty Pharmacy Discount Guarantee	
Definition	

	Specialty drug discount level based on actual specialty drug utilization for the specialty drugs dispensed through United's specialty Pharmacy Network. United reserves the right to change the designation of a drug from specialty to non-specialty based on market conditions.				
Measurement	A composite of 19.0% for drugs dispensed through United's specialty Pharmacy Network. This guarantee is effective 01/01/2021 through 12/31/2023. See chart below for a list of Specialty Drugs.				
Criteria	Actual utilization, using Average Wholesale Price (AWP) in dollars, using our data, of listed specialty drugs through Our specialty Pharmacy Network will be multiplied against the discount target of 19.0% to determine the overall discount target dollars.				
Level	Customer Specific				
Period	Annual				
Payment Period	Annual				
Payment Amount	The amount the combined actual specialty drug discounts are less than the 19.0% composite discount drug target.				
Conditions	<ul style="list-style-type: none"> Discounts calculated based on the AWP less the ingredient cost; discount percentages are the discounts divided by the AWP. Discounts for retail generic prescriptions represent the average savings off AWP based on Maximum Allowable Cost (MAC) pricing for MAC generics and percentage discount savings off AWP for non-MAC generics. All other discounts represent the percentage discount savings off of AWP. Specialty drugs dispensed outside United's specialty Pharmacy Network, drugs for which no AWP measure exists and non-drug items are excluded. Listed drugs which cease to be defined as specialty drugs during the Guarantee Period will be reconciled outside of the Specialty Pharmacy guarantee in the channel in which they are dispensed (retail or mail order). Specialty drugs typically covered under the medical benefit (administered / handled by a provider, administered in a physician's office, ambulatory or home infusion), and/or transitioned to the pharmacy benefit, are excluded from all guarantees. United reserves the right to revise or revoke this guarantee if: a) changes in federal, state or other applicable law or regulation require modifications; b) there are material changes to the AWP as published by the pricing agency that establishes the AWP as used in this guarantee; c) Customer makes benefit changes that impact the guarantee; d) there is a material industry change in pricing methodologies resulting in a new source or benchmark e) if actual specialty utilization is not substantially similar to that in the experience period data on which our quote is based. On specialty drugs, United will retain the difference between what United reimburses the Network Pharmacy and Customer's payment for a prescription drug product or service. 				
Specialty Drug Category	Drug Name	Included In/Excluded From Guarantee	Specialty Drug Category	Drug Name	Included In/Excluded From Guarantee
ANEMIA	ARANESP	Included	INFLAMMATORY CONDITIONS	RIDAURA	Included
ANEMIA	EPOGEN	Included	INFLAMMATORY CONDITIONS	RINVOQ	Included
ANEMIA	PROCRIT	Included	INFLAMMATORY CONDITIONS	SILIQ	Included
ANEMIA	RETACRIT	Included	INFLAMMATORY CONDITIONS	SIMPONI	Included
ANTICONVULSANT	DIACOMIT	Included	INFLAMMATORY CONDITIONS	SKYRIZI	Included
ANTICONVULSANT	EPIDIOLEX	Included	INFLAMMATORY CONDITIONS	STELARA	Included
ANTHYPERLIPIDEMIC	JUXTAPID	Included	INFLAMMATORY CONDITIONS	TALTZ	Included
ANTI-INFECTIVE	ARIKAYCE	Included	INFLAMMATORY CONDITIONS	TREMFYA	Included
ANTI-INFECTIVE	DARAPRIM	Included	INFLAMMATORY CONDITIONS	XELJANZ	Included

ASTHMA	NUCALA	Included	INFLAMMATORY CONDITIONS	XELJANZ XR	Included
CARDIOVASCULAR	NORTHERA	Included	IRON OVERLOAD	DEFERASIROX	Included
CARDIOVASCULAR	VYNDAMAX	Included	IRON OVERLOAD	EXJADE	Included
CARDIOVASCULAR	VYNDAQEL	Included	IRON OVERLOAD	FERRIPROX	Included
CNS AGENTS	AUSTEDO	Included	IRON OVERLOAD	JADENU	Included
CNS AGENTS	FIRDAPSE	Included	LIVER DISEASE	OCALIVA	Included
CNS AGENTS	HETLIOZ	Included	MONOCLONAL ANTIBODY MISCELLANEOUS	BENLYSTA	Included
CNS AGENTS	INGREZZA	Included	MOOD DISORDER DRUGS	SPRAVATO	Included
CNS AGENTS	RILUTEK	Included	MULTIPLE SCLEROSIS	AMPYRA	Included
CNS AGENTS	RILUZOLE	Included	MULTIPLE SCLEROSIS	AUBAGIO	Included
CNS AGENTS	RUZURGI	Included	MULTIPLE SCLEROSIS	AVONEX	Included
CNS AGENTS	SABRIL	Included	MULTIPLE SCLEROSIS	BETASERON	Included
CNS AGENTS	TETRABENAZINE	Included	MULTIPLE SCLEROSIS	COPAXONE	Included
CNS AGENTS	TIGLUTIK	Included	MULTIPLE SCLEROSIS	DALFAMPRIDIN	Included
CNS AGENTS	VIGABATRIN	Included	MULTIPLE SCLEROSIS	EXTAVIA	Included
CNS AGENTS	VIGADRONE	Included	MULTIPLE SCLEROSIS	GILENYA	Included
CNS AGENTS	XENAZINE	Included	MULTIPLE SCLEROSIS	GLATIRAMER	Included
CNS AGENTS	XYREM	Included	MULTIPLE SCLEROSIS	GLATOPA	Included
CYSTIC FIBROSIS	BETHKIS	Included	MULTIPLE SCLEROSIS	MAVENCLAD	Included
CYSTIC FIBROSIS	CAYSTON	Included	MULTIPLE SCLEROSIS	MAYZENT	Included
CYSTIC FIBROSIS	KALYDECO	Included	MULTIPLE SCLEROSIS	PLEGRIDY	Included
CYSTIC FIBROSIS	KITABIS PAK	Included	MULTIPLE SCLEROSIS	REBIF	Included
CYSTIC FIBROSIS	ORKAMBI	Included	MULTIPLE SCLEROSIS	REBIF REBIDOSE	Included
CYSTIC FIBROSIS	PULMOZYME	Included	MULTIPLE SCLEROSIS	TECFIDERA	Included
CYSTIC FIBROSIS	SYMDEKO	Included	NEUTROPENIA	FULPHILA	Included
CYSTIC FIBROSIS	TOBI	Included	NEUTROPENIA	GRANIX	Included
CYSTIC FIBROSIS	TOBI PODHALER	Included	NEUTROPENIA	LEUKINE	Included
CYSTIC FIBROSIS	TOBRAMYCIN	Included	NEUTROPENIA	NEULASTA	Included
ENDOCRINE	BUPHENYL	Included	NEUTROPENIA	NEUPOGEN	Included
ENDOCRINE	CARBAGLU	Included	NEUTROPENIA	NIVESTYM	Included
ENDOCRINE	CHENODAL	Included	NEUTROPENIA	UDENYCA	Included
ENDOCRINE	CUPRIMINE	Included	NEUTROPENIA	ZARXIO	Included
ENDOCRINE	CYSTADANE	Included	ONCOLOGY - INJECTABLE	ELIGARD	Included
ENDOCRINE	CYSTARAN	Included	ONCOLOGY - INJECTABLE	INTRON A	Included
ENDOCRINE	DEPEN TITRATABS	Included	ONCOLOGY - INJECTABLE	LEUPROLIDE	Included
ENDOCRINE	D-PENAMINE	Included	ONCOLOGY - INJECTABLE	SYLATRON	Included

ENDOCRINE	EGRIFTA	Included	ONCOLOGY - INJECTABLE	SYNRIBO	Included
ENDOCRINE	FIRMAGON	Included	ONCOLOGY - ORAL	ABIRATERONE	Included
ENDOCRINE	GATTEX	Included	ONCOLOGY - ORAL	AFINITOR	Included
ENDOCRINE	H.P. ACTHAR	Included	ONCOLOGY - ORAL	AFINITOR DISPERZ	Included
ENDOCRINE	JYNARQUE	Included	ONCOLOGY - ORAL	ALECENSA	Included
ENDOCRINE	KEVEYIS	Included	ONCOLOGY - ORAL	ALKERAN	Included
ENDOCRINE	KORLYM	Included	ONCOLOGY - ORAL	ALUNBRIG	Included
ENDOCRINE	KUVAN	Included	ONCOLOGY - ORAL	BALVERSA	Included
ENDOCRINE	MYALEPT	Included	ONCOLOGY - ORAL	BEXAROTENE	Included
ENDOCRINE	NATPARA	Included	ONCOLOGY - ORAL	BOSULIF	Included
ENDOCRINE	NITYR	Included	ONCOLOGY - ORAL	BRAFTOVI	Included
ENDOCRINE	OCTREOTIDE ACETATE	Included	ONCOLOGY - ORAL	CABOMETYX	Included
ENDOCRINE	PENICILLAMINE	Included	ONCOLOGY - ORAL	CALQUENCE	Included
ENDOCRINE	PROCYSBI	Included	ONCOLOGY - ORAL	CAPECITABINE	Included
ENDOCRINE	RAVICTI	Included	ONCOLOGY - ORAL	CAPRELSA	Included
ENDOCRINE	SAMSCA	Included	ONCOLOGY - ORAL	COMETRIQ	Included
ENDOCRINE	SANDOSTATIN	Included	ONCOLOGY - ORAL	COPIKTRA	Included
ENDOCRINE	SIGNIFOR	Included	ONCOLOGY - ORAL	COTELLIC	Included
ENDOCRINE	SODIUM PHENYL BUTYRATE	Included	ONCOLOGY - ORAL	DAURISMO	Included
ENDOCRINE	SOMATULINE DEPOT	Included	ONCOLOGY - ORAL	ERIVEDGE	Included
ENDOCRINE	SOMAVERT	Included	ONCOLOGY - ORAL	ERLEADA	Included
ENDOCRINE	SYPRINE	Included	ONCOLOGY - ORAL	ERLOTINIB	Included
ENDOCRINE	THIOLA	Included	ONCOLOGY - ORAL	ETOPOSIDE	Included
ENDOCRINE	TRIENTINE	Included	ONCOLOGY - ORAL	FARYDAK	Included
ENDOCRINE	XERMELO	Included	ONCOLOGY - ORAL	GILOTRIF	Included
ENDOCRINE	XURIDEN	Included	ONCOLOGY - ORAL	GLEEVEC	Included
ENZYME DEFICIENCY	CHOLBAM	Included	ONCOLOGY - ORAL	GLEOSTINE	Included
ENZYME DEFICIENCY	CYSTAGON	Included	ONCOLOGY - ORAL	HYCANTIN	Included
ENZYME DEFICIENCY	GALAFOLD	Included	ONCOLOGY - ORAL	IBRANCE	Included
ENZYME DEFICIENCY	MIGLUSTAT	Included	ONCOLOGY - ORAL	ICLUSIG	Included
ENZYME DEFICIENCY	ORFADIN	Included	ONCOLOGY - ORAL	IDHIFA	Included
ENZYME DEFICIENCY	PALYNZIQ	Included	ONCOLOGY - ORAL	IMATINIB MESYLATE	Included
ENZYME DEFICIENCY	STRENSIQ	Included	ONCOLOGY - ORAL	IMBRUVICA	Included

ENZYME DEFICIENCY	SUCRAID	Included	ONCOLOGY - ORAL	INLYTA	Included
ENZYME DEFICIENCY	TEGSEDI	Included	ONCOLOGY - ORAL	INREBIC	Included
ENZYME DEFICIENCY	ZAVESCA	Included	ONCOLOGY - ORAL	IRESSA	Included
GAUCHERS DISEASE	CERDELGA	Included	ONCOLOGY - ORAL	JAKAFI	Included
GROWTH HORMONE DEFICIENCY	GENOTROPIN	Included	ONCOLOGY - ORAL	KISQALI	Included
GROWTH HORMONE DEFICIENCY	HUMATROPE	Included	ONCOLOGY - ORAL	KISQALI FEMARA	Included
GROWTH HORMONE DEFICIENCY	INCRELEX	Included	ONCOLOGY - ORAL	LENVIMA	Included
GROWTH HORMONE DEFICIENCY	NORDITROPIN	Included	ONCOLOGY - ORAL	LONSURF	Included
GROWTH HORMONE DEFICIENCY	NUTROPIN AQ	Included	ONCOLOGY - ORAL	LORBRENA	Included
GROWTH HORMONE DEFICIENCY	OMNITROPE	Included	ONCOLOGY - ORAL	LYNPARZA	Included
GROWTH HORMONE DEFICIENCY	SAIZEN	Included	ONCOLOGY - ORAL	MATULANE	Included
GROWTH HORMONE DEFICIENCY	SEROSTIM	Included	ONCOLOGY - ORAL	MEKINIST	Included
GROWTH HORMONE DEFICIENCY	ZOMACTON	Included	ONCOLOGY - ORAL	MEKTOVI	Included
GROWTH HORMONE DEFICIENCY	ZORBTIVE	Included	ONCOLOGY - ORAL	MELPHALAN	Included
HEMATOLOGIC	BERINERT	Included	ONCOLOGY - ORAL	MESNEX	Included
HEMATOLOGIC	CABLIVI	Included	ONCOLOGY - ORAL	NERLYNX	Included
HEMATOLOGIC	CINRYZE	Included	ONCOLOGY - ORAL	NEXAVAR	Included
HEMATOLOGIC	DOPTELET	Included	ONCOLOGY - ORAL	NILANDRON	Included
HEMATOLOGIC	FIRAZYR	Included	ONCOLOGY - ORAL	NILUTAMIDE	Included
HEMATOLOGIC	HAEGARDA	Included	ONCOLOGY - ORAL	NINLARO	Included
HEMATOLOGIC	ICATIBANT	Included	ONCOLOGY - ORAL	NUBEQA	Included
HEMATOLOGIC	MOZOBIL	Included	ONCOLOGY - ORAL	ODOMZO	Included
HEMATOLOGIC	MULPLETA	Included	ONCOLOGY - ORAL	PIQRAY	Included
HEMATOLOGIC	PROMACTA	Included	ONCOLOGY - ORAL	POMALYST	Included
HEMATOLOGIC	RUCONEST	Included	ONCOLOGY - ORAL	PURIXAN	Included
HEMATOLOGIC	TAKHZYRO	Included	ONCOLOGY - ORAL	REVLIMID	Included
HEMATOLOGIC	TAVALISSE	Included	ONCOLOGY - ORAL	ROZLYTREK	Included
HEMOPHILIA - INFUSED	TradATE	Included	ONCOLOGY - ORAL	RUBRACA	Included
HEMOPHILIA - INFUSED	ADYNOVATE	Included	ONCOLOGY - ORAL	RYDAPT	Included
HEMOPHILIA - INFUSED	AFSTYLA	Included	ONCOLOGY - ORAL	SPRYCEL	Included
HEMOPHILIA - INFUSED	ALPHANATE/VON WILLEBRAND	Included	ONCOLOGY - ORAL	STIVARGA	Included
HEMOPHILIA - INFUSED	ALPHANINE SD	Included	ONCOLOGY - ORAL	SUTENT	Included
HEMOPHILIA - INFUSED	ALPROLIX	Included	ONCOLOGY - ORAL	TABLOID	Included

