

## Regular Business Meeting

Tuesday, February 9, 2021 5:30 PM  
Online Meeting

1) **Call to Order and Roll Call**

2) **Adoption of the Agenda**

3) **Acceptance of Minutes**

a. January 12, 2021, Minutes

b. January 19, 2021, Minutes

4) **Public Comments**

5) **Reports and Recommendations from the Superintendent of Schools**

6) **Action Items by the Board of Education**

a. Approval of the Consent Agenda

1. Personnel Items

a. Approval of List A personnel matters (2021-02-ER-A)

b. Approval of List B personnel matters (2021-02-ER-B)

2. Contracts

a. Contract with Area Mechanical Inc. for chiller replacements (2021-12914)

b. Contract Amendment with Cadenza Musical Instruments for musical instruments (2021-4400000534)

c. Contract with Construction Results Corporation for Northeast Middle School North Entry Addition & Renovation (2021-12926)

d. Contract amendment with English Learning Center for Adult Education (2021-4400000630/2)

e. Contract Amendment with Harris St, Paul Inc for upgrades to building automation system (2021-12920)

f. Contract Amendment with Learning in Style for (2021-4400000631/2)

g. Contract with Miller Dunwiddie Architecture for architectural and engineering services at Justice Page Middle School (2021-12918)

h. Contract Amendment with Riverside Plaza for (2021-4400000629/2)

i. Contract Amendment with Somali Success School for (2021-4400000632/2)

j. Contract Amendment with Summit Academy for (2021-4400000633/2)

3. Resolutions

a. Resolution Authorizing Acceptance of Temporary Construction Easements

b. Resolution Approving MnDOT Safe Routes to School (SRTS) Boost Grant

c. Resolution Modifying the 2021-22 School Year Calendar

b. Repeal of Policy 6420

c. Revision of Policy 6800

7) **New Business**

a. 2021 Board Focus Areas

8) **Reports from Board of Education Directors**

9) **Adjournment**

**Minneapolis Public Schools – Board of Education**  
**Special School District No. 1**  
**Annual Business Meeting**  
**January 12, 2021**

**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 January 12, 2021, commencing at 6:01 pm. Chair Ellison called the meeting to order.

**II. ROLL CALL**

**Present:** Directors: Siad Ali, Jenny Arneson, Kimberly Caprini, Adriana Cerrillo, Sharon El-Amin, Kim Ellison, Nelson Inz, Ira Jourdain, Josh Pauly, Student Representative Ghebremeskal, Superintendent Ed Graff – 11

**III. APPROVAL OF THE AGENDA**

**MOTION:** Director Arneson moved, seconded by Director Inz that the Board of Education, Special School District No. 1, approve the Agenda for January 12, 2021. Motion to approve the agenda was put to a roll-call vote and carried unanimously.

**IV. APPROVAL OF MINUTES**

**MOTION:** Director Pauly moved, seconded by Director Arneson that the Board of Education, Special School District No. 1, approve the Minutes for December 8, 2020. Motion to approve the Minutes was put to a roll-call vote and carried out unanimously.

**V. ANNUAL ORGANIZATION ITEM**

**A. ELECTION OF OFFICERS**

**NOMINATION:** Director Inz nominated a slate of officers; Director Ellison for Chair, Director Arneson for Vice-Chair, Director Pauly for Clerk, Director Caprini for Treasurer.

**MOTION:** Director Jourdain moved, seconded by Director Ali that the Board of Education, Special School District No. 1, approve the slate of Directors nominated by Director Inz for the officer positions of Chair, Vice Chair, Clerk, and Treasurer. Motion to approve the slate and elect the officers was put to a roll-call vote and carried out unanimously.

**B. COMMITTEE ASSIGNMENTS AND APPOINTMENTS**

**MOTION:** Director Arneson moved, seconded by Director El-Amin that the Board of Education, Special School District No. 1, approve the posted 2021 Committee Assignments and Appointments. Motion to approve the appointments was put to a roll-call vote and carried out unanimously.

**C. FINANCIAL AUTHORIZATIONS**

1. Appointment of Deputy Senior Financial Officer and Assistant Deputy Treasurer

2. Authorization of Facsimile Signatures
3. Banking Authority for Bremer Bank
4. Banking Authority for Minnesota School District Liquid Asset Fund
5. Banking Authority for US Bank National Association
6. Banking Authority for Wells Fargo Bank, N.A.
7. Designation of Depositories
8. Designation of Identified Official with Authority for the MDE External User Access
9. Electronic Funds Transfer
10. Delegation of Authority to Superintendent of Schools

**MOTION:** Director Caprini moved, seconded by Director Arneson that the Board of Education, Special School District No. 1, approve Financial Items VC 1-10 as a slate. Motion to approve the above listed items was put to a roll-call vote and carried out unanimously.

**VI. COMMENTS FROM DEPARTING DIRECTORS**

**VII. PUBLIC COMMENTS – PRERECORDED PUBLIC COMMENTS LEFT VIA VOICEMAIL WERE PLAYED**

**VIII. REPORTS AND RECOMMENDATIONS FROM THE SUPERINTENDENT OF SCHOOLS**

- A. Covid-19 Response Planning Update

**IX. POLICY COMMITTEE REPORT**

- A. Repeal of Policy 6420
- B. Revision of Policy 6800

**X. 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.

1. *Personnel Items*
  - a) *Personnel List A*
  - b) *Personnel List B*
2. *Contracts Requiring Board of Education Approval*
  - a) *Construction Results Corp*
  - b) *INGCO International*
  - c) *LHB, Inc*
  - d) *Project Success*
  - e) *Sheehy Construction Company*
3. *Resolution*
  - a) *Resolution Appointing Ibrahima Diop as Trustee of the Minnesota School District Liquid Asset Fund*

**MOTION:** Director Caprini moved, seconded by Director Inz, 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 roll-call vote and carried out unanimously.

**B. RESOLUTION REGARDING MINNEAPOLIS PUBLIC SCHOOLS' LEGISLATIVE PRIORITIES– *See Attachment 1 for full Resolution***

**MOTION:** Director Arneson moved, seconded by Director Jourdain, that the Board of Education, Special School District No. 1, approve the resolution endorsing the district's 2021 Legislative Agenda. The motion to approve the resolution was put to a roll-call vote and carried out unanimously.

**C. RESOLUTION ON 2021-2022 BUDGET PRIORITIES – *See Attachment 2 for full Resolution***

**MOTION:** Director Caprini moved, seconded by Director Arneson, that the Board of Education, Special School District No. 1, approve the resolution setting 2021-2022 budget priorities. The motion to approve the resolution was put to a roll-call vote and carried out unanimously.

**D. RESOLUTION APPOINTING MEMBERS TO THE SCHOOL NAMES ADVISORY COMMITTEE – *See Attachment 3 for full Resolution***

**MOTION:** Director Caprini moved, seconded by Director Arneson, that the Board of Education, Special School District No. 1, approve the resolution approving appointments to the School Names Committee. The motion to approve the resolution was put to a roll-call vote and carried out unanimously.

**E. RESOLUTIONS REPEALING POLICY 6412 – *See Attachment 4 full Resolution***

**MOTION:** Director Pauly moved, seconded by Director Arneson, that the Board of Education, Special School District No. 1, approve the resolution repealing Policy 6412. The motion to approve the resolution was put to a roll-call vote and carried out unanimously.

**F. RESOLUTIONS REPEALING POLICY 6137 – *See Attachment 5 for full Resolution***

**MOTION:** Director Pauly moved, seconded by Director Arneson, that the Board of Education, Special School District No. 1, approve the resolution repealing Policy 6137. The motion to approve the resolution was put to a roll-call vote and carried out unanimously.

**G. RESOLUTION AMENDING POLICY – *See Attachment 6 for full Resolution***

**MOTION:** Director Pauly moved, seconded by Director Arneson, that the Board of Education, Special School District No. 1, approve the resolution amending Policy

5680 The motion to approve the resolution was put to a roll-call vote and carried out unanimously.

**XI. NEW BUSINESS – NONE**

**XII. REPORTS AND COMMENTS FROM BOARD DIRECTORS**

**XIII. ADJOURNMENT**

**MOTION:** Director Arneson moved, seconded by Director Inz that the Board of Education, Special School District No. 1, adjourn the meeting at 9:38 p.m. The motion to adjourn was put to a vote and carried out unanimously.

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

January 12, 2021

**RESOLUTION REGARDING MINNEAPOLIS PUBLIC SCHOOLS’ LEGISLATIVE PRIORITIES**

**WHEREAS**, School and district budgets across the state have been impacted by declines in enrollment, school meal eligibility and special education aids due to the pandemic; and

**WHEREAS**, schools have incurred additional costs associated with distance learning including laptops, iPads, hotspots, security platforms and professional development; and

**WHEREAS**, public schools continue to offer child care to families of critical care workers; and

**WHEREAS**, the underfunding of special education and English Language Learner services impacts students of all backgrounds; and

**WHEREAS**, students’ mental health and social emotional needs have only increased during the pandemic; and

**WHEREAS**, families across the state are struggling to afford the basics of food, housing, child care and health care; and

**WHEREAS**, recruiting and supporting a diverse cohort of education professionals will provide students with a wide range of perspectives and experiences to prepare them for our diverse world;

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Directors of Special School District No. 1 hereby endorses the 2021 Minneapolis Public Schools’ Legislative Agenda and pledges to support its passage.

Signed by:

\_\_\_\_\_

Board of Education Chairperson

\_\_\_\_\_

Board of Education Clerk

\_\_\_\_\_

Date

\_\_\_\_\_

Date

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

January 12, 2021

**Resolution on 2021-2022 Budget Priorities**

**WHEREAS**, the Board has received fiscal projections and parameters in the FY2021-2022 Budget Pro-Forma; and

**WHEREAS**, factors including declining student enrollment, inadequate funding from state and federal governments, and increased expenses and decreased revenue due to COVID-19 have resulted in a projected budget gap for the 2021-2022 school year; and

**WHEREAS**, the Board must adopt a balanced budget by June 30, 2021.

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Directors of Special School District No. 1, hereby directs and empowers the Superintendent to bring forth a recommended budget for the 2021-2022 school year that prioritizes investment in the following current and planned areas:

- Measures needed to ensure the continued health and safety of students and staff
- Multi-tiered systems of support (MTSS), equity, literacy, and social emotional learning
- Direct student supports, including mental health services needed to address trauma experienced by our students
- Implementation of the structural and programmatic elements adopted in the Comprehensive District Design
- Advancement of the School Climate Framework
- Academic plan and equitable education design implementation
- Curriculum transformation including the new Ethnic Studies course requirement and math curriculum adoption
- Professional development to establish a district culture of anti-racist mindsets and actions
- Strategies to recruit and retain staff of color, including the Teacher Equity Plan
- Early childhood programs and services
- Predictable school-level staffing with discretionary allocations aligned to Board priorities and site council recommendations

Signed by:

\_\_\_\_\_  
Board of Education Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Board of Education Clerk

\_\_\_\_\_  
Date

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

January 12, 2021

**Resolution Appointing Members to the School Names Advisory Committee**

**WHEREAS**, Resolution 2020-0052, adopted on October 13, 2020, established a time-limited advisory committee to research and make recommendations about school names that should be changed.

**THEREFORE BE IT RESOLVED**, that the Board of Directors of Special School District No. 1, hereby appoints the following members to the committee:

<b>Committee Member</b>	<b>Nominator</b>	<b>District or Positional Representation</b>
Gabriel Spinks	Arneson	District 1
Stephanie Gasca	El-Amin	District 2
Abdi Abdullahi	Ali	District 3
Tonyus Chavers	Cerrillo	District 4
Leili Fatehi	Inz	District 5
Carly Bad Heart Bull	Jourdain	District 6
Stacie Brudenell	Caprini	At-Large, Citywide
Nou Vang	Ellison	At-Large, Citywide
Nathaniel Genene	Pauly	At-Large, Citywide
Dr. Kate Beane	Graff	Superintendent
Mary Ghebremeskal	N/A	Student Representative

Signed by:

\_\_\_\_\_

Board of Education Chairperson

\_\_\_\_\_

Board of Education Clerk

\_\_\_\_\_

Date

\_\_\_\_\_

Date

MINNEAPOLIS PUBLIC SCHOOLS  
RESOLUTION 2021-0006

RESOLUTION REPEALING POLICY 6412

WHEREAS, The Board's Policy Committee has determined this policy is obsolete and not needed.

NOW THEREFORE, be it resolved by the Board of Directors, Special School District No. 1 adopts the changes as follows:

SECTION 1: REPEAL “Policy 6412: Paperbound Books” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

REPEAL

~~Policy 6412: Paperbound Books (Repealed)~~

~~Paperbound Books Purchased from School Budgets~~

~~Paperbound editions of adopted texts, if available, may be purchased from school textbook budgets and used in lieu of hardbound texts if learning materials committees recommend the titles as part of textbook committee reports or the titles are approved for experimental use by the appropriate area superintendent. Committee may recommend both hardbound and paperbound editions.~~

~~Paperbound editions of trade or textbooks approved for library purchase may be purchased from school library budgets or any other funds used for the purchase of media library books and added to school library collections.~~

## Sale of Paperbound Books to Students

### Paperbound Books Clubs

Teachers wishing to have students in their classes voluntarily subscribe to approved, quality paperbound book clubs may do so providing:

- That great care is exercised to insure that no pressure is put on any student to subscribe to such book clubs.
- That a sufficient number of copies of books used as required instructional materials are also available to the students without charge from the school library, textbook storeroom, etc
- That the classroom teachers assumes responsibility for all financial and clerical matters involved in such subscriptions.
- That students subscribe to the book club at the specified book club rate; i.e.e, no monetary profit is gained by any group or individual.

Note: This policy is in no way to be misconstrued as to include voluntary subscriptions to periodicals that are used as a required resource for the educational program. The Library Department of the Minneapolis Public Schools, working cooperatively with teachers and librarians, will from time to time evaluate paperbound book clubs and issue lists of approved clubs.

### Paperbound Book Stores in the School

To make the purchase of quality paperbacks available to students, schools may operate paperbound book stores. These stores are usually mobile units that can be pushed into a convenient location and set aside and locked up when not in use. Arrangement for stocking paperbound book stores and procuring mobile bookstore units may be made with a local jobber who usually furnishes the books at a slight discount. Such books must be sold to students for either (a) the net cost of the book or (b) the cost printed on the cover of the book. Profits derived from plan (b) must be used for the purchase of books for the school library, for children with financial need, etc., at the discretion of the principal or a committee assigned this responsibility.

Books sold in school stores must be of quality approved by school librarians and central library department.

Some plan for student exchange of books purchased from the paperbound book store might be devised within the school.

### Paperbound Book Fair

Schools may have paperbound book fairs for parents. Such fairs are usually conducted in cooperation with a local paperbound book jobber and handled by the school P.T.A.

Agents

~~Agents representing companies that sell paperbound book club memberships, paperbound books and the like may call on elementary school personnel only at the invitation of a principal, a teacher or a member of the central office staff. This regulation applies to all contacts: initial or follow up.~~

~~Original Adoption:~~

~~4/25/67~~

~~Revision Dates:~~

~~3/28/72, 9/25/73, 12/16/75~~

PASSED AND ADOPTED BY THE MINNEAPOLIS PUBLIC SCHOOLS BOARD OF DIRECTORS \_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Arneson	_____	_____	_____	_____
Ali	_____	_____	_____	_____
Caprini	_____	_____	_____	_____
Cerrillo	_____	_____	_____	_____
El-Amin	_____	_____	_____	_____
Ellison	_____	_____	_____	_____
Inz	_____	_____	_____	_____
Jourdain	_____	_____	_____	_____
Pauly	_____	_____	_____	_____

Presiding Officer

Attest

\_\_\_\_\_  
, Chair, Minneapolis Public Schools

\_\_\_\_\_  
, Clerk, Minneapolis Public Schools

MINNEAPOLIS PUBLIC SCHOOLS  
RESOLUTION 2021-0008

RESOLUTION REPEALING POLICY 6137

**WHEREAS,** The Board's Policy Committee has determined this policy is redundant to state law and not needed.

**NOW THEREFORE,** be it resolved that the Board of Directors, Special School District No. 1 adopts the changes as follows:

**SECTION 1:**        **REPEAL** “Policy 6137: Ceremonies And Observances” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

REPEAL

~~Policy 6137: Ceremonies And Observances (Repealed)~~

~~The flag of the United States, a symbol of our country's liberty and unity, shall be treated with respect and courtesy. If displayed with any other flag, it shall be accorded the place of honor.~~

**~~Original Adoption:~~**

~~04/25/1967~~

**~~Revision Dates:~~**

~~3/28/72, 12/16/75, 8/13/85~~

**~~Legal Reference:~~**

- ~~M.S. 126.14~~

PASSED AND ADOPTED BY THE MINNEAPOLIS PUBLIC SCHOOLS BOARD OF DIRECTORS \_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Arneson	_____	_____	_____	_____
Ali	_____	_____	_____	_____
Caprini	_____	_____	_____	_____
Cerrillo	_____	_____	_____	_____
El-Amin	_____	_____	_____	_____
Ellison	_____	_____	_____	_____
Inz	_____	_____	_____	_____
Jourdain	_____	_____	_____	_____
Pauly	_____	_____	_____	_____

Presiding Officer

Attest

\_\_\_\_\_  
 , Chair, Minneapolis Public Schools

\_\_\_\_\_  
 , Clerk, Minneapolis Public Schools

MINNEAPOLIS PUBLIC SCHOOLS  
RESOLUTION 2021-0008

RESOLUTION REPEALING POLICY 6137

**WHEREAS**, The Board's Policy Committee has determined this policy is redundant to state law and not needed.

**NOW THEREFORE**, be it resolved that the Board of Directors, Special School District No. 1 adopts the changes as follows:

**SECTION 1:**        **REPEAL** “Policy 6137: Ceremonies And Observances” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

REPEAL

~~Policy 6137: Ceremonies And Observances (Repealed)~~

~~The flag of the United States, a symbol of our country's liberty and unity, shall be treated with respect and courtesy. If displayed with any other flag, it shall be accorded the place of honor.~~

**~~Original Adoption:~~**

~~04/25/1967~~

**~~Revision Dates:~~**

~~3/28/72, 12/16/75, 8/13/85~~

**~~Legal Reference:~~**

- ~~M.S. 126.14~~

PASSED AND ADOPTED BY THE MINNEAPOLIS PUBLIC SCHOOLS BOARD OF DIRECTORS \_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Arneson	_____	_____	_____	_____
Ali	_____	_____	_____	_____
Caprini	_____	_____	_____	_____
Cerrillo	_____	_____	_____	_____
El-Amin	_____	_____	_____	_____
Ellison	_____	_____	_____	_____
Inz	_____	_____	_____	_____
Jourdain	_____	_____	_____	_____
Pauly	_____	_____	_____	_____

Presiding Officer

Attest

\_\_\_\_\_  
 , Chair, Minneapolis Public Schools

\_\_\_\_\_  
 , Clerk, Minneapolis Public Schools

**Minneapolis Public Schools – Board of Education**  
**Special School District No. 1**  
**Special Business Meeting**  
**January 19, 2021**

**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 special meeting conducted in accordance with Minnesota Statutes 13D.021 on January 19, 2021, commencing at 5:02 pm. Chair Ellison called the meeting to order.

**II. ROLL CALL**

**Present:** Directors: Siad Ali, Jenny Arneson, Kimberly Caprini, Adriana Cerrillo, Sharon El-Amin, Kim Ellison, Nelson Inz, Ira Jourdain, Josh Pauly, Student Representative Ghebremeskal, Superintendent Ed Graff – 11

**III. APPROVAL OF THE AGENDA**

**MOTION:** Director Arneson moved, seconded by Director El-Amin that the Board of Education, Special School District No. 1, approve the Agenda for January 19, 2021. Motion to approve the agenda was put to a roll-call vote and carried unanimously.