HEMOPHILIA - INFUSED	BENEFIX	Included	ONCOLOGY - ORAL	TAFINLAR	Included
HEMOPHILIA - INFUSED	COAGADEX	Included	ONCOLOGY - ORAL	TAGRISSE	Included
HEMOPHILIA - INFUSED	CORIFACT	Included	ONCOLOGY - ORAL	TALZENNA	Included
HEMOPHILIA - INFUSED	ELOCTATE	Included	ONCOLOGY - ORAL	TARCEVA	Included
HEMOPHILIA - INFUSED	FEIBA	Included	ONCOLOGY - ORAL	TARGETIN	Included
HEMOPHILIA - INFUSED	HEMOPIL M	Included	ONCOLOGY - ORAL	TASIGNA	Included
HEMOPHILIA - INFUSED	HUMATE-P	Included	ONCOLOGY - ORAL	TEMODAR	Included
HEMOPHILIA - INFUSED	IDELVION	Included	ONCOLOGY - ORAL	TEMOZOLOMIDE	Included
HEMOPHILIA - INFUSED	IXINITY	Included	ONCOLOGY - ORAL	THALOMID	Included
HEMOPHILIA - INFUSED	JIVI	Included	ONCOLOGY - ORAL	TIBSOVO	Included
HEMOPHILIA - INFUSED	KOATE	Included	ONCOLOGY - ORAL	TRETINOIN	Included
HEMOPHILIA - INFUSED	KOATE-DVI	Included	ONCOLOGY - ORAL	TURALIO	Included
HEMOPHILIA - INFUSED	KOGENATE FS	Included	ONCOLOGY - ORAL	TYKERB	Included
HEMOPHILIA - INFUSED	KOVALTRY	Included	ONCOLOGY - ORAL	VENCLEXTA	Included
HEMOPHILIA - INFUSED	MONONINE	Included	ONCOLOGY - ORAL	VERZENIO	Included
HEMOPHILIA - INFUSED	NOVOEIGHT	Included	ONCOLOGY - ORAL	VITRAKVI	Included
HEMOPHILIA - INFUSED	NOVOSEVEN RT	Included	ONCOLOGY - ORAL	VIZIMPRO	Included
HEMOPHILIA - INFUSED	NUWIQ	Included	ONCOLOGY - ORAL	VOTRIENT	Included
HEMOPHILIA - INFUSED	PROFILNINE	Included	ONCOLOGY - ORAL	XALKORI	Included
HEMOPHILIA - INFUSED	REBINYN	Included	ONCOLOGY - ORAL	XELODA	Included
HEMOPHILIA - INFUSED	RECOMBINATE	Included	ONCOLOGY - ORAL	XOSPATA	Included
HEMOPHILIA - INFUSED	RIXUBIS	Included	ONCOLOGY - ORAL	XPOVIO	Included
HEMOPHILIA - INFUSED	TRETTEN	Included	ONCOLOGY - ORAL	XTANDI	Included
HEMOPHILIA - INFUSED	VONVENDI	Included	ONCOLOGY - ORAL	YONSA	Included
HEMOPHILIA - INFUSED	WILATE	Included	ONCOLOGY - ORAL	ZEJULA	Included
HEMOPHILIA - INFUSED	XYNTHA	Included	ONCOLOGY - ORAL	ZELBORAF	Included
HEMOPHILIA - INJECTABLE	HEMLIBRA	Included	ONCOLOGY - ORAL	ZOLINZA	Included
HEPATITIS B	ADEFOVIR DIPIVOXIL	Excluded	ONCOLOGY - ORAL	ZYDELIG	Included
HEPATITIS B	BARACLUDE	Excluded	ONCOLOGY - ORAL	ZYKADIA	Included
HEPATITIS B	ENTECAVIR	Excluded	ONCOLOGY - ORAL	ZYTIGA	Included
HEPATITIS B	EPIVIR HBV	Excluded	ONCOLOGY - TOPICAL	TARGETIN	Included
HEPATITIS B	HEPSERA	Excluded	ONCOLOGY - TOPICAL	VALCHLOR	Included
HEPATITIS B	LAMIVUDINE HBV	Excluded	OPHTHALMIC	OXERVATE	Included

HEPATITIS B	VEMLIDY	Excluded	OSTEOPOROSIS	FORTEO	Included
HEPATITIS C	EPCLUSA	Included	OSTEOPOROSIS	TYMLOS	Included
HEPATITIS C	HARVONI	Included	PARKINSONS DISEASE	APOKYN	Included
HEPATITIS C	LEDIPASVIR/SOFOSBUVIR	Included	PARKINSONS DISEASE	INBRIJA	Included
HEPATITIS C	MAVYRET	Included	PULMONARY DISEASE	ESBRIET	Included
HEPATITIS C	PEGASYS	Included	PULMONARY DISEASE	OFEV	Included
HEPATITIS C	PEGINTRON	Included	PULMONARY HYPERTENSION	ADCIRCA	Included
HEPATITIS C	SOFOSBUVIR/VELPATASVIR	Included	PULMONARY HYPERTENSION	ADEMPAS	Included
HEPATITIS C	SOVALDI	Included	PULMONARY HYPERTENSION	ALYQ	Included
HEPATITIS C	VIEKIRA PAK	Included	PULMONARY HYPERTENSION	AMBRISANTAN	Included
HEPATITIS C	VOSEVI	Included	PULMONARY HYPERTENSION	BOSENTAN	Included
HEPATITIS C	ZEPATIER	Included	PULMONARY HYPERTENSION	LETAIRIS	Included
IMMUNE MODULATOR	ACTIMMUNE	Included	PULMONARY HYPERTENSION	OPSUMIT	Included
IMMUNE MODULATOR	ARCALYST	Included	PULMONARY HYPERTENSION	ORENITRAM	Included
INFERTILITY	CETROTIDE	Included	PULMONARY HYPERTENSION	REVATIO	Included
INFERTILITY	CHORIONIC GONADOTROPIN	Included	PULMONARY HYPERTENSION	SILDENAFIL	Included
INFERTILITY	FOLLISTIM AQ	Included	PULMONARY HYPERTENSION	TADALAFIL	Included
INFERTILITY	GANIRELIX ACETATE	Included	PULMONARY HYPERTENSION	TRACLEER	Included
INFERTILITY	GONAL-F	Included	PULMONARY HYPERTENSION	TYVASO	Included
INFERTILITY	GONAL-F RFF	Included	PULMONARY HYPERTENSION	UPTRAVI	Included
INFERTILITY	MENOPUR	Included	PULMONARY HYPERTENSION	VENTAVIS*	Included
INFERTILITY	NOVAREL	Included	TRANSPLANT	ASTAGRAF XL	Excluded
INFERTILITY	OVIDREL	Included	TRANSPLANT	CELLCEPT	Excluded
INFERTILITY	PREGNYL	Included	TRANSPLANT	CYCLOSPORINE	Excluded
INFLAMMATORY CONDITIONS	ACTEMRA	Included	TRANSPLANT	CYCLOSPORINE MODIFIED	Excluded
INFLAMMATORY CONDITIONS	CIMZIA	Included	TRANSPLANT	ENVARUSUS XR	Excluded
INFLAMMATORY CONDITIONS	COSENTYX	Included	TRANSPLANT	GENGRAF	Excluded
INFLAMMATORY CONDITIONS	DUPIXENT	Included	TRANSPLANT	MYCOPHENOLATE MOFETIL	Excluded
INFLAMMATORY CONDITIONS	EMFLAZA	Included	TRANSPLANT	MYCOPHENOLIC ACID DR	Excluded
INFLAMMATORY CONDITIONS	ENBREL	Included	TRANSPLANT	MYFORTIC	Excluded
INFLAMMATORY CONDITIONS	HUMIRA	Included	TRANSPLANT	NEORAL	Excluded
INFLAMMATORY CONDITIONS	ILUMYA	Included	TRANSPLANT	PROGRAF	Excluded
INFLAMMATORY CONDITIONS	KEVZARA	Included	TRANSPLANT	RAPAMUNE	Excluded
INFLAMMATORY CONDITIONS	KINERET	Included	TRANSPLANT	SANDIMMUNE	Excluded

INFLAMMATORY CONDITIONS	OLUMIANT	Included	TRANSPLANT	SIROLIMUS	Excluded
INFLAMMATORY CONDITIONS	ORENCIA	Included	TRANSPLANT	TACROLIMUS	Excluded
INFLAMMATORY CONDITIONS	OTEZLA	Included	TRANSPLANT	ZORTRESS	Excluded

*Includes Nebulizer 3/2020

EXHIBIT D – BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is incorporated into and made part of the Administrative Services Agreement (“Agreement”) between United HealthCare Services, Inc. on behalf of itself and its affiliates (“Business Associate”) and Special School District #1 dba Minneapolis Public School ISD 1 (“Covered Entity”) and is effective on January 1, 2021.

The parties hereby agree as follows:

1. DEFINITIONS

- 1.1 Unless otherwise specified in this BAA, all capitalized terms used in this BAA not otherwise defined have the meanings established for purposes of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations as amended from time to time (collectively, “HIPAA”).
- 1.2 “Privacy Rule” means the federal privacy regulations, as amended from time to time, issued pursuant to HIPAA and codified at 45 C.F.R. Parts 160 and 164 (Subparts A & E).
- 1.3 “PHI” means Protected Health Information, as defined in 45 C.F.R. 160.103, and is limited to the Protected Health Information received from, or received or created on behalf of, Covered Entity by Business Associate pursuant to the performance of the Services.
- 1.4 “Security Rule” means the federal security regulations, as amended from time to time, issued pursuant to HIPAA and codified at 45 C.F.R. Parts 160 and 164 (Subparts A & C).
- 1.5 “Services” means, to the extent and only to the extent they involve the receipt, creation, maintenance, transmission, use or disclosure of PHI, the services provided by Business Associate to Covered Entity as set forth in the Agreement, including those set forth in this BAA in Section 4, as amended by written agreement of the parties from time to time.

2. RESPONSIBILITIES OF BUSINESS ASSOCIATE

With regard to its use and/or disclosure of Protected Health Information (PHI), Business Associate agrees to:

- 2.1 not use and/or disclose PHI except as necessary to provide the Services, as permitted or required by this BAA and/or the Agreement, and in compliance with each applicable requirement of 45 C.F.R. 164.504(e), or as otherwise Required by Law, except that to the extent Business Associate is to carry out Covered Entity’s obligations under the Privacy Rule, Business Associate will comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of those obligations.
- 2.2 implement and use appropriate administrative, physical and technical safeguards and comply with applicable Security Rule requirements with respect to Electronic Protected Health Information, to prevent use or disclosure of PHI other than as provided for by this BAA and/or the Agreement.
- 2.3 without unreasonable delay, report to Covered Entity (i) any use or disclosure of PHI not provided for by this BAA and/or the Agreement, of which it becomes aware in accordance with 45 C.F.R. 164.504(e)(2)(ii)(C); and/or (ii) any Security Incident of which Business Associate becomes aware in accordance with 45 C.F.R. 164.314(a)(2)(i)(C).
- 2.4 with respect to any use or disclosure of Unsecured PHI not permitted by the Privacy Rule that is caused solely by Business Associate’s failure to comply with one or more of its obligations under this BAA, Covered Entity hereby delegates to Business Associate the responsibility for determining when any such incident is a Breach. In the event of a Breach, Business Associate shall (i) provide Covered Entity with written notification, and (ii) provide all legally required notifications to Individuals, HHS and/or the media, on behalf of Covered Entity, in accordance with 45 C.F.R. 164 (Subpart D) Business Associate shall pay for the reasonable and actual costs associated with those notifications.
- 2.5 in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 45 C.F.R. 164.308(b)(2), ensure that any subcontractors of Business Associate that create, receive, maintain, or transmit PHI on behalf of Business Associate agree, in writing, to the same restrictions and conditions on the use and/or disclosure, of PHI that apply to Business Associate with respect to that PHI.

- 2.6 make available its internal practices, books and records relating to the use and disclosure of PHI to the Secretary for purposes of determining Covered Entity's compliance with the Privacy Rule.
- 2.7 after receiving a written request from Covered Entity or an Individual, make available an accounting of disclosures of PHI about the Individual, in accordance with 45 C.F.R. 164.528.
- 2.8 after receiving a written request from Covered Entity or an Individual, provide access to PHI in a Designated Record Set about an Individual, in accordance with the requirements of 45 C.F.R. 164.524.
- 2.9 after receiving a written request from Covered Entity or an Individual, make PHI in a Designated Record Set about an Individual available for amendment and incorporate any amendments to the PHI, all in accordance with 45 C.F.R. 164.526.
- 2.10 comply with the applicable requirements of 42 CFR Part 2 to the extent Covered Entity, a Part 2 program or another lawful holder provides Part 2 Records to Business Associate in accordance with 42 CFR § 2.32 or Subpart D.

3. RESPONSIBILITIES OF COVERED ENTITY

In addition to any other obligations set forth in the Agreement, including in this BAA, Covered Entity:

- 3.1 shall provide to Business Associate only the minimum PHI necessary to accomplish the Services.
- 3.2 shall notify Business Associate of any limitations in the notice of privacy practices of Covered Entity under 45 C.F.R. 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- 3.3 shall notify Business Associate of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- 3.4 shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- 3.5 In the event Covered Entity takes action as described in this Section, Business Associate shall decide which restrictions or limitations it will administer. In addition, if those limitations or revisions materially increase Business Associate's cost of providing Services under the Agreement, including this BAA, Covered Entity shall reimburse Business Associate for such increase in cost.

4. PERMITTED USES AND DISCLOSURES OF PHI

Unless otherwise limited in this BAA, in addition to any other uses and/or disclosures, permitted or required by this BAA or the Agreement, Business Associate may:

- 4.1 make any and all uses and disclosures of PHI necessary to provide the Services to Covered Entity.
- 4.2 use and disclose PHI, if necessary, for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, on the condition that the disclosures are Required by Law or any third party to which Business Associate discloses PHI for those purposes provides written assurances in advance that (i) the information will be held confidentially and used or further disclosed only for the purpose for which it was disclosed to the third party or as Required by Law, and (ii) the third party promptly will notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.
- 4.3 de-identify PHI received or created by Business Associate under this BAA in accordance with the Privacy Rule, which de-identified information does not constitute PHI, is not subject to this BAA and may be used and disclosed on Business Associate's own behalf.
- 4.4 provide Data Aggregation services relating to the Health Care Operations of the Covered Entity in accordance with the Privacy Rule.
- 4.5 use and disclose PHI and data as permitted in 45 C.F.R 164.512 in accordance with the Privacy Rule.

4.6 use PHI to create, use and disclose a Limited Data Set in accordance with the Privacy Rule.

5. **TERMINATION**

5.1 **Termination.** If Covered Entity knows of a pattern of activity or practice of the Business Associate that constitutes a material breach or violation of this BAA then the Covered Entity shall provide written notice of the breach or violation to the Business Associate that specifies the nature of the breach or violation. The Business Associate must cure the breach or end the violation on or before thirty (30) days after receipt of the written notice. In the absence of a cure reasonably satisfactory to the Covered Entity within the specified timeframe, or in the event the breach is reasonably incapable of cure, then the Covered Entity may terminate the Agreement and/or this BAA.

5.2 **Effect of Termination or Expiration.** After the expiration or termination for any reason of the Agreement and/or this BAA, Business Associate shall return or destroy all PHI received from or created or received by Business Associate on behalf of the Covered Entity, if feasible to do so, including such PHI in possession of Business Associate's subcontractors. In the event that Business Associate determines that return or destruction of the PHI is not feasible, Business Associate may retain the PHI and shall extend any and all protections, limitations, and restrictions contained in this BAA to Business Associate's use and/or disclosure of any PHI retained after the expiration or termination of the Agreement and/or this BAA, and shall limit any further uses or disclosures solely to the purposes that make return or destruction of the PHI infeasible.

5.3 **Cooperation.** Each party shall cooperate in good faith in all respects with the other party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action, or other inquiry.

6. **MISCELLANEOUS**

6.1 **Construction of Terms.** The terms of this BAA to the extent they are unclear shall be construed to allow for compliance by Covered Entity and Business Associate with HIPAA.

6.2 **Survival.** Sections 5.2, 5.3, 6.1, 6.2, and 6.3 shall survive the expiration or termination for any reason of the Agreement and/or of this BAA.

6.3 **No Third Party Beneficiaries.** Nothing in this BAA shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.



RIVERFRONT DEVELOPMENT PARTNERS

September 21, 2020

Deanne Babler
Coordinator, Real Estate & Operations
Minneapolis Public Schools
1250 West Broadway Avenue
Minneapolis, MN 55411

Dear Ms. Babler:

I formally write to request that the Minneapolis Public Schools sign off / consent to the rezoning of a development site, consisting of 1300 West Broadway Avenue, 2011 Girard Avenue North, and 2015 Girard Avenue North to a C2 Zoning District. (See Attached)

Riverfront Development Partners / Attune Venture Philanthropy ("Attune") is a majority-minority real estate development firm based in North Minneapolis that uses strategic real estate acquisition and place-based development as mechanisms for growth in communities often overlooked by traditional developers.

The mixed-use commercial and workforce multifamily housing project, The Resolute, is situated at the intersection of West Broadway Avenue & Girard Avenue North. (See Attached). The first floor of The Resolute supports five minority-owned businesses: an African-American-owned salon, an African-American-owned barber, an African-American owned boutique bar, an African-American-owned daycare, a woman-owned coffee shop. The building has pre-leased five of its seven commercial spaces.

Attune has proposed to rezone the site from the OR2 zoning district to the C2 zoning district. As you are aware, any rezoning from residential districts to commercial districts is required by Minnesota Statute section 462.357 subd. 5 to obtain consent signatures of two-thirds of descriptions of real estate within 100 feet of the development site to rezone from a residence district to a commercial district.

The Davis Center, owned by the Minneapolis Public Schools, is an adjacent property owner at 1250 West Broadway Avenue and therefore we require a signature in order to rezone our future project.

The Minneapolis 2040 comprehensive plan, which was adopted as of January 1, 2020, designates 1300 West Broadway as Corridor Mixed Use which is defined as:

Corridor Mixed Use serves a larger market area than Neighborhood Mixed Use, and may have multiple competing uses of the same type. Commercial zoning is appropriate, mixed use multi story development is encouraged, and contiguous expansion of commercial zoning is allowed.

Within the next few years, the City will rezone all parcels to comply with the guidance in Minneapolis 2040. 1300 West Broadway will likely be rezoned to C2 as part of that process. The differences between the existing OR2 district and C2 district primarily comes down to the building setbacks (OR2 requires greater yard setbacks) and uses allowed in the building.

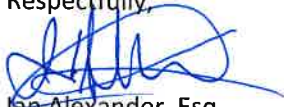
Attached are the following documents:

- Affidavit Related to Rezoning Request
- Hennepin County Locate & Notify Map
- The Resolute Overview

The proposed boutique Mediterranean cuisine bar & restaurant in our building — www.deervishmazza.com — will require the C2 zoning district. Without the consent of the Minneapolis Public Schools to this Zoning Change, it will not be possible to open up this restaurant.

Will you please print out, sign and notarize the affidavit and e-mail and/or mail it back to me at your earliest convenience?

Respectfully,



Ian Alexander, Esq.

President

**AFFIDAVIT RELATED TO REZONING REQUEST
FORM F**

Required when the Owner of Property from Which Consent is Sought is a Corporation or Similar Entity

Your affiant(s), _____ (print name(s)), being duly sworn, affirm(s) as follows:

I am the _____ (title or position) of Special School District No 1 (name of owner entity). I am authorized thereby to consent, and do so consent, on behalf of the following property, 1250 West Broadway (property address), 16-029-24-13-0170 (property ID number) to rezoning of the property identified below to the C2 zoning district.

ADDRESS OF PROPERTY TO BE REZONED	PROPERTY ID NO. OF PROPERTY TO BE REZONED
1300 West Broadway, Minneapolis, MN	16-029-24-13-0145
2015 Girard Ave N, Minneapolis, MN	16-029-24-13-0128
2011 Girard Ave N, Minneapolis, MN	16-029-24-13-0137

Affiant's signature

Subscribed and sworn to before me this _____ day
of _____

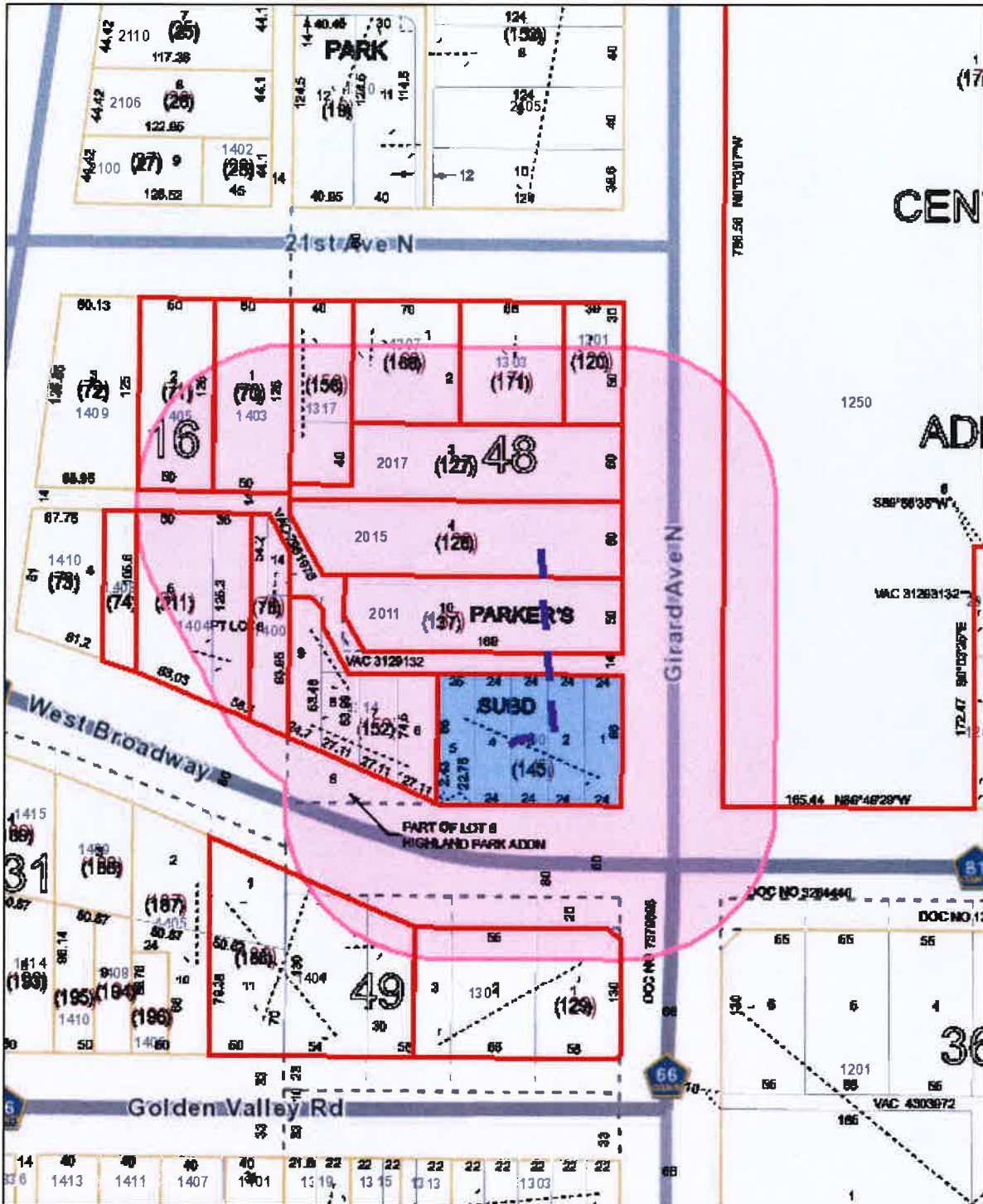
Affiant's signature

Notary Public:
County of:
My commission expires:



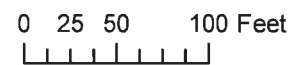
Hennepin County Locate & Notify Map

Date: 4/1/2020



Buffer Size: 100

Map Comments:



This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (i) is furnished with no warranty of any kind; and (ii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

For more information, contact Hennepin County GIS Office
300 6th Street South, Minneapolis, MN 55487 / gis.info@hennepin.us

01 16-029-24 13 0120
 RICHARD TODD SCHMITT
 1301 21ST AVE N
 MINNEAPOLIS MN 55411
 RICHARD TODD SCHMITT
 1301 21ST AVE N
 MINNEAPOLIS MN 55411

01 16-029-24 13 0171
 SUNNY THAO
 1303 21ST AVE N
 MINNEAPOLIS MN 55411
 SUNNY THAO
 1303 21ST AVE N
 MINNEAPOLIS MN 55411

01 16-029-24 13 0127
 2017 GIRARD AVE NORTH LLC
 2017 GIRARD AVE N
 MINNEAPOLIS MN 55411
 NEW LIFE PROPERTIES
 1020 E 146TH ST SUITE #269
 BURNSVILLE MN 55337

01 16-029-24 24 0070
 AMANDA ARNOLD
 1403 21ST AVE N
 MINNEAPOLIS MN 55411
 AMANDA ARNOLD
 1403 21ST AVE N
 MINNEAPOLIS MN 55411

01 16-029-24 13 0128
 JOHNSON O OLAGUNJU
 2015 GIRARD AVE N
 MINNEAPOLIS MN 55411
 JOHNSON O OLAGUNJU
 2015 GIRARD AVE N
 MINNEAPOLIS MN 55411

01 16-029-24 24 0071
 KEITH D REITMAN
 1405 21ST AVE N
 MINNEAPOLIS MN 55411
 KEITH DAVID REITMAN
 PO BOX 11832
 MPLS MN 55411

01 16-029-24 13 0129
 AFC ENTERPRISES INC
 1301 WEST BROADWAY
 MINNEAPOLIS MN 55411
 AFC ENTERPRISES INC
 ATTN HAROLD M COHEN
 400 PERIMETER CTR TER #1000
 ATLANTA GA 30346-1234

01 16-029-24 24 0074
 HENNEPIN FORFEITED LAND
 1408 WEST BROADWAY
 MINNEAPOLIS MN 55411
 HENNEPIN FORFEITED LAND

01 16-029-24 13 0137
 KHYNU INC
 2011 GIRARD AVE N
 MINNEAPOLIS MN 55411
 KHYNU INC
 C/O WILLIAM THOMAS
 P O BOX 11787
 MINNEAPOLIS MN 55411

01 16-029-24 24 0078
 HENNEPIN FORFEITED LAND
 1400 WEST BROADWAY
 MINNEAPOLIS MN 55411
 HENNEPIN FORFEITED LAND
 APPROVED FOR PUBLIC AUCTION
 RELEASED FROM HOLD 12/10/10

01 16-029-24 13 0145
 A & M MARKET LLC
 1300 WEST BROADWAY
 MINNEAPOLIS MN 55411
 A & M MARKET LLC
 770 LILIUM TRAIL
 MEDINA MN 55340

01 16-029-24 24 0186
 CYLINDRICAL PRECISION LLC
 1401 WEST BROADWAY
 MINNEAPOLIS MN 55411
 CYLINDRICAL PRECISION LLC
 4 LOST ROCK LA
 NORTH OAKS MN 55127

01 16-029-24 13 0152
 HENNEPIN FORFEITED LAND
 1314 WEST BROADWAY
 MINNEAPOLIS MN 55411
 HENNEPIN FORFEITED LAND

01 16-029-24 24 0211
 HENNEPIN FORFEITED LAND
 1404 WEST BROADWAY
 MINNEAPOLIS MN 55411
 HENNEPIN FORFEITED LAND
 APPROVED FOR PUBLIC AUCTION
 RELEASED FROM HOLD 12/10/10

01 16-029-24 13 0156
 DAVID ADEREMI ISELEWA
 1317 21ST AVE N
 MINNEAPOLIS MN 55411
 DAVID ADEREMI ISELEWA
 8414 SAVANNA OAKS LA
 WOODBURY MN 55125

01 16-029-24 13 0168
 CITY OF MINNEAPOLIS
 1307 21ST AVE N
 MINNEAPOLIS MN 55411
 DEPT OF COMM PLAN/ECON DEVEL
 ATTN REAL ESTATE
 105 5TH AVE S #200
 MINNEAPOLIS MN 55401

01 16-029-24 13 0170
 SPECIAL SCHOOL DISTRICT NO 1
 1250 WEST BROADWAY
 MINNEAPOLIS MN 55411
 SPECIAL SCHOOL DISTRICT NO 1
 1250 WEST BROADWAY AVE
 MINNEAPOLIS MN 55411

Hennepin County has developed electronic forms of certain property information databases. Hennepin County makes reasonable efforts to produce and publish the most current property information available. The viewer should understand, however, that Hennepin County makes no representation or warranties, either express or implied, or as to merchantability or fitness for a particular purpose regarding the accuracy and/or completeness of the information contained herein.

ATTUNE VENTURE PHILANTHROPY

The Resolute : 1300 West Broadway

WHERE
DO WE GO
FROM HERE

Riverfront Development Partners / Attune Venture Philanthropy ("Attune") is a majority-minority real estate development firm based in North Minneapolis that uses strategic real estate acquisition and place-based development as mechanisms for growth in communities often overlooked by traditional developers.

SOCIALLY CONSCIOUS, ECONOMICALLY INCLUSIVE

We create and leverage public-private-philanthropic partnerships with capacity to address the need for affordable and market rate multifamily housing in urban neighborhoods. In doing so, we bridge the gap between productive, sustainable community investment and attractive rates of return.

Attune is dedicated to the belief and practice that all developments should incorporate **socially conscious**, **economically inclusive**, and **environmentally resilient** features that enhance community appeal and enrich residents' experience.

THE TEAM



IAN ALEXANDER
Pre-Development,
Investors + Legal



LOUANN HAAF
Design, Brand Strategy
+ Partnerships



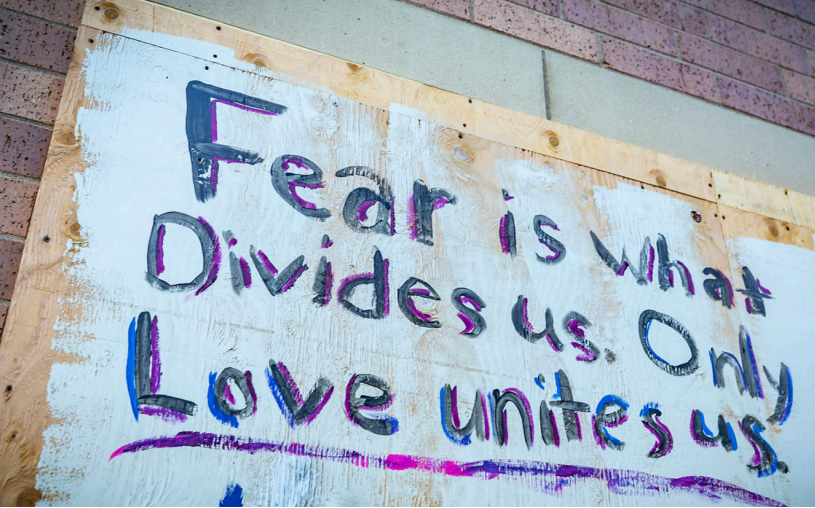
DAMARUS HOLLINGSWORTH
Designer + Architect of Record



EVON BENT
Finance + Project
Management



MICHAEL KRAUS
Grants, Sustainability +
Transportation Mgmt



Business closures during the COVID-19 pandemic and civil unrest initiated by the murder of George Floyd have had severe impacts on the small business community in North Minneapolis. Attune recognizes that with the right partners, this presents a unique opportunity for positive large scale growth within the community - both in terms of housing and small business support.

COMMUNITY NEEDS IN NORTH MINNEAPOLIS

In North Minneapolis, the need for more diverse, mixed income housing options and commercial spaces is critical. However, past models of multifamily housing production have been based on large, conventional investment and development groups. The result is higher rent projects, or the need for substantial subsidies to be viable in lower-income neighborhoods. The perception of lower returns deters these investors, and development that does occur rarely includes local ownership and alienates the local community from the final product. This does little to address asset poverty, and accelerates wealth extraction and dilution of existing cultural traditions. As such, the traditional market-based approach to development does not improve economic and social conditions.

It also does not appeal to the market in North Minneapolis or address the multifaceted disparities that affect the community. As a result, prime parcels of land with excellent development potential sit vacant or underutilized, holding back absolute taxable capacity and leaving community needs unmet.





THE RESOLUTE . 1300 WEST BROADWAY



Attune currently has three adjacent sites in North Minneapolis – 1300 West Broadway Avenue, 2011 Girard Avenue North, and 2015 Girard Avenue North – under contract with plans to develop a six-story mixed-use housing complex. The Resolute is a six-story, mixed use housing complex that offers 65 residential units ranging in size from studios to two-bedrooms; 51 of these units will be rented at 60% Area Median Income (AMI), and 14 at 80% to foster a mixed-income community and promote inclusivity in North Minneapolis.