**IV. NEW BUSINESS – IN-PERSON LEARNING OPTION FOR PREK-5<sup>TH</sup> GRADE**

After a Presentation and Discussion on this topic the Board Voted on the following resolution:

**Supporting an In-Person Learning Option for PreK-5th Grade**

***WHEREAS,** Minnesota Governor Tim Walz has asked school districts to prioritize an in-person learning option for elementary students; and*

***WHEREAS,** attendance, academic, and social and emotional well-being information about our students warrants offering this option; and*

***WHEREAS,** distance learning will remain an option for students as long as authorized by the State of Minnesota; and*

***WHEREAS,** all required local, state, and federal health and safety measures will be in place; and*

***WHEREAS,** proposed plans for in-person learning have been reviewed by a Regional Support Team comprised of officials from the Minnesota Department of Education, Minnesota Department of Health and Minneapolis Health Department; and*

***WHEREAS,** the Board recognizes that health and operational circumstances may change quickly and therefore modifications may be required.*

***THEREFORE, BE IT RESOLVED,** that the Board of Directors of Special School District No. 1, hereby supports the proposed plan and direction for providing an in-person learning*

*option for MPS elementary students, within the parameters allowed by executive order and applicable guidelines.*

**MOTION:** Director Arneson moved, seconded by Director Caprini that the Board of Education, Special School District No. 1, approve the resolution supporting in-person learning for PreK-5<sup>th</sup> grade. Motion to approve the resolution was put to a roll-call vote and carried out by Majority.

<b>Director</b>	<b>Yay</b>	<b>Nay</b>	<b>Abstain</b>
Ali	X		
Arneson	X		
Caprini	X		
Cerrillo		X	
El-Amin	X		
Ellison	X		
Inz	X		
Jourdain		X	
Pauly	X		

**V. ADJOURNMENT**

**MOTION:** Director Arneson moved, seconded by Director Caprini that the Board of Education, Special School District No. 1, adjourn the meeting (time was not recorded). The motion to adjourn was put to a vote and carried out unanimously.

## Minneapolis Public Schools

### List A: All Employees: Tuesday, February 9, 2021

#### Hiring - Licensed

Alyssa Alberts	Hall International	Teacher, Special Education	1/26/2021
Kyle Boeser	Folwell Performing Arts	Teacher, Music	1/12/2021
Keena Brossart	Teaching & Learning	Teacher, TOSA Literacy Specialist	1/29/2021
Micayla Dawson	Lake Harriet Upper (Fulton)	Teacher, Music	8/16/2020
Katherine Dockter	Franklin Middle	Teacher, Health	1/25/2021
Cecelia Doyle	Teaching & Learning	Teacher, TOSA Literacy Specialist	1/25/2021
Michael Golling	Olson Middle School	Teacher, Special Education	1/25/2021
Kayla Kelsey	Design & Training	Teacher, TOSA General	1/29/2021
Jackson Kendall	Cityview	Teacher, Elementary	2/1/2021
Sarina Partridge	Barton Open	Teacher, TOSA General	1/8/2021
Josephine Roll	Cityview	Teacher, Special Education	2/1/2021
Thessaly Sutton	Lake Nokomis Keewaydin	Teacher, Art	1/19/2021
Marielle Doreen Lou Talatala	Hmong International Academy	Teacher, Special Education	2/1/2021

#### Hiring - Non Licensed

Sagal Abdisalam	Lyndale Elementary	Associate Educator	1/12/2021
Ijaba Abdulkadir	South High	Family & Community Liaison (ESP)	1/12/2021
Dereje Aga	Engineers, Zone 2	Custodian	1/26/2021
Komlan Akakpo	Engineers, Zone 2	Custodian	1/12/2021
Kevin Coughlin	Lake Nokomis Keewaydin	Special Education Assistant	1/26/2021
Andrew Coutts	AVID Tutors	AVID Assistant	1/26/2021
Ciera Curtis	Health Services	Licensed Practical Nurse	1/11/2021

## Minneapolis Public Schools

### List A: All Employees: Tuesday, February 9, 2021

#### Hiring - Non Licensed

Shelley Dyrud	Check and Connect	Associate Educator	1/19/2021
Jon Edwards	Folwell Performing Arts	Security Monitor	1/12/2021
Hans Euler	Lucy Craft Laney at Cleveland Park	Associate Educator	1/26/2021
Angela Golden	Folwell Performing Arts	Associate Educator	1/26/2021
Erika Hernandez	Edison High	Associate Educator	1/26/2021
Holly Huebner	Olson Middle School	Special Education Assistant	1/12/2021
Sarah Jensen	SEA Cadre	Special Education Assistant	2/9/2021
Andre Johnson	Engineers, Zone 2	Custodian	1/12/2021
Nasri Kassim	Anthony	Special Education Assistant	1/26/2021
Hayden Lang	Anne Sullivan	Special Education Assistant	1/12/2021
Heather Nelson	Office of the Senior Operations Officer	Coordinator, Lease Administration & Ops	1/26/2021
Chancelor Nettles	Engineers, Zone 2	Custodian	1/26/2021
Sarah Nisley	Transition Plus	Special Education Assistant	1/12/2021
Airam Olvera Uribe	Minneapolis Kids	Child Care Assistant	1/21/2021
Jill Pohtilla	ECFE Support	Office Manager	1/12/2021
Gada Roba	Dowling Elementary	Associate Educator	1/12/2021
Morgan Sabo	Olson Middle School	Special Education Assistant	1/12/2021
Patrick Scully Jr	Engineers, Zone 2	Custodian	2/9/2021
Aisha Thompson	Henry High	Office Specialist	1/19/2021
Gabriel Vail	Engineers, Zone 2	Custodian	2/9/2021
Angela Weber	Total Compensation	Benefits Analyst	1/12/2021

**Minneapolis Public Schools**

**List A: All Employees: Tuesday, February 9, 2021**

**Hiring - Non Licensed**

Eric Williams

Engineers, Zone 1

Custodian

1/26/2021

**Discharges**

**Licensed**

**Non-Licensed**

Custodian, Senior	01-25-2021	2021-2-ER-4315
Custodian	01-25-2021	2021-2-ER-4316

**Probationary Separations**

**Licensed**

Teacher	03-01-2021	2021-2-ER-4326
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**Licensed, Staff Reduction**

**Non-Licensed**

Special Education Assistant	02-01-2021	2021-2-ER-4342
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**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 Eleventh day of January in the year Two Thousand twenty one  
*(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)*

Area Mechanical  
3276 Fanum Road  
Vadnais Heights, MN 55110

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

Chiller replacement at Bryn Mawr Community School, Olson Middle School, and Windom Dual Immersion School

Bryn Mawr Community School  
252 Upton Avenue South  
Minneapolis, MN 55405

Olson Middle School  
1607 51<sup>st</sup> Avenue North  
Minneapolis, MN 55430

Windom Dual Immersion School  
5821 Wentworth Avenue South  
Minneapolis, MN 55419

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

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

**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.

The Owner and Contractor agree as follows.

## 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.)*

Init.

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**User Notes:**

(3B9ADA37)

[ ] 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.

*(Paragraph Deleted)*

*(Table Deleted)*

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

*(Paragraph Deleted)*

*(Table Deleted)*

**§ 4.5** Liquidated damages

Init.

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.

*(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;

Init.

- .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;
- .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

Init.

- .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.

§ 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.  
*(Paragraph Deleted)*

### § 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.)*

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

Init.

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)*

Jill Omodt  
Area Mechanical  
3276 Fanum Road  
Vadnais Heights, MN 55110

**§ 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
---------	-------	------	-------

- .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](#)

| (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:

*(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.)*

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

\_\_\_\_\_  
**OWNER** (Signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
**CONTRACTOR** (Signature)

\_\_\_\_\_  
(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 13:29:27 CT on 01/08/2021.

## **PAGE 1**

**AGREEMENT** made as of the Eleventh day of January in the year Two Thousand twenty one

...

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

...

Area Mechanical  
3276 Fanum Road  
Vadnais Heights, MN 55110

...

Chiller replacement at Bryn Mawr Community School, Olson Middle School, and Windom Dual Immersion School

...

Bryn Mawr Community School

...

252 Upton Avenue South

...

Minneapolis, MN 55405

...

Olson Middle School

...

1607 51<sup>st</sup> Avenue North

...

Minneapolis, MN 55430

...

Windom Dual Immersion School

...

5821 Wentworth Avenue South

...

Minneapolis, MN 55419

...

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: Sum are defined in EXH-B Project Charter.

...

*(Identify each allowance.)*

...

**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

*(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.

...

**§ 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

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

...

Jill Omodt  
Area Mechanical  
3276 Fanum Road  
Vadnais Heights, MN 55110

**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 13:29:27 CT on 01/08/2021 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 Eleventh day of January in the year Two Thousand Twenty One (In words, indicate day, month and year.)

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

Chiller replacement at Bryn Mawr Community School, Olson Middle School, and Windom Dual Immersion School

Bryn Mawr Community School  
252 Upton Avenue South  
Minneapolis, MN 55405

Olson Middle School  
1607 51<sup>st</sup> Avenue North  
Minneapolis, MN 55430

Windom Dual Immersion School  
5821 Wentworth Avenue South  
Minneapolis, MN 55419

Minneapolis Public Schools Project Number 20MULTI004  
Official Publication 21-2104

**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)

Area Mechanical  
3276 Fanum Road  
Vadnais Heights, MN 55110

**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.

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**§ 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

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:

(860369967)

§ 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 13:32:17 CT on 01/08/2021.

## **PAGE 1**

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the Eleventh day of January in the year Two Thousand Twenty One

...

*(Name and location or address)*

Chiller replacement at Bryn Mawr Community School, Olson Middle School, and Windom Dual Immersion School

Bryn Mawr Community School  
252 Upton Avenue South  
Minneapolis, MN 55405

Olson Middle School  
1607 51<sup>st</sup> Avenue North  
Minneapolis, MN 55430

Windom Dual Immersion School  
5821 Wentworth Avenue South  
Minneapolis, MN 55419

Minneapolis Public Schools Project Number 20MULTI004  
Official Publication 21-2104

...

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

...

*(Name, legal status and address)*

Area Mechanical  
3276 Fanum Road  
Vadnais Heights, MN 55110

## **PAGE 2**

**§ 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.

**PAGE 5**

§ ~~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.  
**PAGE 6**

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:

Bryn Mawr Community School  
252 Upton Avenue South  
Minneapolis, MN 55405

Olson Middle School  
1607 51<sup>st</sup> Avenue North  
Minneapolis, MN 55430

Windom Dual Immersion School  
5821 Wentworth Avenue South  
Minneapolis, MN 55419

Minneapolis Public Schools Project Number 20MULT1004  
Official Publication 21-2104

## Description

Replacement of chillers, controls, and site modifications at Bryn Mawr Community School, Olson Middle School, and Windom Dual Immersion School per OP 21-2104 bid documents.