This development will fully integrate the goals of the ICC 2020 Green Building Standard to minimize carbon emissions building construction and operations, protect community health, and reduce life-cycle energy and water costs. The Resolute's building envelope will be constructed entirely from insulated concrete form (ICF block), and integrate sustainable technologies such as all electric HVAC, on-demand hot water, energy-efficient lighting, and appliances. Water conservation features, non-toxic interior finishes, and filtration systems to maintain healthy indoor air will also be included. The project will utilize both on-site and community-based solar energy and expandable electric vehicle charging. Stormwater will be managed on-site and green infrastructure such as green roofs and walls will be used to cool the area, reduce energy use, improve air quality and attenuate ambient noise levels. These features will be planned on a district-level basis in partnership with local utilities, and will maximize incentives for implementation in order to reduce energy and water costs for individual units.

BUILDING A MODEL FOR URBAN SUSTAINABILITY

PROMOTING COMMERCE + COMMUNITY

The first floor of The Resolute supports five minority-owned businesses:

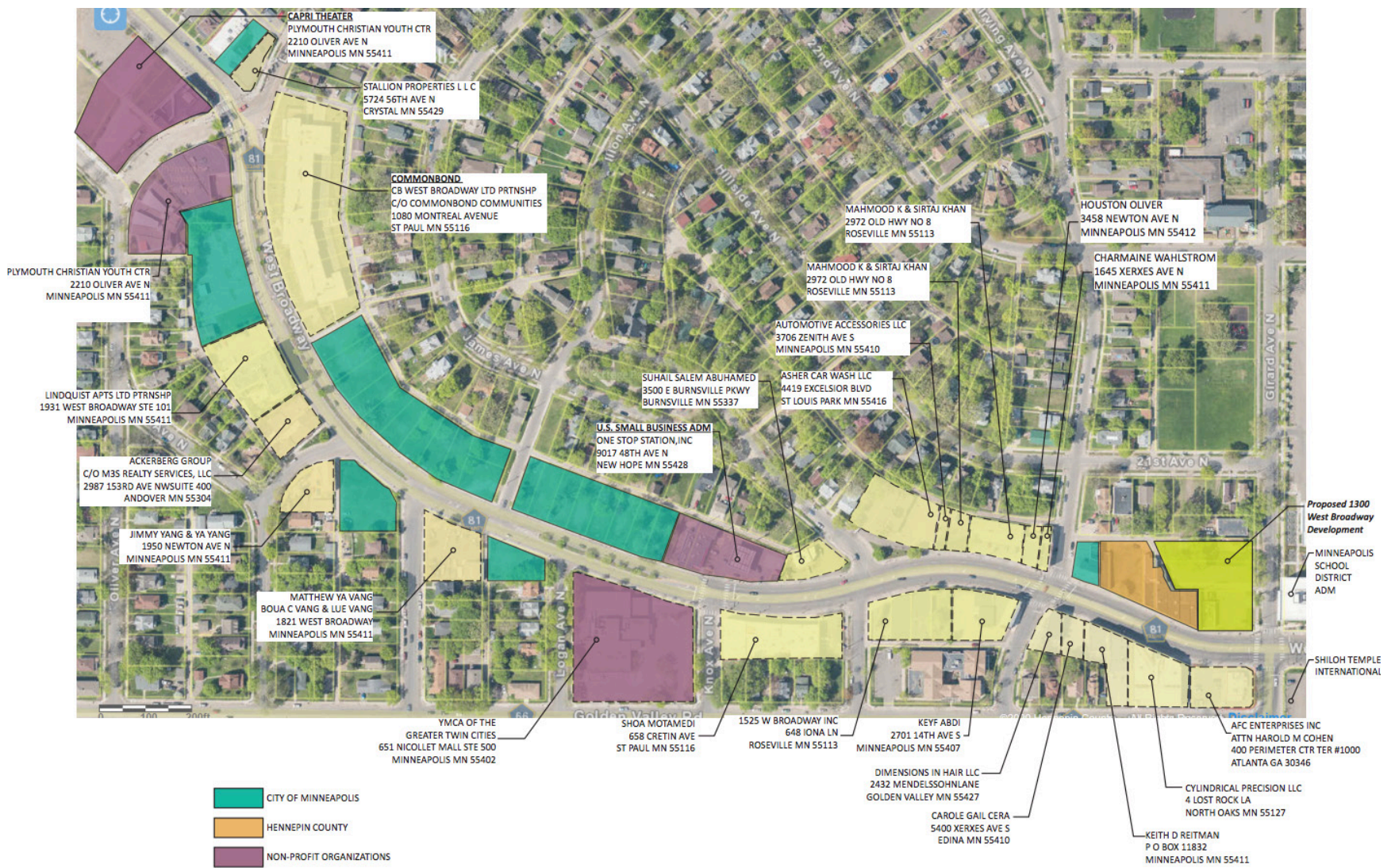
an African-American-owned salon, an African-American -owned barber, an African-American owned boutique bar, an African-American-owned daycare, a woman-owned coffee shop.

Attune aspires to offer tenants opportunities for building ownership following the 10-year Opportunity Zone ownership exit structure. By using zero-lot-line construction and compelling architectural attributes, The Resolute will reflect the distinctive character of North Minneapolis, while exuding an urban feel that attracts consumers and enriches the pedestrian environment on West Broadway.

PROVIDING HOUSING THAT MEETS COMMUNITY NEEDS

The Resolute is a six-story, mixed use housing complex that offers 65 residential units ranging in size from studios to two-bedrooms; 51 of these units will be rented at 60% Area Median Income (AMI), and 14 at 80% to foster a mixed-income community and promote inclusivity in North Minneapolis.

WHY THIS SITE?

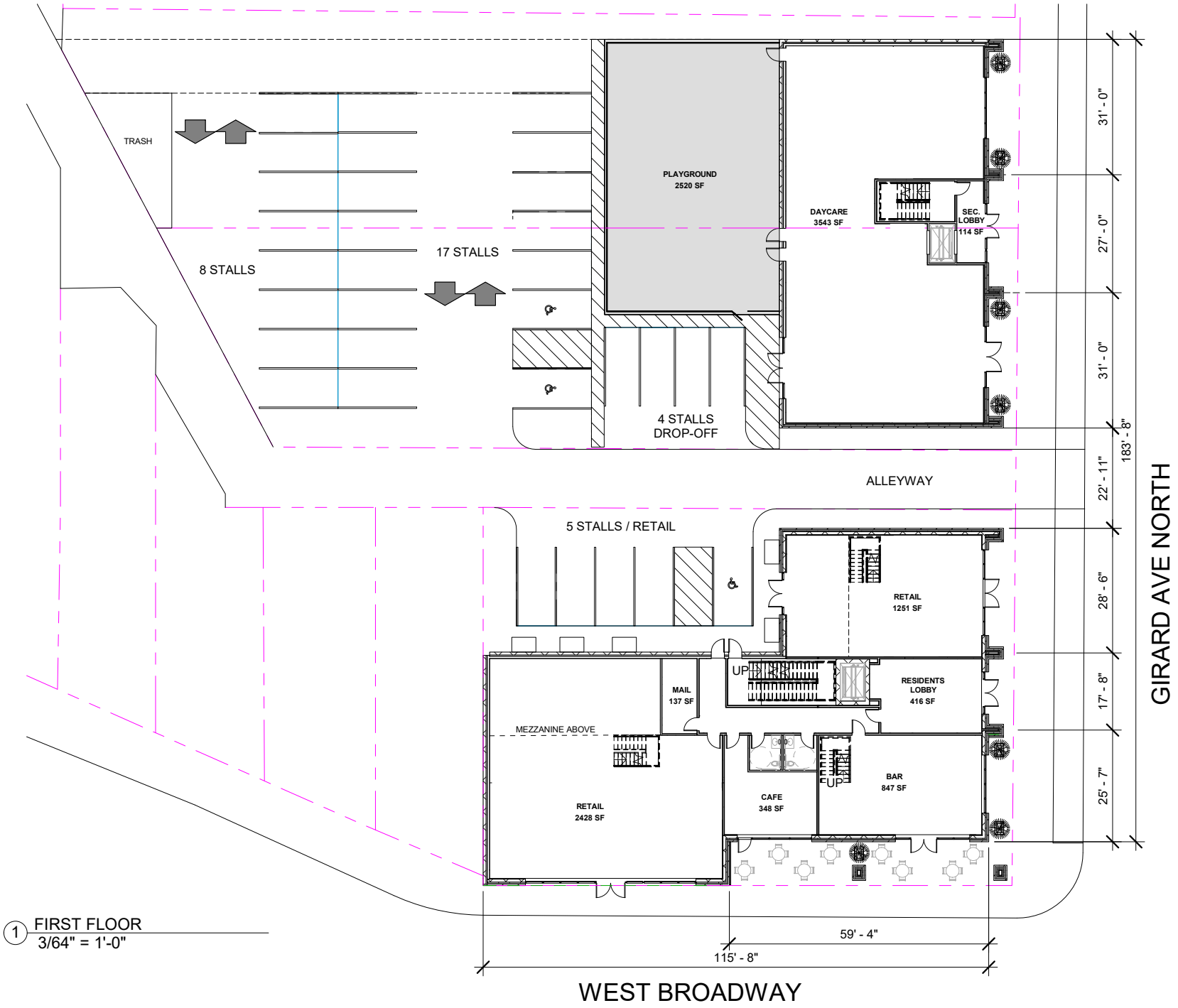


FIRST / The site sits at the intersection of three transit corridor: West Broadway Avenue, Golden Valley Road, and Emerson & Fremont Avenues. This prime location offers residents access to multiple bus routes (including the 7, 14, 30, 5, 721, and 724), a future bus rapid transit route, and the future North Minneapolis Greenway.

SECOND / The site is a highly visible parcel next to the Harry Davis School Board Building. New construction at the site will provide continuity with the Harry Davis School Board Building and an architectural asset to the surrounding streetscape.

THIRD / The site sits adjacent to land owned by Hennepin County and the City of Minneapolis that has been vacant for at least 10 years, which offers opportunities to continue developing the West Broadway corridor following completion of The Resolute.

PROPOSED PHASE 1

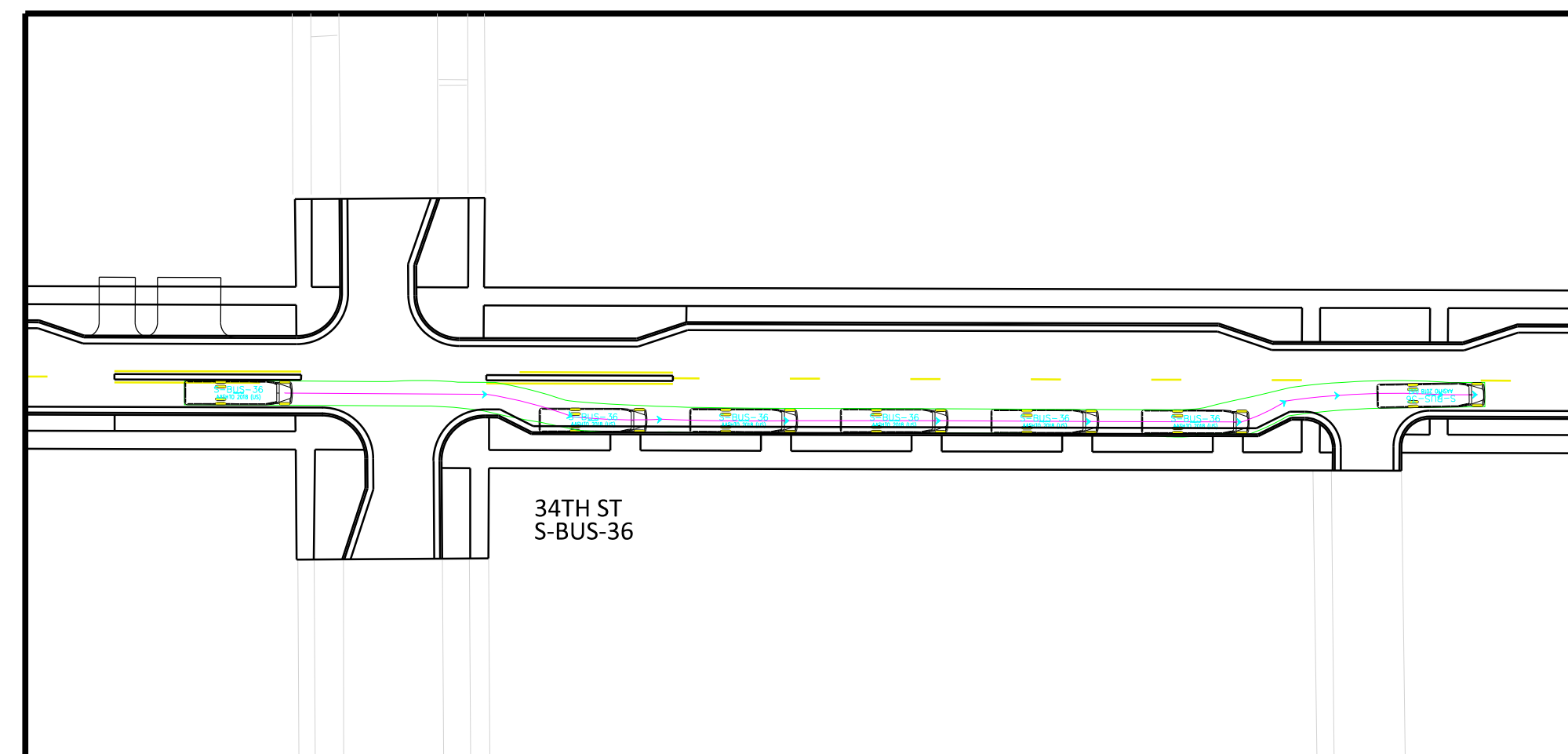
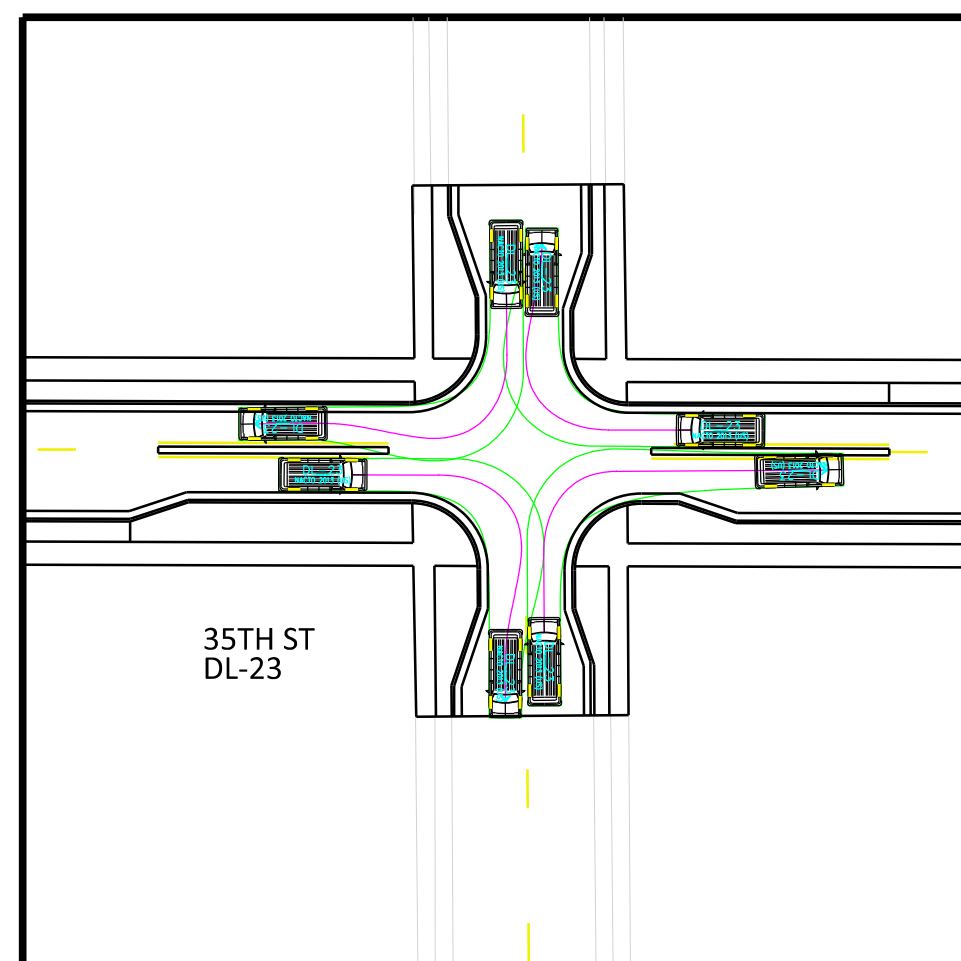
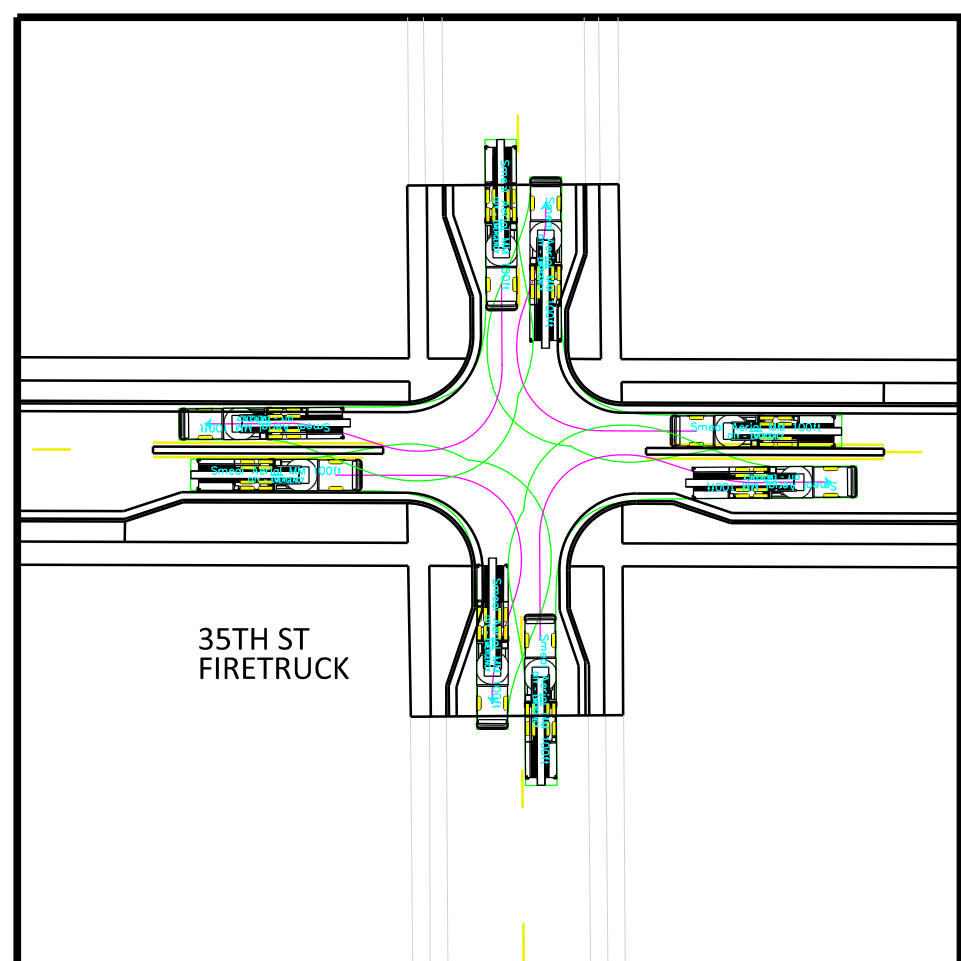
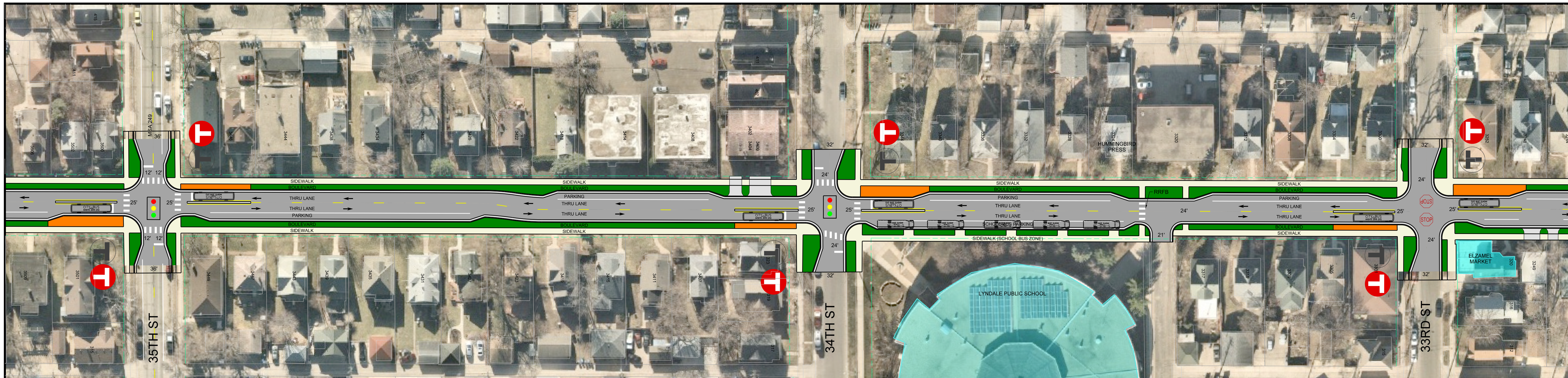


① FIRST FLOOR
3/64" = 1'-0"






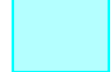

Attune Venture Philanthropy is eager to set a new precedent for community-oriented development in North Minneapolis, and we believe the quality and quantity of affordable housing planned for 1300 W Broadway Ave, 2011 Girard Ave N, and 2015 Girard Ave N is a large, critical step in the process of doing so.

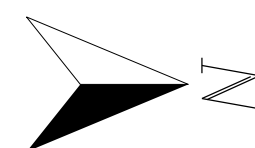
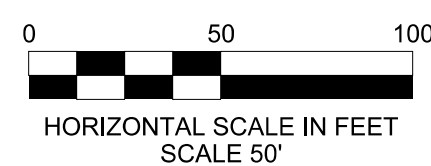


ATTUNEVP.COM | 612 . 743 . 2213



LEGEND

-  TRAFFIC SIGNAL CONTROL
-  EXISTING METRO TRANSIT BUS STOP
-  PROPOSED DRIVEWAY CLOSURE - REMOVE APRON
-  STOP SIGN CONTROL
-  PROPOSED METRO TRANSIT BUS STOP
-  EXISTING COMMERCIAL BUILDING
-  CITY BUS TURNING MOVEMENTS

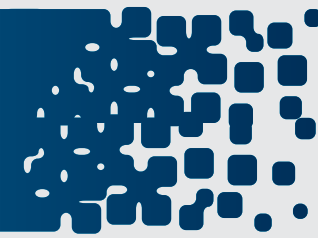


GRAND AVENUE RECONSTRUCTION - LAYOUT
35TH STREET TO 33RD STREET



GRAND AVENUE

RECONSTRUCTION



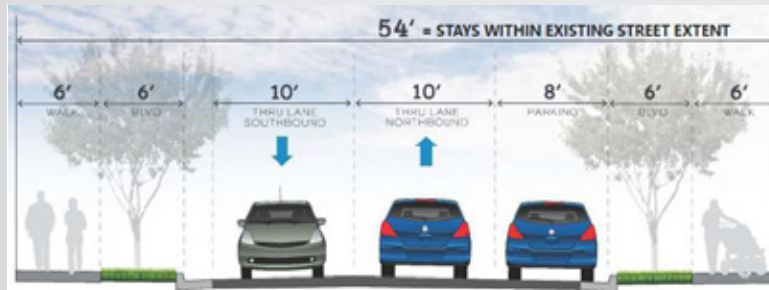
DESIGN RECOMMENDATION

Public Works is recommending narrowing Grand Avenue between Lake Street and 48th Street to add space for greenery, improve safety for all modes of travel, and calm traffic. The recommendation replaces aging infrastructure and includes chicanes, bumpouts, hardened centerlines, parking revisions, and medians at key crossings. The corridor will maintain two-way vehicle traffic and commercial access, and an off-street shared-use path for pedestrians and bicyclists will be incorporated between 31st Street and Lake Street.

KEY TRADEOFFS

To implement the recommendation, some on-street parking was removed. This tradeoff was made to provide an acceptable pedestrian realm, and after Public Works observed that some parking areas on Grand Avenue S were not utilized throughout most of the day. Additionally, parking alternates between sides of the block and some blocks make use of the full right-of-way to add additional parking capacity at critical locations such as business nodes and near apartment buildings.

TYPICAL CROSS-SECTION



WHAT'S THE TIMELINE?



STAY UPDATED!

Visit our website for the most up-to-date project information:
minneapolismn.gov/cip/futureprojects/grand-ave-s

Or, contact staff with further questions:

Dan Edgerton, Project Planner

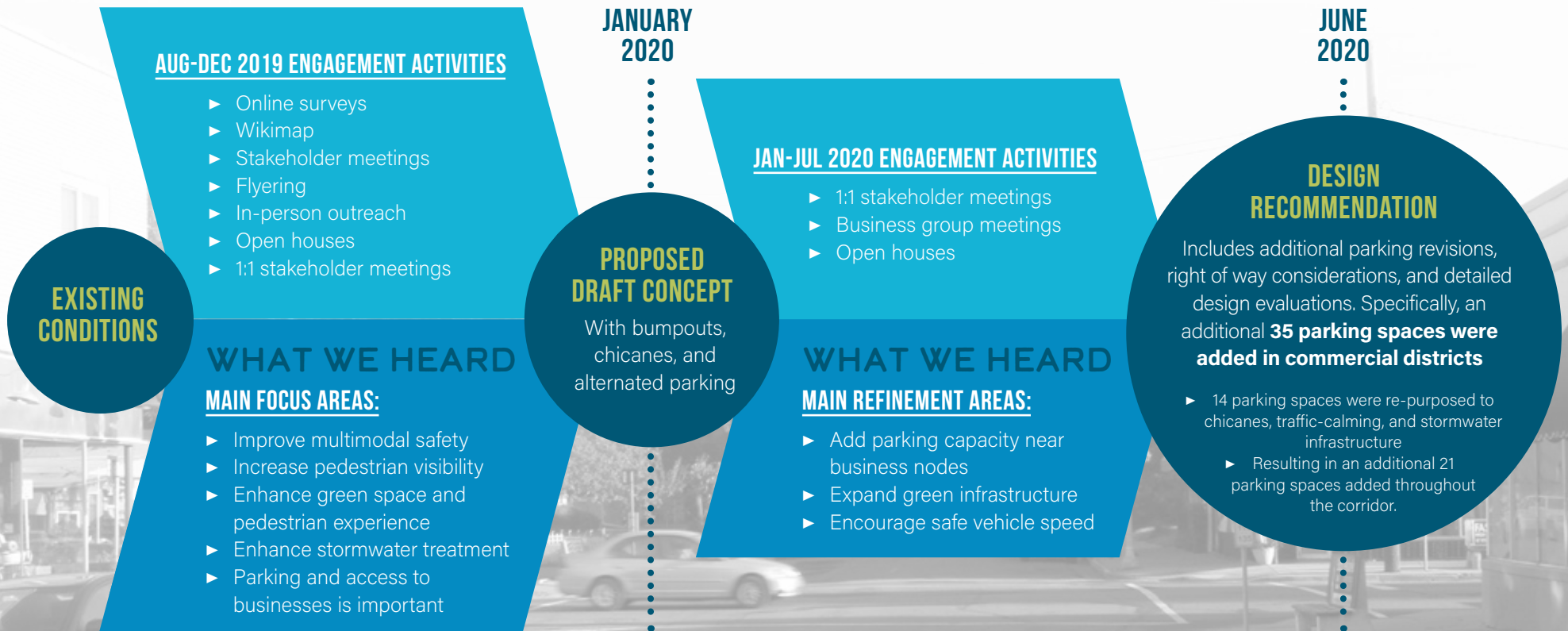
dan.edgerton@minneapolismn.gov | 612.207.5722

Beverly Warmka, Project Engineer

beverly.warmka@minneapolismn.gov | 612.673.3762



WHAT CHANGES HAVE BEEN MADE TO THE DESIGN?



SINCE THE PROPOSAL DRAFT CONCEPT WAS RELEASED IN JANUARY 2020, THE REVISED CONCEPT LAYOUT HAS INCORPORATED:



Expanded parking at commercial nodes and utilization of full right-of-way in some areas



Refined design details such as chicane locations, bumpout designs, medians, RRFB, and crosswalks




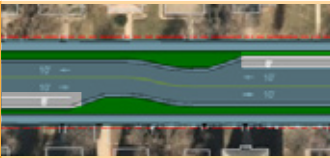
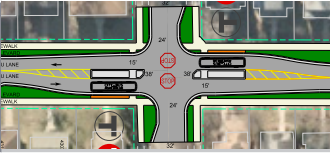





Transit revisions (including hardened centerline, and bus stop location revisions at 46th Street, 38th Street, and 35th Street)

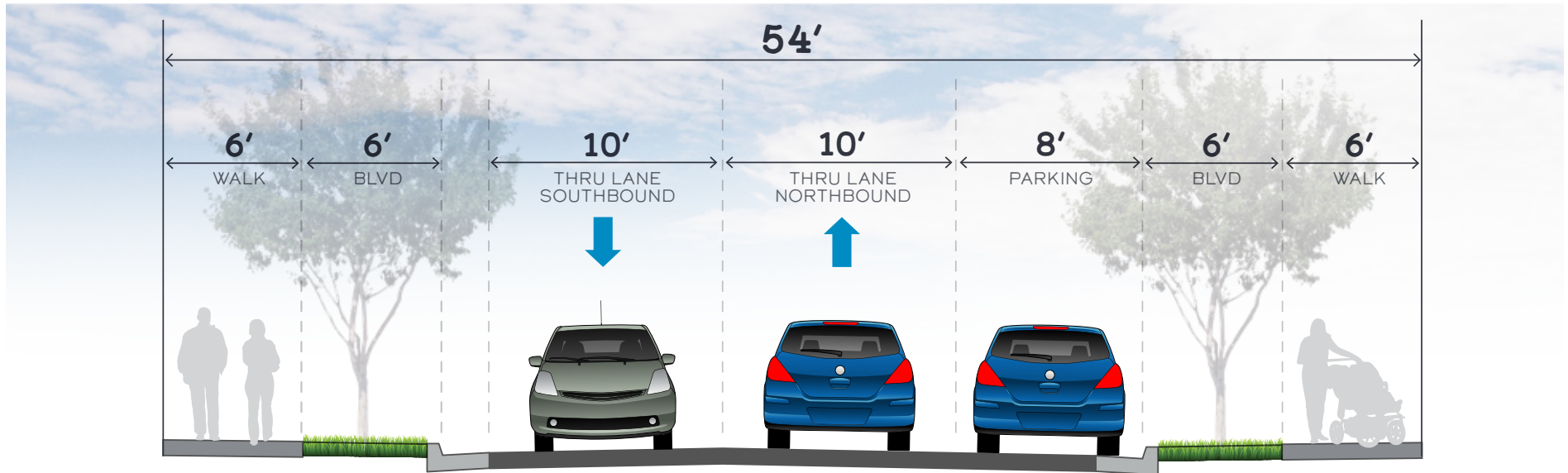


Providing an off-street shared-use path for pedestrians and bicyclists between Lake Street and 31st Street to facilitate the planned Pleasant/Grand Ave neighborhood greenway