## Contract Sum

The Contract Sum shall be \$1,843,000.00

## Alternates

Item	Price	Status
Alternate a:	\$231,000.00	Rejected
Alternate b:	\$319,000.00	Rejected

# 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:

Bryn Mawr Community School  
252 Upton Avenue South  
Minneapolis, MN 55405

Olson Middle School  
1607 51<sup>st</sup> Avenue North  
Minneapolis, MN 55430

Windom Dual Immersion School  
5821 Wentworth Avenue South  
Minneapolis, MN 55419

Minneapolis Public Schools Project Number 20MULT1004  
Official Publication 21-2104

### Description

Replacement of chillers, controls, and site modifications at Bryn Mawr Community School, Olson Middle School, and Windom Dual Immersion School per OP 21-2104 bid documents.

### Schedule

#### Substantial Completion

Chillers, chilled water system, summer boiler system and interior spaces completed and operational.

The Work will be substantially complete on or before July 9, 2021.

#### Final Completion

July 23, 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.)*

<b>Anticipated Digital Data</b>	<b>Applicability to the Project</b> <i>(Indicate Applicable or Not Applicable)</i>	<b>Location of Detailed Description</b> <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
---------------------------------	-------------------

#### 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;

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- .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:



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# Additions and Deletions Report for AIA® Document E203™ – 2013

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 12:15:52 on 03/23/2018.

## 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**

**AIA® Document D401™ – 2003**

I, \_\_\_\_\_, 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 12:15:52 on 03/23/2018 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 E203™ - 2013, Building Information Modeling and Digital Data Exhibit, 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 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)

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**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.

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

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## 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.

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### § 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

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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.

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 12:38:16 ET on 11/28/2018.

## PAGE 1

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

## PAGE 2

### EXH-A Project Charter

...

### 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

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### §-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.

## PAGE 11

§ 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.

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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.

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#### § 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.

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**§ 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.

## PAGE 12

**§ 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.

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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.

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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.

#### PAGE 13

**§ 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.

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**§ 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.

#### PAGE 14

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.

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~~§ 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.~~

...

~~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.

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§ 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**

...

**§ 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.

**PAGE 18**

**§ 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.

...

**§ 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.

...

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

#### PAGE 19

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.

#### PAGE 20

**§ 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'

...

## ARTICLE fees.

...

## 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.

...

~~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.

#### PAGE 23

**§ 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.

**PAGE 24**

**§ 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.

**PAGE 25**

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.

...

**§ 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**

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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.~~

...

**§ 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~~ 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.

#### PAGE 33

**§ 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.

#### PAGE 34

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.

#### PAGE 36

**§ 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.**

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**ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

...

**§ 10.1 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**

**PAGE 37**

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.

## PAGE 42

**§ 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.

#### PAGE 44

**§ 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.~~

#### PAGE 45

### **§ 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 24-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. 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.

**PAGE Error! Bookmark not defined.**

**§ 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  
Cadenza Music**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and Cadenza Music dated 7/1/2020 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and Cadenza Music (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and Cadenza Music (“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: 4400000534 [RFP: 20-34]

1. *Original contract amount:* \$150,000.00
2. *Accumulative contract amount:* \$800,000.00

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

**Section: 1.1 Description and 3.1 Total Obligation**

**Description:**

1.1 Additional instruments for 5th Grade, Ukuleles & Bags for every K-5 site, Classroom Set (50) of Guitars & Bags for every Middle School

3.1 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 \$800,000.00. Contractor/Vendor 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.)

**SPECIAL SCHOOL DISTRICT NO. 1**


Signature: \_\_\_\_\_

Name: Kim Ellison

Title: Board Chair

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

**Cadenza:**

Signature:  \_\_\_\_\_

Name: Dan Lehn

Title: Owner

Date: 1/29/2021

## FY20 Northeast Middle School North Entry & Renovation

Contract Sum: \$2,407,720

Contractor: Construction Results Corporation

### Project Name and Number

Northeast Middle School North Entry Addition & Renovation  
2955 Hayes St NE Minneapolis, MN 55418 Minneapolis Public Schools Project  
Number 20NEAS001, RFP 20-29, OP 21-2115, Architects project number  
21.1003.1

### Description

#### Contract Sum details

Item	Price	Status
Base Bid	\$2,259,720	accepted
Alt #1A: Ceiling using night work	\$99,000	rejected
Alt #1B Ceiling work over 2 summers	\$62,000	rejected
Alt #2: Electric Feeder Conduit Replacement	\$15,500	rejected
Alt #3: North Health Office	\$148,000	accepted
Unit Cost# 1. Ceiling Labor 1 <sup>st</sup> shift per hour	\$115.00	accepted
Unit Cost #2: Ceiling Labor 2 <sup>nd</sup> shift per hour	\$140.00	accepted
Unit Cost #3 Ceiling Labor 3 <sup>rd</sup> shift per hour	\$150.00	accepted

### Contract Documents

AIA Document A101-2017  
AIA Document A101 Exhibit A-2017  
Exhibit B – Project Charter  
Exhibit C – Owner Insurance  
Exhibit D Project Schedule  
AIA Document E203-2013  
AIA Document A201-2017



# 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 9<sup>th</sup> day of February in the year 2021  
*(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)*

Northeast Middle School North Entry Addition & Renovations  
2955 Hayes St. NE  
Minneapolis, MN 55418

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

LSE Architects  
100 Portland Ave. S. #100  
Minneapolis, MN 55401

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.

## 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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**User Notes:**

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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 are defined in EXH-C Project Schedule.

*(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, 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 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;
- .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;

Init.

- .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.*

*(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.

§ 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.

Init.

### § 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.

*(Paragraph Deleted)*

### § 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.)*

Arbitration pursuant to Section 15.4 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other *(Specify)*

Init.

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**User Notes:**

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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)*

Andy Lesch, Project Manager  
1250 West Broadway Avenue  
Minneapolis, MN 55411

**§ 8.3** The Contractor’s representative:  
*(Name, address, email address, and other information)*

Jeff Skoog, Project Manager  
5465 HWY 169 North  
Plymouth, MN 55442

763-559-1100

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

#### **§ 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.

Init.

§ 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.)*

March 13, 2018

- .5 Drawings

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

- .6 Specifications

Section	Title	Date	Pages
---------	-------	------	-------

- .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](#)  
*(Paragraph Deleted)*

[EXH-D Project Schedule](#)

*(Paragraph Deleted)*

Init.

| (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)  
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 09:27:06 CT on 01/26/2021.

## **PAGE 1**

**AGREEMENT** made as of the 9<sup>th</sup> day of February in the year 2021

...

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

...

Construction Results Corporation  
5465 HWY 169 North  
Plymouth, MN 55442

...

Northeast Middle School North Entry Addition & Renovations  
2955 Hayes St. NE  
Minneapolis, MN 55418

...

LSE Architects  
100 Portland Ave. S. #100  
Minneapolis, MN 55401

## **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

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**User Notes:**

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...

**§ 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-C Project Schedule.

...

**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 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.

...

*(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.

...

**§ 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.

**PAGE 6**

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 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 ~~interest agreed upon, if any,~~ 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.

...

[ X ] Litigation in a court of competent jurisdiction

**PAGE 7**

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.

...

Andy Lesch, Project Manager  
1250 West Broadway Avenue  
Minneapolis, MN 55411

...

Jeff Skoog, Project Manager

5465 HWY 169 North  
Plymouth, MN 55442

763-559-1100

**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.

...

March 13, 2018

...

*(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](#)

...

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

...

[EXH-D Project Schedule](#)

...

The Sustainability Plan:

**PAGE 9**

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 09:27:06 CT on 01/26/2021 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 9 day of February in the year 2021  
*(In words, indicate day, month and year.)*

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

Northeast Middle School North Entry Addition & Renovations  
2955 Hayes St. NE  
Minneapolis, MN 55418

**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 North  
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**

§ 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 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** 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.

**§ 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

Init.

/

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 09:27:46 CT on 01/26/2021.

## PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 9 day of February in the year 2021

...

Northeast Middle School North Entry Addition & Renovations  
2955 Hayes St. NE  
Minneapolis, MN 55418

...

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

...

*(Name, legal status and address)*

Construction Results Corporation  
5465 HWY 169 North  
Plymouth, MN 55442

## PAGE 2

§ **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.

## PAGE 4

§ **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~~

~~PAGE 5~~

~~§ 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.~~

~~PAGE 6~~

~~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

Northeast Middle School North Entry Addition & Renovation  
 2955 Hayes St NE Minneapolis, MN 55418 Minneapolis Public Schools  
 Project Number 20NEAS001, RFP 20-29, OP 21-2115, Architects project number  
 21.1003.1

### Description

Provide New Safe & Welcoming Entry, Accessible Restroom in main hallway, fully accessible HC Access, trash enclosure, mechanical screening, sign monument, ceilings, alts. ceiling replacement schedule, electrical conductors, health office upgrade.

### Contract Sum- Proposal A

The Contract Sum shall be \$2,407,720.00

Alternates Item	Price	Status
Alt #1A Ceiling work using night work	99,000	rejected
Alt #1 B Ceiling work over 2 summers	62,000	rejected
Alt # 2 Electric Feeder conduit replacement	15,500	rejected
Alt # 3 North Health Office	148,000	Accepted

### Conditions

Item	Price	Conditions for Acceptance

### Allowances

Item	Price
none	none

### Unit Prices

Item	Units and Limitations	Price per Unit (\$0.00)
Ceiling Labor Unit #1	Per hr. 1 <sup>st</sup> shift	115.00
Ceiling Labor Unit #2	Per Hr. 2 <sup>nd</sup> shift	140.00

# 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
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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

Northeast Middle School North Entry Addition & Renovation  
2955 Hayes St NE Minneapolis, MN 55418 Minneapolis Public Schools  
Project Number 20NEAS001, RFP 20-29, OP 21-2115, Architects project number 21.1003.1

## Description

Provide New Safe & Welcoming Entry, Accessible Restroom in main hallway, fully accessible HC Access, trash enclosure, mechanical screening, sign monument, ceilings, alts. ceiling replacement schedule, electrical conductors, health office upgrade.

## Schedule

### Substantial Completion

The Work will be substantially complete on or before August 9, 2019.

### Portion of Work

Portion of Work	Substantial Completion Date
All Work	August 2, 2021

**AMENDMENT #2 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 1/21/2021 (“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:* \$212,456
2. *Accumulative contract amount:* \$222,241

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

**Section:** 1.1 Justification and 3.1 Total Obligation

**Description: 1.1** - Reimbursement rate for contact hours is now \$7.74 instead of \$7.30, causing the existing total amount

3.1: District’s total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$222,241. 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.)

**SPECIAL SCHOOL DISTRICT NO. 1**

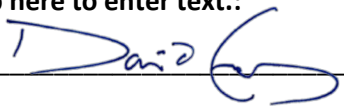
Signature: \_\_\_\_\_

Name: Kim Ellison

Title: Board Chair

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

**Click or tap here to enter text.:**

Signature:  \_\_\_\_\_

Name: David Fey

Title: Interim Executive Director, Our Savior's Community Services

Date: January 26, 2021



# AIA® Document G701™ – 2017

## Change Order

**PROJECT:** *(Name and address)*  
MPS BAS FY 2020 Upgrades  
6 Sites

**CONTRACT INFORMATION:**  
Contract For: BAS Upgrade  
Date: September 28, 2019

**CHANGE ORDER INFORMATION:**  
Change Order Number: 005  
Date: January 12, 2021

**OWNER:** *(Name and address)*  
Minneapolis Public Schools  
Special District #1  
1250 W. Broadway  
Minneapolis, MN 55411

**ARCHITECT:** *(Name and address)*  
KFI Engineers  
  
670 County Road B W  
St. Paul, MN 55113

**CONTRACTOR:** *(Name and address)*  
Harris Controls  
  
909 Montreal Circle  
St. Paul, MN 55102

**THE CONTRACT IS CHANGED AS FOLLOWS:**

*(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)*

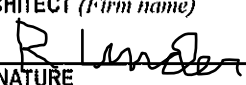
The original Contract Sum was	\$	<u>808,060.00</u>
The net change by previously authorized Change Orders	\$	<u>225,370.00</u>
The Contract Sum prior to this Change Order was	\$	<u>1,033,430.00</u>
The Contract Sum will be increased by this Change Order in the amount of	\$	<u>307,275.00</u>
The new Contract Sum including this Change Order will be	\$	<u>1,340,705.00</u>

The Contract Time will be increased by thirty-one (31) days.  
The new date of Substantial Completion will be July 31, 2021

**NOTE:** This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

**NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.**


KFI Engineers  
ARCHITECT *(Firm name)*

  
SIGNATURE

Robert Linder  
PRINTED NAME AND TITLE

January 12, 2021  
DATE

Harris Controls  
CONTRACTOR *(Firm name)*

  
SIGNATURE

Jon Klug PM  
PRINTED NAME AND TITLE

1/13/21  
DATE

Minneapolis Public Schools  
OWNER *(Firm name)*

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME AND TITLE

\_\_\_\_\_  
DATE

MPS BAS Upgrades 6 Sites  
 20-2904 (KFI 19-221.00)  
 Change Order #5  
 1/12/2021

Date	Site	Scope of Work Item	Cost	Status
11/8/2020	Anwatin	N4 Upgrade	\$ 12,210	Recommend Approve
11/16/2020	Dowling	N4 Upgrade	\$ 23,261	Recommend Approve
11/8/2020	Harrison	N4 Upgrade	\$ 26,960	Recommend Approve
11/16/2020	Hiawatha	N4 Upgrade	\$ 20,236	Recommend Approve
11/8/2020	Kenwood	N4 Upgrade	\$ 11,855	Recommend Approve
11/16/2020	Longfellow	N4 Upgrade	\$ 11,692	Recommend Approve
11/9/2020	Pratt	N4 Upgrade	\$ 11,692	Recommend Approve
11/16/2020	Transportation	N4 Upgrade	\$ 13,895	Recommend Approve
11/9/2020	Wenonah	N4 Upgrade	\$ 11,692	Recommend Approve
12/11/2020	Seward	N4 Upgrade	\$ 41,965	Recommend Approve
12/11/2020	Howe	N4 Upgrade	\$ 36,486	Recommend Approve
12/11/2020	ULH - Fulton	N4 Upgrade	\$ 34,988	Recommend Approve
11/20/2020	Andersen	N4 Upgrade	\$ 15,495	Recommend Approve
11/20/2020	Anthony	N4 Upgrade	\$ 27,798	Recommend Approve
1/12/2021	Northeast	Serviceability Work	\$ 7,050	Recommend Approve
<b>Total</b>			<b>\$ 307,275</b>	<b>Total Approved</b>



909 MONTREAL CIRCLE  
ST. PAUL, MN 55102

November 4, 2020  
Bob Linder - KFI

**RE: MPS FY2019 BAS Upgrades – Northeast Conduit Allowance**

Please review the following scope of work and pricing for MPS BAS FY2019

**Scope of Work**

- Northeast conduit work is complete. Below is the incurred amount to be charged against the allowance described in the project documents.

Scope of Work	Pricing
Northeast Conduit Allowance	Labor - \$13,200    Material - \$1,505

**Exclusions**

- Premium/overtime hours
- Working with fire/smoke alarms
- Working with hazardous materials and asbestos abatement
- Provide or install wells, taps, threadalets, weldalets, ball valves, dampers
- Installation of wells/taps/threadalets/weldalets/ball valves
- Work with refrigerant or provision of any materials for refrigerant systems
- Liquidated damages
- Furnish or install HVAC equipment
- Testing, adjusting, balancing.
- Painting
- Fire/smoke dampers and wiring.
- Installation of duct smoke sensors
- Cutting/patching/core drilling/wall or finish repair
- Provide or install VFDs, starters, or disconnects
- Integration of any existing equipment and data points not specifically stated or shown as being part of this project.

Sincerely,

Jon Klug  
Project Manager  
C: 507-469-9184  
E: [jklug@harriscompany.com](mailto:jklug@harriscompany.com)



909 MONTREAL CIRCLE  
ST. PAUL, MN 55102

November 4, 2020  
Bob Linder - KFI

**RE: MPS FY2019 BAS Upgrades – Olson Conduit Allowance**

Please review the following scope of work and pricing for MPS BAS FY2019

**Scope of Work**

- Olson conduit work is complete. Below is the incurred amount to be charged against the allowance described in the project documents.

Scope of Work	Pricing
Olson Conduit Allowance	Labor - \$375    Material - \$50

**Exclusions**

- Premium/overtime hours
- Working with fire/smoke alarms
- Working with hazardous materials and asbestos abatement
- Provide or install wells, taps, threadalets, weldalets, ball valves, dampers
- Installation of wells/taps/threadalets/weldalets/ball valves
- Work with refrigerant or provision of any materials for refrigerant systems
- Liquidated damages
- Furnish or install HVAC equipment
- Testing, adjusting, balancing.
- Painting
- Fire/smoke dampers and wiring.
- Installation of duct smoke sensors
- Cutting/patching/core drilling/wall or finish repair
- Provide or install VFDs, starters, or disconnects
- Integration of any existing equipment and data points not specifically stated or shown as being part of this project.

Sincerely,

Jon Klug  
Project Manager  
C: 507-469-9184  
E: [jklug@harriscompany.com](mailto:jklug@harriscompany.com)



September 8, 2020  
Bob Linder - KFI

**RE: MPS FY2019 BAS Upgrades - Northeast**

Bob,

As all involved would agree, MPS Northeast is well known as one of their most challenging buildings regarding an automation upgrade.

To date, we have completed all VAV wiring, with 4 AHU, boiler plant, and chiller plant remaining. In our process of working through those challenges, the decided outcome can/will make this building much more serviceable by both MPS and future contractors. They are as follows:

- JACE addition – Our original intent was to have this building on 1 JACE. Post bid, we decided to add a second JACE so each building would have its own.
- Pull strings – We used the existing comm/power as a fish tape for our new comm/power. Also, we added pull strings to remain in the conduit to aid with any future work.
- VAV controller locations – Due to some very tight spaces between some of the ductwork, we shifted the location of the new controller to allow easier access. While making the controller more accessible, it has required additional pneumatic tubing and sometimes additional conduit to reach from the ceiling mounted J-box to the new location.
- VAV enclosures – The project spec called to provide covers. We saw we had a couple options. One option was to provide OEM Spyder covers that go over the terminal strips. We believe this was an option to meet the spec. But, decided to provide and install galvanized steel enclosures similar to what’s provided with a modern/new VAV. Also, the style of enclosure we purchased has an L shaped cover. When removed, the face and the bottom of the enclosure is open. With the open bottom (when the cover is removed), this will allow for much easier physical access to the controller. This option, while better, did incur additional cost for increased serviceability.
- Damper shaft modification – Several of the existing damper shafts are quite long. We shortened several to allow for easier access and serviceability of the damper actuators.
- Conduit in classrooms – The walls of these classrooms is quite full. While existing conduit is present, and we’re allowed to add conduit, we opted to utilize the existing conduit buried in the ceiling (with pull strings added) to avoid cluttering the walls with more stuff.
- Existing J Box repairs – A number of the existing ceiling mounted J boxes in the classroom were hanging loose from the ceiling. As we locate these, we have re-anchored them to prevent future issues.
- While it is noted in the spec to provide comm routes to MPS upon completion of the project, the notes and plans we are providing are exceptionally detailed and accurate.

Overall, when we’re complete, we feel the steps we’ve taken will make this site MUCH more serviceable by MPS. However, these steps have required additional labor we didn’t account for in our project bid. Now that we’ve completed the VAV investigation and installation at Northeast, the costs have been incurred and reflected below.

Scope of Work	Pricing
Northeast Serviceability	\$24,420

Sincerely,

Jon Klug  
Project Manager  
C: 507-469-9184  
E: [ijklug@harriscompany.com](mailto:ijklug@harriscompany.com)

**From:** Jon Klug <[ijklug@harriscompany.com](mailto:ijklug@harriscompany.com)>  
**Sent:** Monday, September 28, 2020 2:00 PM  
**To:** Robert J. Linder, P.E. <[rjlinder@kfi-eng.com](mailto:rjlinder@kfi-eng.com)>  
**Subject:** RE: [External] RE: MPS **Northeast** Serviceability

How detailed do you want?