DESIGN FEATURES

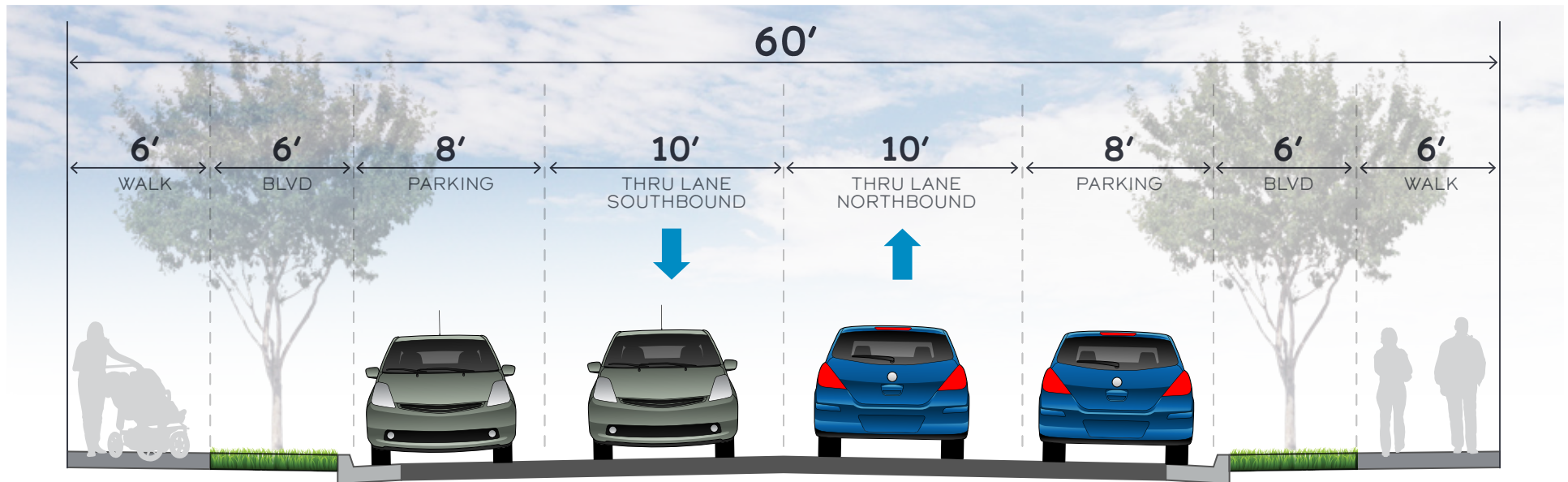
			BENEFITS	TRADEOFFS
DESIGN STANDARD	12' PEDESTRIAN ZONE	 6' sidewalk and 6' boulevard along entire corridor	<ul style="list-style-type: none"> Expands pedestrian realm Provides space for snow storage Increases green space Expands buffer between pedestrians and vehicles 	<ul style="list-style-type: none"> May require full ROW in some places Parking removal in constrained locations
	BUMPOUTS	 Used at intersections; designed to accommodate larger vehicles when applicable	<ul style="list-style-type: none"> Encourages safer turning speeds Creates shorter crossing distances Increases visibility Expands pedestrian realm May improve bus travel times 	<ul style="list-style-type: none"> May reduce on-street parking capacity May restrict larger vehicle turns
DESIGN STRATEGY	CHICANE	 An alignment shift is a horizontal curve in a road added by design rather than in response to geography or network	<ul style="list-style-type: none"> Encourages safer travel speeds Provides space for greenery and stormwater management Alternates parking location 	Reduces on-street parking capacity
	ALTERNATE PARKING	 Used to right-size and balance parking	<ul style="list-style-type: none"> Balances location of on-street parking Converts on-street parking space for other uses Encourages safe travel speeds 	Reduces on-street parking capacity
	MEDIAN CROSSINGS	 Used to allow pedestrians and bikes to safely cross the street and limit vehicle turns	Reduces crossing distance, encourages safer travel speeds, prioritizes walking and biking access along key routes	May restrict larger vehicle turns
	TRANSIT STOP LOCATION REVISIONS	 Consolidated stops where bus ridership is low and relocated some stops farside to improve boarding and alighting conditions	<ul style="list-style-type: none"> Faster transit operations Increase on-street parking capacity at some intersections 	May result in farther walking distances to nearest stop
	HARDENED CENTERLINE	 Used hardened centerline to prevent passing of buses stopped in the travel lane	Discourages unlawful and dangerous traffic maneuvers	New design feature in Minneapolis; will need to be evaluated for effectiveness
	WATER QUALITY INFRASTRUCTURE	 Used to capture and treat stormwater runoff through infiltration - typically sited within bumpout boulevard areas.	Provides infiltration opportunities to reduce runoff to receiving water bodies	May reduce on-street parking capacity

RECOMMENDED ROADWAY SECTIONS



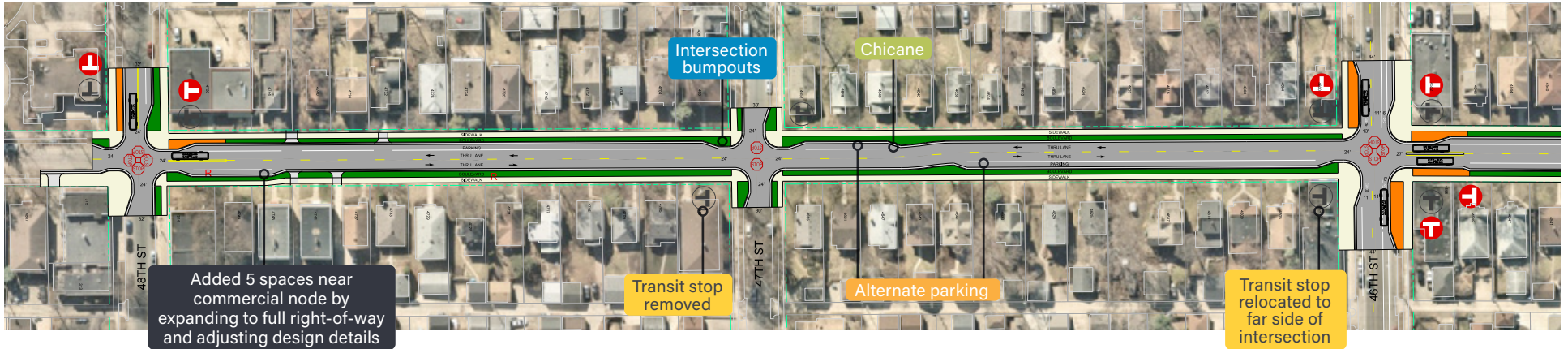
ALTERNATE PARKING

Note: Parking alternates between either side of the street throughout the corridor.

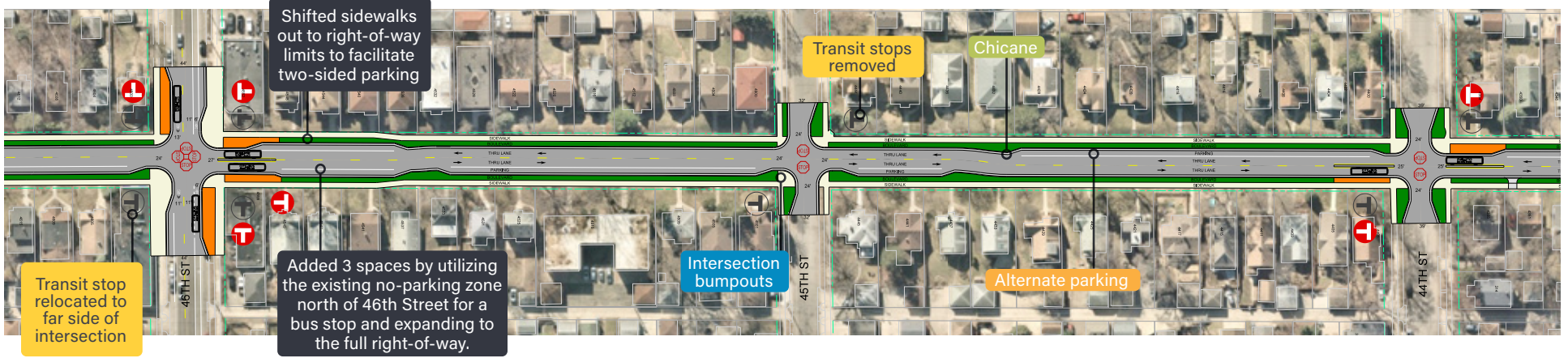


TWO-SIDED PARKING

GRAND AVENUE FROM 48TH STREET TO 46TH STREET



GRAND AVENUE FROM 46TH STREET TO 44TH STREET



- LEGEND**
- TRAFFIC SIGNAL CONTROL
 - EXISTING METRO TRANSIT BUS STOP
 - PROPOSED DRIVEWAY CLOSURE - REMOVE APRON
 - STOP SIGN CONTROL
 - PROPOSED METRO TRANSIT BUS STOP
 - BOULEVARD
 - SIDEWALK
 - ADDITIONAL SPACE

KEY CONCEPT DESIGN FEATURES

INTERSECTION BUMPOUTS

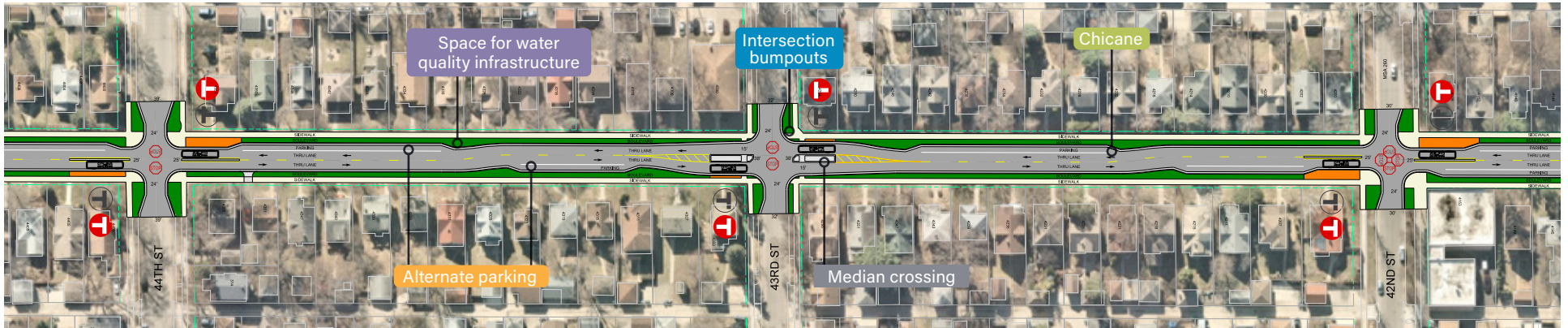
12' PEDESTRIAN ZONE - 6' SIDEWALK AND 6' BOULEVARD

TRANSIT STOP LOCATION REVISIONS AND IN-LANE TRANSIT STOPS

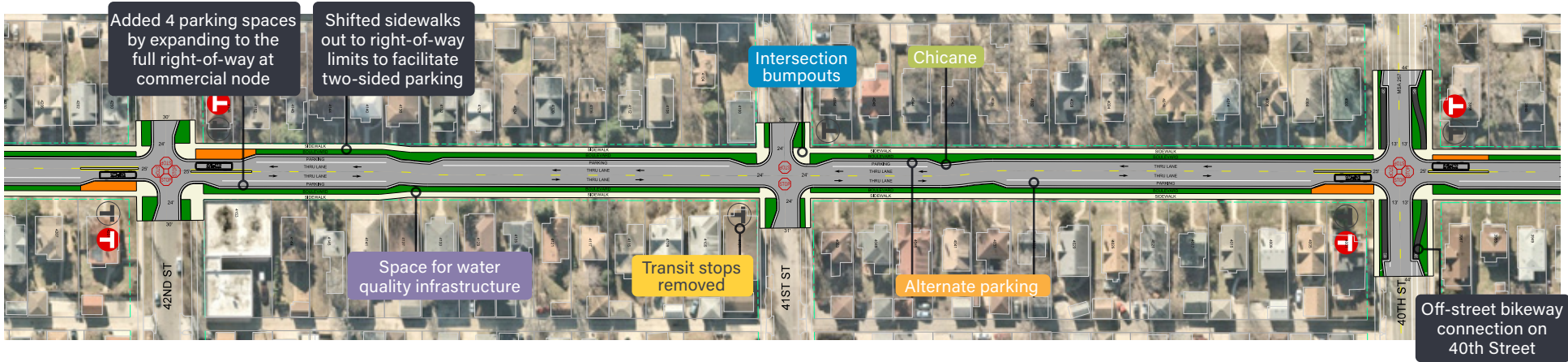
CHICANES

SPACE FOR WATER QUALITY INFRASTRUCTURE

GRAND AVENUE FROM 44TH STREET TO 42ND STREET



GRAND AVENUE FROM 42ND STREET TO 40TH STREET



- LEGEND**
- TRAFFIC SIGNAL CONTROL
 - EXISTING METRO TRANSIT BUS STOP
 - PROPOSED DRIVEWAY CLOSURE - REMOVE APRON
 - CITY BUS TURNING MOVEMENTS
 - STOP SIGN CONTROL
 - PROPOSED METRO TRANSIT BUS STOP
 - EXISTING COMMERCIAL BUILDING
 - BOULEVARD
 - SIDEWALK
 - ADDITIONAL SPACE

KEY CONCEPT DESIGN FEATURES

INTERSECTION BUMPOUTS

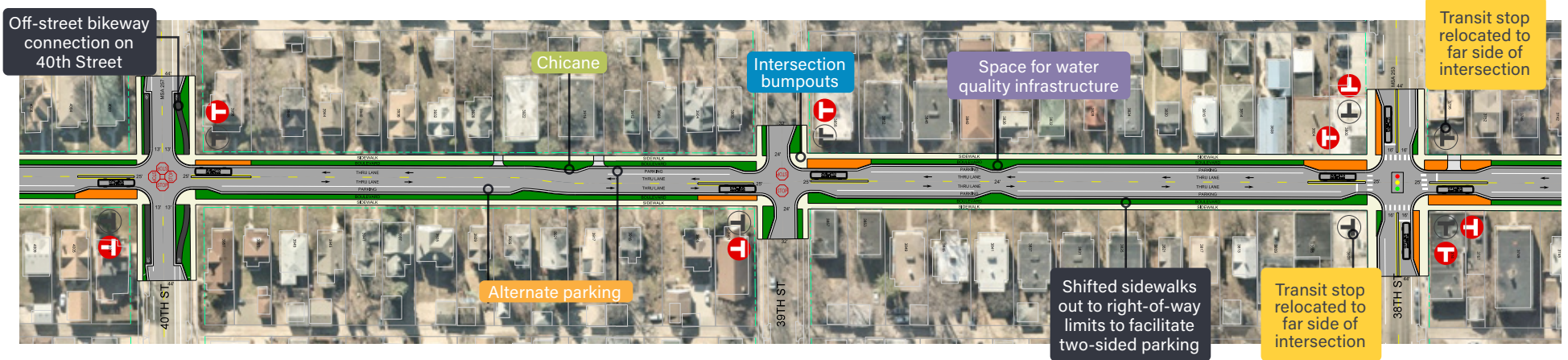
12' PEDESTRIAN ZONE - 6' SIDEWALK AND 6' BOULEVARD