- JACE for A Building = \$7,500
- VAV Enclosures = \$2,500
- Misc small materials (tubing, fittings, connectors, etc etc) = \$500
- The rest is electrical labor for all of the items mentioned in the letter.  
Roughly 100 hours. I don't have a hard/solid breakdown of how many hours it took per item listed in the letter. The time was kept as a lump sum tracking because each VAV required some of everything listed. But, it basically adds up to 1 hour of labor per VAV.

Let me know what you're thinking.

**Jon Klug**  
CONTROLS PROJECT MANAGER

R. Linder, KFI Engineers.  
Jace was Harris choice for install, not required.



November 8, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Anwatin N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Anwatin Central Plant WEB-600 with a WEB-8025.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Central Plant WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$12,210
Base Bid Material	\$5,335
Base Bid Labor	\$6,875

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
Account Executive  
C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



November 16, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Dowling N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Dowling and Dowling RTU S05 WEB-600s with a WEB-8025 and WEB-834 respectively.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Dowling WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) DEVICE-UP-10 capacity upgrade.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) dual channel RS485 module.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Remove existing Dowling AHU S05 WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-834.
  - Includes the following:
    - One (1) WEB-834 controller.
    - One (1) backup power supply.
    - Two (2) IO-R-16 modules.
    - One (1) SSMA-8005-5YR software maintenance agreement (SMA).

- Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$23,261
Base Bid Material	\$9,998
Base Bid Labor	\$13,263

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
 Account Executive  
 C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



November 8, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Harrison N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Harrison AHU-4 Heating and AHU 1 and 2 WEB-600s with a WEB-8050 and WEB-8035 respectively.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing AHU-4 Heating WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Remove existing AHU 1 and 2 WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8050.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) DEVICE-UP-25 driver.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Provide new WEB-8035.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) DEVICE-UP-10 driver.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.

- One (1) NPB-8000-LON module.
- One (1) SSMA-8025-5YR software maintenance agreement (SMA).
- Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$26,960
Base Bid Material	\$13,707
Base Bid Labor	\$13,253

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
 Account Executive  
 C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



November 16, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Hiawatha N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Hiawatha and Hiawatha RTU01 WEB-600s with a WEB-834 and WEB-8010 respectively.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Hiawatha RTU01 WEB-600 and connected two (2) NDIO-16s.
- Provide new WEB-8010.
  - Includes the following:
    - One (1) WEB-8010 controller.
    - One (1) backup power supply.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Remove existing Hiawatha WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-834.
  - Includes the following:
    - One (1) WEB-834 controller.
    - One (1) backup power supply.
    - Two (2) IO-R-16 modules.
    - One (1) SSMA-8005-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.

- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$20,236
Base Bid Material	\$7,202
Base Bid Labor	\$13,034

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
 Account Executive  
 C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



909 MONTREAL CIRCLE  
ST. PAUL, MN 55102

November 8, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Kenwood N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Kenwood Boiler WEB-600 with a WEB-8025.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Boiler WEB-600 and connected NDIO-34 and NDIO-16.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - One (1) IO-R-16 module.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$11,855
Base Bid Material	\$5,006
Base Bid Labor	\$6,849

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
Account Executive  
C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



909 MONTREAL CIRCLE  
ST. PAUL, MN 55102

November 16, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Longfellow N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Longfellow WEB-600 with a WEB-8010.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Longfellow WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8010.
  - Includes the following:
    - One (1) WEB-8010 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8010-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$11,692
Base Bid Material	\$4,855
Base Bid Labor	\$6,837

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
Account Executive  
C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



November 9, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Pratt N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Pratt Community WEB-600 with a WEB-8010.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Community WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8010.
  - Includes the following:
    - One (1) WEB-8010 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8010-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$11,692
Base Bid Material	\$4,855
Base Bid Labor	\$6,837

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
Account Executive  
C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



November 16, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Transportation N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Trans Center WEB-600 with a WEB-8025.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Trans Center WEB-600 and connected NDIO-34 and NDIO-16.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) DEVICE-UP-10 device capacity upgrade.
    - One (1) IO-R-34 module.
    - One (1) IO-R-16 module.
    - One (1) dual channel RS485 module.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$13,895
Base Bid Material	\$6,597
Base Bid Labor	\$7,298

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
Account Executive  
C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



November 9, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Wenonah N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Wenonah WEB-600 with a WEB-8010.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Wenonah WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8010.
  - Includes the following:
    - One (1) WEB-8010 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8010-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$11,692
Base Bid Material	\$4,855
Base Bid Labor	\$6,837

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
Account Executive  
C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



December 9, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Seward N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Seward BLR 1965, BLR 1993, and BLR 2016 WEB-600s with three WEB-8025s.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing BLR 1965 WEB-600 and connected NDIO-34 and one (1) NDIO-16.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - One (1) IO-R-16 module.
    - One (1) NPB-8000-LON module.
    - Two (2) DEVICE-UP-10 capacity upgrades.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Remove existing BLR 1993 WEB-600 and connected NDIO-34 and one (1) NDIO-16.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - One (1) IO-R-16 module.
    - One (1) NPB-8000-LON module.

- One (1) DEVICE-UP-10 capacity upgrade.
  - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
  - Wiring, mounting, and terminating of controller, power supply, and modules.
- Remove existing BLR 2016 WEB-600 and connected NDIO-34.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - One (1) NPB-8000-LON module.
    - One (1) DEVICE-UP-10 capacity upgrade.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$41,965
Base Bid Material	\$20,047
Base Bid Labor	\$21,918

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
 Account Executive  
 C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



December 9, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Howe N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Howe BLR, RTU02, and RTU01 WEB-600s with one WEB-8005 and two (2) WEB-8025s respectively.

Clarifications:

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

Inclusions:

- Remove existing BLR WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8005.
  - Includes the following:
    - One (1) WEB-8005 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) NPB-8000-232 module.
    - One (1) SSMA-8005-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Remove existing RTU02 WEB-600 and connected NDIO-34.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).

- Wiring, mounting, and terminating of controller, power supply, and modules.
- Remove existing RTU01 WEB-600 and connected NDIO-34.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - One (1) NPB-8000-LON module.
    - One (1) DEVICE-UP-10 capacity upgrade.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$36,486
Base Bid Material	\$15,289
Base Bid Labor	\$21,197

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
 Account Executive  
 C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



December 9, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS ULH-Fulton N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing ULH-Fulton Central, S2\_S3, and FTR WEB-600s with two WEB-8025s and a WEB-834 respectively.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Central WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Remove existing S2\_S3 WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-8025.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).

- Wiring, mounting, and terminating of controller, power supply, and modules.
- Remove existing FTR WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Provide new WEB-834.
  - Includes the following:
    - One (1) WEB-834 controller.
    - One (1) backup power supply.
    - Two (2) IO-R-16 modules.
    - One (1) SSMA-8005-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$34,988
Base Bid Material	\$13,742
Base Bid Labor	\$21,246

**Exclusions:**

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
 Account Executive  
 C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



November 20, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Andersen N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing AE\_Boilers WEB-600 with a WEB-8075.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing AE\_Boilers WEB-600 and connected NDIO-34.
- Provide new WEB-8075.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) DEVICE-UP-50 driver.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$15,495
Base Bid Material	\$7,731
Base Bid Labor	\$7,764

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
Account Executive  
C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)



909 MONTREAL CIRCLE  
ST. PAUL, MN 55102

November 20, 2020

Jason Kohnen  
Minneapolis Public Schools  
1225 North 7<sup>th</sup> Street  
Minneapolis, MN 55411

**RE: MPS Anthony N4 Upgrade**

Dear Jason,

Please review the following lump sum pricing for the replacement of the existing Anthony School and SBA\_AHU06 (to be changed to Anthony\_AHU06) WEB-600s with a WEB-8060 and WEB-8010 respectively.

**Clarifications:**

- This proposal excludes any material price increases due to tariffs, import tax changes, and import investigations which may be imposed by Section 232 of the Trade Expansion Act.
- This proposal assumes that the existing enclosure can be reused. If a new one is required, additional material and labor will need to be included.
- All labor included in this proposal is assumed to be during normal working hours.

**Inclusions:**

- Remove existing Anthony School WEB-600 and connected NDIO-34 and two (2) NDIO-16s.
- Remove existing SBA\_AHU06 WEB-600 and connected NDIO-34 and NDIO-16.
- Provide new WEB-8060.
  - Includes the following:
    - One (1) WEB-8025 controller.
    - One (1) DEVICE-UP-25 driver.
    - One (1) DEVICE-UP-10 driver.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - Two (2) IO-R-16 modules.
    - One (1) NPB-8000-LON module.
    - One (1) SSMA-8025-5YR software maintenance agreement (SMA).
    - Wiring, mounting, and terminating of controller, power supply, and modules.
- Provide new WEB-8010.
  - Includes the following:
    - One (1) WEB-8010 controller.
    - One (1) backup power supply.
    - One (1) IO-R-34 module.
    - One (1) IO-R-16 module.

- One (1) NPB-8000-LON module.
- One (1) SSMA-8010-5YR software maintenance agreement (SMA).
- Wiring, mounting, and terminating of controller, power supply, and modules.
- Verification of equipment operation and sequence once controller upgrade is complete.
- One-year warranty on installed parts and labor.
- Control system checkout, verification, O&M manuals, and as-built drawings.
- Project management.

Scope of Work	Pricing
Base Bid Total	\$27,798
Base Bid Material	\$13,153
Base Bid Labor	\$14,645

Exclusions:

- Liquidated damages.
- Bid or payment bond.
- Work with hazardous materials.
- Furnish or install HVAC equipment.
- Testing, adjusting, and balancing.
- Premium / overtime / shift labor.
- Bid or payment bond.
- Painting.
- Cutting / patching / core drilling / wall or finish repair.

Sincerely,

Jeremy Wagner  
 Account Executive  
 C: 920-979-0888  
[jwagner@harriscompany.com](mailto:jwagner@harriscompany.com)

# SUPPLEMENTAL INFORMATION



**Date:** 1/12/2021  
**To:** Harris Controls  
**From:** Robert Linder  
**KFI Project:** MPS BAS Upgrades – 6 Sites  
**KFI Project Number:** 19-221 (MPS # 20-2904)

**Subject:** Schedule and Project Allowances

---

THIS IS A CONTRACT DOCUMENT AND MAY APPLY TO ANY OR ALL CONTRACTS AND SUBCONTRACTS UNLESS OTHERWISE SPECIFIED HEREIN OR SHOWN ON THE ATTACHED DRAWINGS (IF ANY). ALL WORK REQUIRED BY THIS ADDENDUM SHALL BE IN COMPLETE ACCORD WITH THE CONTRACT DOCUMENTS AND SUBSEQUENT ADDENDA THERETO. THE ITEMS LISTED IN THIS ADDENDUM ARE NOT IN ANY ORDER IN REGARD TO THE DRAWINGS OR THE SPECIFICATIONS. ALL CONTRACTORS ARE CAUTIONED TO EXAMINE EACH AND EVERY ITEM OF THIS ADDENDUM.

---

THE FOLLOWING CHANGES OR CLARIFICATIONS TO THE PLANS & SPECIFICATIONS SHALL BE INCLUDED AS PART OF THE CONTRACT DOCUMENT

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Jon,

This information documents 2 items related to the referenced project.

1. Project Schedule

Original project documents indicated a substantial completion date of 12/31/20. In March, 2020, COVID slowed the ability for Harris to access the site due to both Harris and MPS related decisions. Harris had indicated that COVID would likely impact schedule, but they could not determine to what extent. As of December 2020, Harris has advised that they need until March 12, 2021 for substantial completion. And, based on the acceptance of Change Order #5 (pending), the additional services would extend the completion to June 30, 2021. This date is prior to the Final Completion date of July 31, 2021 noted in Addendum #3. For this reason, no change in contract completion date is needed.

2. Allowances and Serviceability Request

Harris provided documentation for the conduit allowances used at NE and Olson. The total labor and material used at these two sites is less than the total allowance.

Harris also requested Additional Services for labor and materials used at Northeast to pull and terminate wiring associated with the controls installations at the site.

Review of the Additional Services indicates that the labor and box/conduit material associated with this effort was needed, while the Jace was contractor preference. For this reason, the labor and box/conduit materials will be approved. The Jace will not.

The following table outlines costs and approval. In summary, the entire \$25,000 allowance is approved. This amount is already in the contract, so the result is no net change in overall base contract dollars. An additional \$7,050 will be approved by Change Order.

# SUPPLEMENTAL INFORMATION



Type		Effort	Harris Requested	MPS Allowed	Remaining	Approved
Base	Add Service					
X		Olson Conduit Allowance	\$ 425	\$ 12,500	\$ 12,075	\$ 425
		Labor	\$ 375			
		Material	\$ 50			
X		Northeast Conduit Allowance	\$ 14,705	\$ 12,500	\$ (2,205)	\$ 14,705
		Labor	\$ 13,200			
		Material	\$ 1,505			
Allowance Totals:			\$ 15,130	\$ 25,000	\$ 9,870	\$ 15,130
	X	NE Serviceability	\$ 24,420	\$ 0		
		Jace	\$ 7,500			
		Boxes, conduit, etc.	\$ 3,000			\$ 3,000
		Labor	\$ 13,920			\$ 13,920
Serviceability amount approved:						\$ 16,920
Net amount approved:						\$ 32,050
Amount allowed by allowance:						\$ 25,000
Net change in overall contract:						\$ 7,050
<b>Note:</b>						
Addendum #2 included Allowance request.						

Included information:

3. Northeast Conduit Allowance Pricing (Harris)
4. Olson Conduit Allowance Pricing (Harris)
5. Northeast Serviceability Request (Harris)



November 4, 2020  
Bob Linder - KFI

**RE: MPS FY2019 BAS Upgrades – Northeast Conduit Allowance**

Please review the following scope of work and pricing for MPS BAS FY2019

**Scope of Work**

- Northeast conduit work is complete. Below is the incurred amount to be charged against the allowance described in the project documents.

Scope of Work	Pricing
Northeast Conduit Allowance	Labor - \$13,200    Material - \$1,505

**Exclusions**

- Premium/overtime hours
- Working with fire/smoke alarms
- Working with hazardous materials and asbestos abatement
- Provide or install wells, taps, threadalets, weldalets, ball valves, dampers
- Installation of wells/taps/threadalets/weldalets/ball valves
- Work with refrigerant or provision of any materials for refrigerant systems
- Liquidated damages
- Furnish or install HVAC equipment
- Testing, adjusting, balancing.
- Painting
- Fire/smoke dampers and wiring.
- Installation of duct smoke sensors
- Cutting/patching/core drilling/wall or finish repair
- Provide or install VFDs, starters, or disconnects
- Integration of any existing equipment and data points not specifically stated or shown as being part of this project.

Sincerely,

Jon Klug  
Project Manager  
C: 507-469-9184  
E: [jklug@harriscompany.com](mailto:jklug@harriscompany.com)



909 MONTREAL CIRCLE  
ST. PAUL, MN 55102

November 4, 2020  
Bob Linder - KFI

**RE: MPS FY2019 BAS Upgrades – Olson Conduit Allowance**

Please review the following scope of work and pricing for MPS BAS FY2019

**Scope of Work**

- Olson conduit work is complete. Below is the incurred amount to be charged against the allowance described in the project documents.

Scope of Work	Pricing
Olson Conduit Allowance	Labor - \$375    Material - \$50

**Exclusions**

- Premium/overtime hours
- Working with fire/smoke alarms
- Working with hazardous materials and asbestos abatement
- Provide or install wells, taps, threadalets, weldalets, ball valves, dampers
- Installation of wells/taps/threadalets/weldalets/ball valves
- Work with refrigerant or provision of any materials for refrigerant systems
- Liquidated damages
- Furnish or install HVAC equipment
- Testing, adjusting, balancing.
- Painting
- Fire/smoke dampers and wiring.
- Installation of duct smoke sensors
- Cutting/patching/core drilling/wall or finish repair
- Provide or install VFDs, starters, or disconnects
- Integration of any existing equipment and data points not specifically stated or shown as being part of this project.

Sincerely,

Jon Klug  
Project Manager  
C: 507-469-9184  
E: [jklug@harriscompany.com](mailto:jklug@harriscompany.com)



September 8, 2020  
Bob Linder - KFI

**RE: MPS FY2019 BAS Upgrades - Northeast**

Bob,

As all involved would agree, MPS Northeast is well known as one of their most challenging buildings regarding an automation upgrade.

To date, we have completed all VAV wiring, with 4 AHU, boiler plant, and chiller plant remaining. In our process of working through those challenges, the decided outcome can/will make this building much more serviceable by both MPS and future contractors. They are as follows:

- JACE addition – Our original intent was to have this building on 1 JACE. Post bid, we decided to add a second JACE so each building would have its own.
- Pull strings – We used the existing comm/power as a fish tape for our new comm/power. Also, we added pull strings to remain in the conduit to aid with any future work.
- VAV controller locations – Due to some very tight spaces between some of the ductwork, we shifted the location of the new controller to allow easier access. While making the controller more accessible, it has required additional pneumatic tubing and sometimes additional conduit to reach from the ceiling mounted J-box to the new location.
- VAV enclosures – The project spec called to provide covers. We saw we had a couple options. One option was to provide OEM Spyder covers that go over the terminal strips. We believe this was an option to meet the spec. But, decided to provide and install galvanized steel enclosures similar to what's provided with a modern/new VAV. Also, the style of enclosure we purchased has an L shaped cover. When removed, the face and the bottom of the enclosure is open. With the open bottom (when the cover is removed), this will allow for much easier physical access to the controller. This option, while better, did incur additional cost for increased serviceability.
- Damper shaft modification – Several of the existing damper shafts are quite long. We shortened several to allow for easier access and serviceability of the damper actuators.
- Conduit in classrooms – The walls of these classrooms is quite full. While existing conduit is present, and we're allowed to add conduit, we opted to utilize the existing conduit buried in the ceiling (with pull strings added) to avoid cluttering the walls with more stuff.
- Existing J Box repairs – A number of the existing ceiling mounted J boxes in the classroom were hanging loose from the ceiling. As we locate these, we have re-anchored them to prevent future issues.
- While it is noted in the spec to provide comm routes to MPS upon completion of the project, the notes and plans we are providing are exceptionally detailed and accurate.

Overall, when we're complete, we feel the steps we've taken will make this site MUCH more serviceable by MPS. However, these steps have required additional labor we didn't account for in our project bid. Now that we've completed the VAV investigation and installation at Northeast, the costs have been incurred and reflected below.

Scope of Work	Pricing
Northeast Serviceability	\$24,420

Sincerely,

Jon Klug  
Project Manager  
C: 507-469-9184  
E: [ijklug@harriscompany.com](mailto:ijklug@harriscompany.com)

**From:** Jon Klug <[ijklug@harriscompany.com](mailto:ijklug@harriscompany.com)>  
**Sent:** Monday, September 28, 2020 2:00 PM  
**To:** Robert J. Linder, P.E. <[rjlinder@kfi-eng.com](mailto:rjlinder@kfi-eng.com)>  
**Subject:** RE: [External] RE: MPS **Northeast** Serviceability

How detailed do you want?

- JACE for A Building = \$7,500
- VAV Enclosures = \$2,500
- Misc small materials (tubing, fittings, connectors, etc etc) = \$500
- The rest is electrical labor for all of the items mentioned in the letter.  
Roughly 100 hours. I don't have a hard/solid breakdown of how many hours it took per item listed in the letter. The time was kept as a lump sum tracking because each VAV required some of everything listed. But, it basically adds up to 1 hour of labor per VAV.

Let me know what you're thinking.

**Jon Klug**  
CONTROLS PROJECT MANAGER

R. Linder, KFI Engineers.  
Jace was Harris choice for install, not required.

**AMENDMENT #2 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 1/21/2021 ("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:* \$146,421
2. *Accumulative contract amount:* \$153,100

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

**Section:** 1.1 Description and 3.1 Total Obligation

**Description:** 1.1 Reimbursement rate for contact hours is now \$7.74 instead of \$7.30, causing the existing total amount

3.1 District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$153,100. 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.)