TRANSIT STOP LOCATION REVISIONS AND IN-LANE TRANSIT STOPS

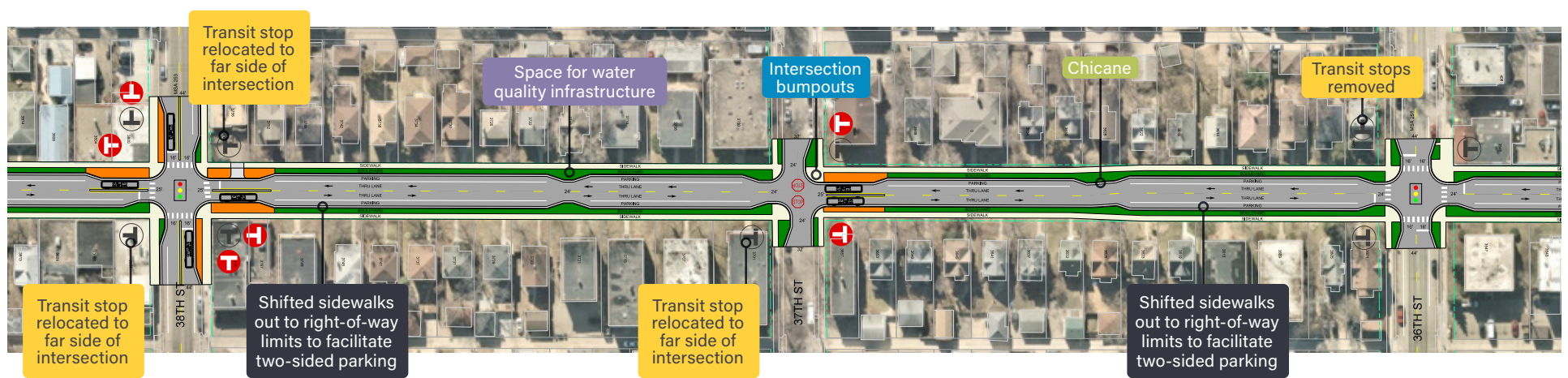
CHICANES

SPACE FOR WATER QUALITY INFRASTRUCTURE

GRAND AVENUE FROM 40TH STREET TO 38TH STREET



GRAND AVENUE FROM 38TH STREET TO 36TH STREET



- LEGEND**
- TRAFFIC SIGNAL CONTROL
 - EXISTING METRO TRANSIT BUS STOP
 - PROPOSED DRIVEWAY CLOSURE - REMOVE APRON
 - CITY BUS TURNING MOVEMENTS
 - STOP SIGN CONTROL
 - PROPOSED METRO TRANSIT BUS STOP
 - EXISTING COMMERCIAL BUILDING
 - BOULEVARD
 - SIDEWALK
 - ADDITIONAL SPACE

KEY CONCEPT DESIGN FEATURES

INTERSECTION BUMPOUTS

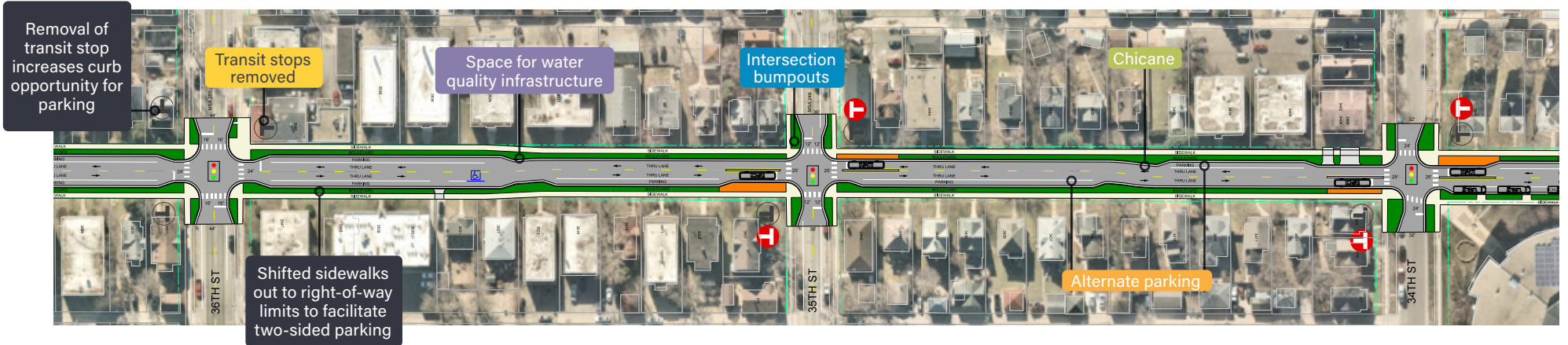
12' PEDESTRIAN ZONE - 6' SIDEWALK AND 6' BOULEVARD

TRANSIT STOP LOCATION REVISIONS AND IN-LANE TRANSIT STOPS

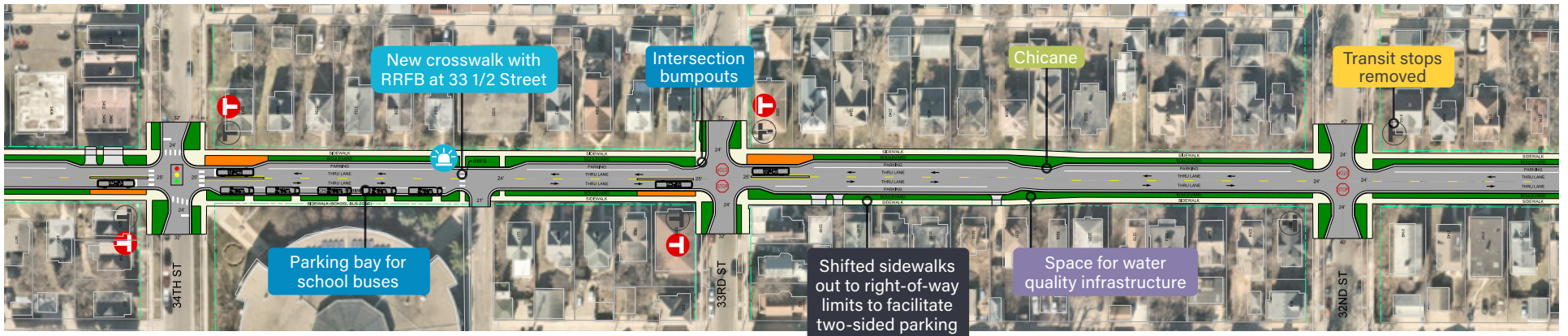
CHICANES

SPACE FOR WATER QUALITY INFRASTRUCTURE

GRAND AVENUE FROM 36TH STREET TO 34TH STREET



GRAND AVENUE FROM 34TH STREET TO 32ND STREET



- LEGEND**
- TRAFFIC SIGNAL CONTROL
 - EXISTING METRO TRANSIT BUS STOP
 - PROPOSED DRIVEWAY CLOSURE - REMOVE APRON
 - CITY BUS TURNING MOVEMENTS
 - STOP SIGN CONTROL
 - PROPOSED METRO TRANSIT BUS STOP
 - EXISTING COMMERCIAL BUILDING
 - BOULEVARD
 - SIDEWALK
 - ADDITIONAL SPACE

KEY CONCEPT DESIGN FEATURES

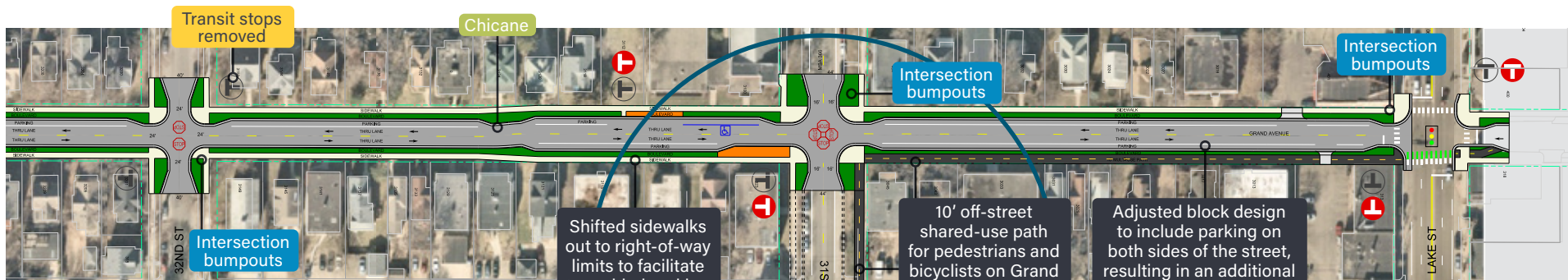
INTERSECTION BUMPOUTS

12' PEDESTRIAN ZONE - 6' SIDEWALK AND 6' BOULEVARD

TRANSIT STOP LOCATION REVISIONS AND IN-LANE TRANSIT STOPS

CHICANES

SPACE FOR WATER QUALITY INFRASTRUCTURE



GRAND AVENUE FROM 32ND STREET TO LAKE STREET

BICYCLE INFRASTRUCTURE

The Grand Avenue project will complete the 31st Street and Grand Avenue sections of the Pleasant/Grand Ave neighborhood greenway, which is a planned All Ages and Abilities network. The other portions of this bikeway are included in the 6-year capital improvement plan (CIP) for implementation before 2026.

Making this connection as a part of the Grand Avenue project is consistent with the bicycle strategies outlined in the TAP:

“Build bikeway connections that overcome significant physical barriers during the buildout of the All Ages and Abilities Network.”

“Prioritize a network of neighborhood greenways during the buildout of the All Ages and Abilities Network.”

The draft All Ages and Abilities (AAA) network documented in the Transportation Action Plan (shown below) will include protected lanes and trails and will feature improved intersection crossings. The goal for the AAA Network along the Pleasant and Grand Avenue neighborhood greenway is for people on bikes to only share space with cars on quiet low-speed streets.



LEGEND

EXISTING BIKEWAYS

- LOW STRESS BIKEWAY
- CONNECTOR BIKEWAY

FUTURE BIKEWAYS

- NEAR-TERM LOW STRESS BIKEWAY (BY 2030)
- CONNECTOR OR LONG-TERM LOW STRESS BIKEWAY

KEY CONCEPT DESIGN FEATURES

- | | | | | | |
|------------------------------|------------------------|---------------------------------|---------------------------------|--|----------------------------|
| STOP SIGN CONTROL | TRAFFIC SIGNAL CONTROL | EXISTING METRO TRANSIT BUS STOP | PROPOSED METRO TRANSIT BUS STOP | PROPOSED DRIVEWAY CLOSURE - REMOVE APRON | CITY BUS TURNING MOVEMENTS |
| EXISTING COMMERCIAL BUILDING | BOULEVARD | SIDEWALK | ADDITIONAL SPACE | | |

INTERSECTION BUMPOUTS

12' PEDESTRIAN ZONE - 6' SIDEWALK AND 6' BOULEVARD

TRANSIT STOP LOCATION REVISIONS AND IN-LANE TRANSIT STOPS

CHICANES

SPACE FOR WATER QUALITY INFRASTRUCTURE

BIKEWAY CONNECTIONS

MINNEAPOLIS PUBLIC SCHOOLS
Superintendent's Office

October 13, 2020

APPOINTMENT OF DEPUTY TREASURER AND ASSISTANT DEPUTY TREASURER

WHEREAS, at its annual meeting each year, the Minneapolis Public Schools Board of Education Annual Meeting, makes a recommendation on the appointment of Deputy Treasurer and Assistant Deputy Treasurer; and

WHEREAS, the Superintendent and Senior Financial Officer supports the recommendation of such appointments;

THEREFORE, BE IT RESOLVED THAT, the Board of Education, Special School District No. 1, approve the appointment of Ibrahima Diop (Senior Financial Officer) also acting as Deputy Treasurer, and Kate McKay (Manager of Accounting and Finance) as Assistant Deputy to the Board of Education of Special School District No. 1 for the remainder of calendar year 2020.

Signed by:

Board of Education Chair

Date

Board of Education Clerk

Date

SPECIAL SCHOOL DISTRICT NO.1
Board of Education

October 13, 2020

RESOLUTION REGARDING BANKING AUTHORITY FOR US BANK NATIONAL ASSOCIATION

RESOLVED, that US Bank National Association (herein called the "Bank") be and is hereby designated as a depository of Special School District No. 1, Minneapolis, Minnesota (Federal Tax Identification Number 41-0851980) (Herein called the "District") with authority to accept or receive at any time for the credit of the District deposits by whomsoever made of funds and other property in whatever form or manner transferred or endorsed, whether made as demand deposits, savings deposits, or time deposits.

RESOLVED, that the person or persons from time to time holding the following offices of the District be designated "Authorized Signer(s)".

Senior Financial Officer
Executive Director of Finance
Assistant Deputy Treasurer

RESOLVED, that any Authorized Signer be and is hereby authorized to open or cause to open one or more accounts with the Bank on such terms, conditions and agreements as the Bank may now or hereafter require and to make any other agreements deemed advisable in regard to any of the foregoing.

THEREFORE BE IT RESOLVED. That checks, drafts or other orders for the payment, transfer or withdrawal of any of the funds or property of the District on deposit with the Bank shall be binding on the District when signed, manually, or by use of a facsimile or mechanical signature or signatures may have been placed thereon, or otherwise authorized, by any ONE (1) Authorized Signer, or, any person or person designated, on an account by account basis, as "Additional Signer(s)" in a written certificate signed by any Authorized Signer, which certificate may further specify the number of Additional Signers which may be required. In particular, and not in limitation of the foregoing, Additional Signer(s) may authorize payment, transfer or withdrawal by written, telephonic, electronic, or oral instructions to the Bank complying with such rules and regulations relating to such authorization as the Bank may communicate to the District from time to time, of funds of the District on deposit with the Bank, by wire or otherwise, without any written order for the payment of money being issued with respect to such transfer, and, for and on behalf of the District, an Authorized Signer may enter into such agreements with the Bank with respect to any such transfer(s) as such Authorized Signer deems advisable. If any such payment, transfer or withdrawal authorization requires communication to the Bank by the Requester of a code, and such code is communicated, any such payment, transfer or withdrawal so effected shall be binding on the District regardless of who communicates the request.

Signed by:

Board of Education Chair

Print

Date

Board of Education Clerk

Print

Date

SPECIAL SCHOOL DISTRICT NO.1
Board of Education

October 13, 2020

RESOLUTION REGARDING BANKING AUTHORITY FOR MINNESOTA SCHOOL DISTRICT LIQUID ASSET FUND

RESOLVED, that Minnesota School District Liquid Asset Fund (herein called the "Bank") be and is hereby designated as a depository of Special School District No. 1, Minneapolis, Minnesota (Federal Tax Identification Number 41-0851980) (Herein called the "District") with authority to accept or receive at any time for the credit of the District deposits by whomsoever made of funds and other property in whatever form or manner transferred or endorsed, whether made as demand deposits, savings deposits, or time deposits.

RESOLVED, that the person or persons from time to time holding the following offices of the District be designated "Authorized Signer(s)".

Senior Financial Officer
Executive Director of Finance
Assistant Deputy Treasurer

RESOLVED, that any Authorized Signer be and is hereby authorized to open or cause to open one or more accounts with the Bank on such terms, conditions and agreements as the Bank may now or hereafter require and to make any other agreements deemed advisable in regard to any of the foregoing.

THEREFORE BE IT RESOLVED, that checks, drafts or other orders for the payment, transfer or withdrawal of any of the funds or property of the District on deposit with the Bank shall be binding on the District when signed, manually, or by use of a facsimile or mechanical signature or signatures may have been placed thereon, or otherwise authorized, by any ONE (1) Authorized Signer, or, any person or person designated, on an account by account basis, as "Additional Signer(s)" in a written certificate signed by any Authorized Signer, which certificate may further specify the number of Additional Signers which may be required. In particular, and not in limitation of the foregoing, Additional Signer(s) may authorize payment, transfer or withdrawal by written, telephonic, electronic, or oral instructions to the Bank complying with such rules and regulations relating to such authorization as the Bank may communicate to the District from time to time, of funds of the District on deposit with the Bank, by wire or otherwise, without any written order for the payment of money being issued with respect to such transfer, and, for and on behalf of the District, an Authorized Signer may enter into such agreements with the Bank with respect to any such transfer(s) as such Authorized Signer deems advisable. If any such payment, transfer or withdrawal authorization requires communication to the Bank by the Requester of a code, and such code is communicated, any such payment, transfer or withdrawal so effected shall be binding on the District regardless of who communicates the request.

Signed by:

Board of Education Chair

Print

Date

Board of Education Clerk

Print

Date

SPECIAL SCHOOL DISTRICT NO.1
Board of Education

October 13, 2020

RESOLUTION REGARDING BANKING AUTHORITY FOR WELLS FARGO BANK, N.A.

RESOLVED, that Wells Fargo Bank N.A. (herein called the "Bank") be and is hereby designated as a depository of Special School District No. 1, Minneapolis, Minnesota (Federal Tax Identification Number 41-0851980) (Herein called the "District") with authority to accept or receive at any time for the credit of the District deposits by whomsoever made of funds and other property in whatever form or manner transferred or endorsed, whether made as demand deposits, savings deposits, or time deposits.

RESOLVED, that the person or persons from time to time holding the following offices of the District be designated "Authorized Signer(s)".

Senior Financial Officer
Executive Director of Finance
Assistant Deputy Treasurer

RESOLVED, that any Authorized Signer be and is hereby authorized to open or cause to open one or more accounts with the Bank on such terms, conditions and agreements as the Bank may now or hereafter require and to make any other agreements deemed advisable in regard to any of the foregoing.

THEREFORE BE IT RESOLVED, that checks, drafts or other orders for the payment, transfer or withdrawal of any of the funds or property of the District on deposit with the Bank shall be binding on the District when signed, manually, or by use of a facsimile or mechanical signature or signatures may have been placed thereon, or otherwise authorized, by any ONE (1) Authorized Signer, or, any person or person designated, on an account by account basis, as "Additional Signer(s)" in a written certificate signed by any Authorized Signer, which certificate may further specify the number of Additional Signers which may be required. In particular, and not in limitation of the foregoing, Additional Signer(s) may authorize payment, transfer or withdrawal by written, telephonic, electronic, or oral instructions to the Bank complying with such rules and regulations relating to such authorization as the Bank may communicate to the District from time to time, of funds of the District on deposit with the Bank, by wire or otherwise, without any written order for the payment of money being issued with respect to such transfer, and, for and on behalf of the District, an Authorized Signer may enter into such agreements with the Bank with respect to any such transfer(s) as such Authorized Signer deems advisable. If any such payment, transfer or withdrawal authorization requires communication to the Bank by the Requester of a code, and such code is communicated, any such payment, transfer or withdrawal so effected shall be binding on the District regardless of who communicates the request.

Signed by:

Board of Education Chair

Print

Date

Board of Education Clerk

Print

Date

MINNEAPOLIS PUBLIC SCHOOLS
Superintendent's Office

October 13, 2020

RESOLUTION REGARDING ELECTRONIC FUNDS TRANSFER

WHEREAS, Electronic Funds transfer is the banking process of value exchange by mechanical means without the use of checks, drafts, or similar negotiable instruments; and

WHEREAS, a school district may make an electronic funds transfer from its bank account for the payment of an investment, payment of bond principal and interest, payment of anticipation certificates, contributions to pension or retirement funds, imprest payroll, or vendor payments; and

WHEREAS, a written confirmation is made a day after the transaction and is used in lieu of a check, draft, or warrant to support the transaction; and

WHEREAS, M.S. 471.38 subd. 3(a) requires that the school board annually delegate the authority to make electronic funds transfers to designated business representatives and that the disbursing bank keep on file a certified copy of the delegation of authority; and

WHEREAS, the Senior Financial Officer recommends that the Board designate certain Finance Department staff members as representatives to make electronic funds transfers with the disbursing banks.

THEREFORE, BE IT RESOLVED, that the Board of Education, Special School District No. 1, authorize the appointment of Kate McKay and Jeffrey Grilley as designated representatives to make electronic funds transfers for the district and the execution of appropriate resolutions and documents with US Bank, Minneapolis, Minnesota School District Liquid Asset Fund, and Wells Fargo bank, N.A.

Signed by:

Board of Education Chair

Print

Date

Board of Education Clerk

Print

Date

PUBLIC BOARD SUMMARY

SUMMARY OF TENTATIVE AGREEMENT

SPECIAL SCHOOL DISTRICT NO.1

and

Minneapolis Federation of Teachers, Local 59, AFL-CIO, AFT, NEA

2019-2021

Board Meeting October 13, 2020

Term: Two (2) years, July 1, 2019, through June 30, 2021

Pay: Year 1: 1.0% general increase on all Steps and Lanes, effective July 1, 2019
All other schedule remain unchanged
Year 2: 1.0% general increase on all Steps and Lanes, effective July 1, 2020
Retro pay will be paid within sixty (60) days of ratification
All other schedule remain unchanged

Steps for eligible teachers, effective July 1, 2019

Steps for eligible teachers, effective July 1, 2020

Health Insurance: Maintain current contract language

Contract Language Changes

Article 2: Teacher Assignments and Schedules

- 2.5.1 *Teacher Duty Days:* Modification of language to indicate that the 2½ days set aside are set aside at the “start of the school year”, instead of “opening week”.
- 2.5.6 *Work Year for Library Media Specialists.* Language changes clarifying use of the three Staff Development/Professional Development days.
- 2.5.9 *Reimbursement for District-Required Training Expenses for Nurses.* A new provision allows for limited reimbursement for Licensed School Nurses for renewal of certain District-required certifications.
- 2.5.10 *Art, Dance, Theater, Music, and Physical Education Teachers.* A minimum of one (1) Staff Development/Professional Development day per year will be allowed for collaborative work on curriculum development, standards, or other critical topics.

Article 9: Group Benefits

- 9.6 *Basic Life Insurance.* Increase from \$50,000 to \$100,000 for both basic and supplemental life insurance
- 9.12 *Tax-Deferred Savings Plans*
 - 9.12.4 Replace the current language concerning the aggregate maximum match payment of \$1,600,000 with a match of up to \$2,000 for each participating employee.
- 9.13.2 *Exception to Payment to Health Care Plan.* Revised language concerning eligibility for an exemption to severance pay being deposited in a Post-retirement Health Care Savings Plan (HCSP)

PUBLIC BOARD SUMMARY

Article 11: Leaves of Absence

- 11.5.2 *Death in the Family or Critical Illness.* Allows intermittent leave for a death in the family or critical illness specifying the need to coordinate with the supervisor in developing a timeline to ensure coverage.

Article 12: Working Conditions

- 12.1 *Environmental Health and Safety.* In addition to other environmental conditions, indoor temperature has been added as an environmental condition for consideration.
- 12.1.3 Additional environmental concerns have been added to those in the scope of the Joint Committee's concerns.
- 12-1.8 *Reporting a Work Injury/Illness.* This provision now covers work illnesses as well as injuries.

Article 15: Transfer, Reassignment, and Recall

- 15.2.5 *Excessed Teachers.* Beginning with the Spring 2021 Budget Tie-Out cycle, the District reserves the discretion for excessing at the site within the group of probationary Teachers in the licensure area outside of seniority order.
The above provision also applies to 15.9.2, *Staff Reduction.*
- 15.5.5 *Unplaced Teachers.* This provision has been deleted as unnecessary in light of other procedures in this Article.
- 15.10 *Exemption from Layoff for Designated Programs and Staff.* This section has been renamed "Districtwide Layoff" and contains detailed provisions concerning requirements for layoff, definition of tenure status, establishment of a Layoff Joint Labor Management Committee, reinstatement procedures, and other procedures and instructions surrounding layoff situations.
Layoff Protections: Added exemptions from layoff for the following:
- For School Year 2020-2021 through School Year 2022-2023, the 15 Racially Isolated Schools (three-year MDE designation) with the greatest concentrations of poverty.
 - After which, the RIS schools with the greatest concentrations of poverty not to exceed 12.5% of the total student population.

Article 17: Seniority

- 17.1.2 *Seniority.* This provision has been simplified to read "Seniority means the greater number of years of consecutive employment as a ~~probationary and tenured~~ Teacher in the Minneapolis Schools unless herein otherwise specified."

Article 16: Technology

- 16.16 *Modernizing Technology.* This new section directs that the District will provide forty-five (45) days advance notice to site staff of any change or upgrade to modernize technology, or as soon as possible if this timeline is not feasible.
- 16.18 *Technology Support – eHelpDesk.* This new provision requires that the eHelpDesk discovery tickets and phone line shall be staffed on all conference nights.

PUBLIC BOARD SUMMARY

Memoranda of Agreement

Designated Self-Reflection Day

MPS and the MFT recognize the importance of attending to the social-emotional learning of both children and adults. This MOA designates June 15, 2021 as a self-directed reflection day, directs that the District will publicize available resources to support social emotional learning and reflection, and provides for availability of both sites and telework for engaging in self-directed reflection.

Restorative Practices – Renewed and expanded

In this Memorandum, the Restorative Practices Joint Labor Management Committee provides detailed narrative concerning the importance of addressing interpersonal, institutional, and structural racism and other systems of oppression in our social institutions. To that end, the Committee has laid out specific activities and deadlines for partnering and moving towards positive and improved outcomes for students.

Retirement Incentive – Renewed and updated for 2020

Offered a one-time \$15,000 severance payment for eligible employees. In order to be eligible, employees had to be classified in a benefits-eligible status, have completed 25 years of service in Minneapolis Public Schools by August 31, 2020 and be 55 years of age or older as of August 31, 2020 and be vested in a Minnesota State pension fund.

Streamlined Interview and Select Process - Renewed and updated.

Modifies Interview and Select to one round and allows for two early contracts to participate in each Interview and Select interview in all licensure areas. Develops a process for the placement committee to determine the effectiveness of the MOA.

Costs:

The two-year total package cost of the tentative agreement is \$24,060,641, which represents a 5.1% increase in annual costs spread over two years.

SPECIAL SCHOOL DISTRICT NO. 1
Board of Education

April 14, 2020

Resolution

**Approval of the 2019-2021 Collective Bargaining Agreement Between
Special School District No.1
and
Minneapolis Federation of Teachers, Local 59, AFL-CIO, AFT, NEA**

WHEREAS, Special School District No. 1 (District) and Minneapolis Federation of Teachers (Union) were parties to a collective bargaining agreement for the period of July 1, 2017, through June 30, 2019, and

WHEREAS, the collective bargaining agreement between the District and Union expired on June 30, 2019; and

WHEREAS, the District and Union engaged in collective bargaining negotiations, and reached a tentative agreement on a successor agreement through June 30, 2021; and

WHEREAS, the Union membership voted affirmatively to ratify the successor agreement.

NOW, THEREFORE BE IT HEREBY RESOLVED, that the Board of Directors of Special School District No. 1 hereby approve the collective bargaining agreement between Special School District No. 1, and Minneapolis Federation of Teachers, effective July 1, 2019 through June 30, 2021

Signed by:

Kim Ellison
Board of Education Chairperson

Date

Josh Pauly
Board of Education Clerk

Date

MEMO



MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

Date: August 17, 2020

To: Karen DeVet

From: Curt Hartog

RE: Transfer of Funds for Chiller Replacement Project

Recommendation

Due to the shortfall of existing bond funds for chiller replacement projects at Keewaydin, Lucy Laney, Windom, Olson, Bryn Mawr and Nellie Stone Johnson, CPCM is requesting fund transfers from the following projects to provide adequate funding for the chiller replacement projects. The chillers were determined to be over 15 years beyond useful life and chillers at Lucy Laney and Nellie Stone Johnson are obsolete. The estimated shortfall is \$3.8M. The recommended fund transfer is \$4M from completed projects funded in FY16 and FY17 bonds as shown below.

Bancroft Educational Adequacy (FY16)	\$1,938,453
Anwatin Roof Section A and B (FY17)	\$ 761,160
Sullivan FA and PA (FY17)	\$ 751,423
Over/Under Funds ¹	\$ 548,964
Total:	\$4,000,000

¹ the over/under funds are a combination of project funds that Finance transferred to this line item. They include funds remaining from the Hall kitchen remodel (FY16) and the Jordan Park roofing project (FY17).

Minnesota Statute 475.65 allows for capital fund transfers between projects upon Board authorization.

For Bid Package#1 to be approved, a minimum fund transfer of \$608,642 is needed. We are recommending that both Bid Packages #1 and #2 be funded with the recommended fund transfer. A draft Board resolution is attached.

Replacement of the chillers is considered a critical infrastructure need. Should these chillers fail, repairs may not be able to be completed and emergency replacement may be required to accommodate programming. Since lead times for new chillers is 12 to 16 weeks, the emergency replacement of chillers should they fail, would be difficult.

Background

CPCM placed in the FY19 and FY20 capital projects funds for replacement of chillers at Keewaydin, Lucy Laney, Windom, Olson, Bryn Mawr and Nellie Stone Johnson. Bond funds were also placed in a multi-mechanical systems line item. Total of the funds allocated is \$4,241,020. This would include purchase, installation and design for the chillers. The chillers have exceeded their useful life and at

Lucy Laney and Nellie Stone Johnson, the chillers are obsolete and parts for repairs may not be available should the chiller need repairs.

Plant Maintenance retained KFI to complete the initial designs for the chiller replacements into two separate bid packages. The KFI contract is \$490,000. Bid package #1 includes chiller replacements at Lucy Laney (2 chillers), Nellie Stone Johnson (2 chillers) and Keewaydin (1 chiller). Plant Maintenance has purchased the new chillers for Bid Package#1 for \$1,196,548. This leaves the total budget amount remaining of \$2,552,472 for the installation of the five chillers in Bid Package #1.

The installation of the chillers for Bid Package #1 was opened on August 11, 2020 and the total installation price (plus the 10% contingency) is \$3,161,114.

Bid Package #2 design is about 90% completed. Bid Package #2 includes chiller replacement at Windom, Olson and Bryn Mawr. Plant Maintenance estimates the cost to purchase the 3 chillers for these schools is \$1.3M. Installation is estimated to be \$1.9M. Engineering for Bid Package #2 was included in the original KFI contract.

Discussion

The estimated shortfall for Bid Packages #1 and #2 is \$3.8M. The immediate shortfall for Bid Package #1 is \$608,642. Working with Finance, the following projects that have been completed, but have remaining funds as sources for funds to support the chiller packages.

Bancroft Educational Adequacy (FY16)	\$1,938,453
Anwatin Roof Section A and B (FY17)	\$ 761,160
Sullivan FA and PA (FY17)	\$ 751,423
Over/Under Funds ¹	\$ 548,964
Total:	\$4,000,000

¹ the over/under funds are a combination of project funds that Finance transferred to this line item. They include funds remaining from the Hall kitchen remodel (FY16) and the Jordan Park roofing project (FY17).

CPCM is recommending the funds from the projects listed above be transferred to the FY20 Multi-site chiller replacement project. Minnesota Statute 475.65 allows for capital fund transfers between projects upon Board authorization.

SPECIAL SCHOOL DISTRICT NO. 1

Board of Education

October 13, 2020

RESOLUTION AUTHORIZING TRANSFER OF CAPITAL FUNDS

WHEREAS, Minneapolis Public Schools seeks to improve schools using capital funds to design, build and renovate District owned facilities throughout Minneapolis, and

WHEREAS, previous capital projects were completed with capital funds remaining at the completion of the project, and

WHEREAS, the Operations and Finance Departments have determined the available unallocated funds and the current projects needing additional funds, and

WHEREAS, Minnesota Statute 475.65 allows for capital fund transfers between projects.

NOW, THEREFORE BE IT RESOLVED, that the Minneapolis School Board hereby authorizes the transfer of capital funds from FY2016 and FY2017 Facilities Bonds to the 2020 multi-site chiller replacement capital project. The project includes replacement of chillers at Keewaydin, Lucy Laney, Windom, Olson, Bryn Mawr and Nellie Stone Johnson, in the amount of \$4,000,000.

Signed by:

Kim Ellison
Board of Education Chairperson

Date

Josh Pauly
Board of Education Clerk

Date

SPECIAL SCHOOL DISTRICT NO. 1
Board of Education

October 13, 2020

Resolution Establishing Advisory Committee to Investigate Facility Names

WHEREAS, Minneapolis Public Schools (MPS) Policy 1304 states, “Every student deserves a respectful learning environment in which their racial and ethnic diversity is valued and contributes to successful academic outcomes”; and

WHEREAS, Policy 1304 further states, “MPS is committed to identifying and correcting practices and policies that perpetuate the achievement gap and institutional racism in all forms in order to provide all of its students with the opportunity to succeed”; and

WHEREAS, MPS policies and regulations allow for the Board of Directors to name and/or make changes to facility names; and

WHEREAS, MPS should take proactive steps to determine if facility names align with the district’s equity and social emotional learning goals.

SO, THEREFORE, BE IT RESOLVED, that the Board of Directors, Special School District No. 1 hereby establishes an advisory committee, to be seated in January 2021, that shall research and provide a report of recommendations by August 2021 of any MPS facilities that should be renamed; and

FURTHER BE IT RESOLVED, that committee shall have eleven members comprised of the following:

- Board’s Student Representative (1)
- Nine (9) members aligned to election districts, by each School Board Director
- One (1) member, by the Superintendent

FINALLY, BE IT RESOLVED, that the committee shall follow all guidelines outlined in MPS Policy 1320.

Signed by:

Kim Ellison
Board of Education Chairperson

Date

Josh Pauly
Board of Education Clerk

Date