**SPECIAL SCHOOL DISTRICT NO. 1**

Signature: \_\_\_\_\_

Name: Kim Ellison

Title: Board Chair

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

**Contractor:**

Signature: *Martha Nemesi*

Name: Martha Nemesi

Title: Director, Learning In Style

Date: January 29, 2021

# FY21 Justice Page Middle School Renovation

**Contract Sum: \$533,000**

**Architect: Miller Dunwiddie**

## Project Name and Number

Justice Page Middle School Renovation  
1 West 49<sup>th</sup> Street  
Minneapolis, MN 55419  
Minneapolis Public Schools Project Number 21PAGE001

## Description

Provide consulting services for the development of Justice Page Middle School and provide architectural and engineering services for improvements to science laboratories, safe and welcoming entrance, lighting replacement throughout the building.

## Contract Documents

AIA Document B101-2017  
Exhibit A – Project Charter  
Exhibit B – Project Design Milestones & Deliverables  
Exhibit C – Owner Insurance  
Exhibit E – Owner Requirements  
AIA Document G201-2013  
AIA Document G202-2013  
AIA Document E203-2013

 **AIA** Document B101™ – 2017**Standard Form of Agreement Between Owner and Architect**

**AGREEMENT** made as of the 10 day of February in the year 2021  
(In words, indicate day, month and year.)

**BETWEEN** the Architect's client identified as 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 Architect:  
(Name, legal status, address and other information)

Miller Dunwiddie  
100 Washington Ave South, Suite 500  
Minneapolis, MN 55401

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

Justice Page Middle School Renovation  
1 West 49<sup>th</sup> Street  
Minneapolis, MN 55419

The Owner and Architect agree as follows.

The standards of professional services are set forth in this document and schedule of exhibits as follows:

EXH-A Project Charter  
EXH-B Project Design Milestones & Deliverables  
EXH-C Owner Insurance  
EXH-D Owner Requirements

**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.

Init.

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**User Notes:**

(3B9ADA32)

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### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

Defined in EXH-A Project Charter

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Defined in EXH-A Project Charter

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

Defined in EXH-A Project Charter

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:

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Defined in EXH-B Project Design Milestones & Deliverables

**.2** Construction commencement date:

Defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables

**.3** Substantial Completion date or dates:

Defined in EXH-A Project Charter

**.4** Other milestone dates:

Defined in EXH-B Project Design Milestones & Deliverables

**§ 1.1.5** The Owner intends the following procurement and delivery method for the Project:  
*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

Defined in EXH-A Project Charter

**§ 1.1.6** The Owner's anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design.  
*(Paragraph Deleted)*

**§ 1.1.6.1** If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

**§ 1.1.7** The Owner identifies the following representative in accordance with Section 5.3:  
*(List name, address, and other contact information.)*

Laurie McGinley and Christina Johnson  
Minneapolis Public Schools  
1250 West Broadway Ave  
Minneapolis, MN 55411

**§ 1.1.8** The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:  
*(List name, address, and other contact information.)*

**§ 1.1.9** The Owner shall retain the following consultants and contractors:  
*(List name, legal status, address, and other contact information.)*

**.1** Geotechnical Engineer:

Init.

.2 Civil Engineer:

.3 Other, if any:

*(List any other consultants and contractors retained by the Owner.)*

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement, Special Testing, and Investigative Analysis

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address, and other contact information.)*

Paul May, Miller Dunwiddie  
100 Washington Ave South, Suite 500  
Minneapolis, MN 55401

§ 1.1.11 The Architect shall retain the consultants identified in EXH-A Project Charter.

*(Paragraphs Deleted)*

§ 1.1.12 Other Initial Information on which the Agreement is based:

Professional Consultant Team as defined in EXH-A Project Charter

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 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 use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 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, 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.

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## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits as defined in EXH-C Owner Insurance.

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

§ 2.5.3 The Architect 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 liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, 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. Defined in EXH-C Owner Insurance.

§ 2.5.4 Workers' Compensation at statutory limits. Defined in EXH-C Owner Insurance.

§ 2.5.5 Employers' Liability with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits as defined in EXH-C Owner Insurance.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

## ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones & Deliverables.

Init.

**§ 3.1.1** The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

**§ 3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt (within 7-10 business days of discovery) written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect is encouraged to provide prompt written notice to the Owner within this timeframe; it is most critical during the construction administration phase.

**§ 3.1.3** As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information and defined in EXH-B Project Design Milestones & Deliverables. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

**§ 3.1.4** The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

**§ 3.1.5** The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones & Deliverables.

**§ 3.1.6** The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

**§ 3.1.7** The Architect shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

**§ 3.1.8** The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

**§ 3.1.9** The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify sub surface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner will perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services as defined in AIA G202-2013 Article  
*(Paragraph Deleted)*

### 3.3.

Init.

### **§ 3.2 Schematic Design Phase Services**

**§ 3.2.1** The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

**§ 3.2.2** The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

**§ 3.2.3** The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

**§ 3.2.4** Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

**§ 3.2.5** Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

**§ 3.2.5.1** The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

**§ 3.2.5.2** The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

**§ 3.2.6** The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.2.7** The Architect shall submit the Schematic Design Documents to the Owner as defined in EXH-B Design Milestones & Deliverables, and request the Owner's approval before proceeding with Design Development Documents as defined in EXH-B Design Milestones & Deliverables.

### **§ 3.3 Design Development Phase Services**

**§ 3.3.1** Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013.

**§ 3.3.2** The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.3.3** The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work as defined in EXH-B Project Design Milestones & Deliverables,

Init.

and request the Owner's approval before proceeding with Construction Documents as defined in EXH-B Design Milestones & Deliverables.

### **§ 3.4 Construction Documents Phase Services**

**§ 3.4.1** Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

**§ 3.4.2** The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

**§ 3.4.3** During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

**§ 3.4.4** The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.4.5** The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

### **§ 3.5 Procurement Phase Services**

#### **§ 3.5.1 General**

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsible and responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; (4) awarding and preparing contracts for construction; and, (5) Any review of bid anomalies or irregularities requiring legal review shall be provided by the Owner.

#### **§ 3.5.2 Competitive Bidding**

**§ 3.5.2.1** Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

**§ 3.5.2.2** The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

**§ 3.5.2.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

#### **§ 3.5.3 Negotiated Proposals**

**§ 3.5.3.1** Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

**§ 3.5.3.2** The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

**§ 3.5.3.3** If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

## **§ 3.6 Construction Phase Services**

### **§ 3.6.1 General**

**§ 3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

**§ 3.6.1.2** The Architect shall advise, lead, and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

**§ 3.6.1.3** Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and the Owner's written notice to proceed to Construction Administration and terminates on the date the Architect authorizes the Contractor's final Certificate for Payment.

### **§ 3.6.2 Evaluations of the Work**

**§ 3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, 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 shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall 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.

**§ 3.6.2.2** The Architect has the authority and obligation to reject Work that does not conform to the Contract Documents unless the Owner accepts non-conforming work in writing after consulting with the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority and obligation to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority and obligation 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.

**§ 3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within five business days of requests or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### **§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's 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 (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall 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) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a record of the Applications and Certificates for Payment.

### **§ 3.6.4 Submittals**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

**§ 3.6.4.2** The Architect shall 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 the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

### **§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** 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. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

### **§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties including a warranty schedule of major building systems and warranty expiration dates, and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.
- .5 The Architect shall produce punch list items as part of the certificate of Substantial Completion issued to the Contractor. The Architect shall create the list(s), present them to the Owner, incorporate Owner feedback, and compile all punch items for the contractor in a timely manner.

**§ 3.6.6.2** The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list(s) including and not limited to Architectural, Civil, Mechanical, Electrical, Structural, and Plumbing systems submitted by the Contractor of Work to be completed or corrected.

**§ 3.6.6.3** When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

**§ 3.6.6.4** The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

**§ 3.6.6.5** Upon request of the Owner ten (10) months following substantial completion, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**§ 3.6.6.6** The Architect shall issue an As Constructed Record set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General

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Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

**§ 4.1 Supplemental Services**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	

§ 4.1.1.27	Historic preservation	
§ 4.1.1.28	Furniture, furnishings, and equipment design	
§ 4.1.1.29	Other services provided by specialty Consultants	
§ 4.1.1.30	Other Supplemental Services	

**§ 4.1.2 Description of Supplemental Services**

**§ 4.1.2.1** A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

*(Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.)*

**§ 4.1.2.2** A description of each Supplemental Service identified in Section 4.1.1 as the Owner’s responsibility is provided below.

*(Describe in detail the Owner’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

**§ 4.1.3** If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

**§ 4.2 Architect’s Additional Services**

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect’s schedule. Additional Services are Defined in EXH-A Project Charter.

**§ 4.2.1** Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner’s written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner’s schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner’s consultants or contractors;

*(Paragraphs Deleted)*

- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

*(Paragraph Deleted)*

- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction;  
or,

(Paragraph Deleted)

**§ 4.2.2** To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

**§ 4.2.3** The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 2 ( two ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 1 ( one ) visits per week to the site by the Architect during construction
- .3 2 ( two ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 1 ( one ) inspections for any portion of the Work to determine final completion.

**§ 4.2.4** Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

**§ 4.2.5** If the services covered by this Agreement have not been completed within eighteen ( 18 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## **ARTICLE 5 OWNER'S RESPONSIBILITIES**

**§ 5.1** Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements and stakeholder engagement requirements as defined in EXH-B Project Design Milestones & Deliverables.

**§ 5.2** The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

**§ 5.3** The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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**§ 5.4** The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

**§ 5.5** The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

**§ 5.6** The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

**§ 5.7** If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

**§ 5.8** The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided and defined in Article 2.

**§ 5.8.1** Architect's responsibility in connection with the services of Owner's consultants, contractors, or design-build contractor shall be to coordinate Owner's consultants', contractors', or design-build contractor's portion of the Instruments of Service. Owner shall require consultants, contractors, or design-build contractor retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

**§ 5.9** The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

**§ 5.10** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

**§ 5.11** The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

**§ 5.12** The Owner shall include the Architect in all communications with the Contractor 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.

**§ 5.13** Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

**§ 5.14** The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

**§ 5.15** Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

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§ 5.16 The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

§ 5.17 The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

§ 5.18 The Owner shall provide Testing and Special Inspections.

§ 5.19 The Owner shall coordinate closely with the Architect and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the  
*(Paragraph Deleted)*

systems.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor including escalation for phased work or market conditions, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget as defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work may be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by five percent (5%) by the lowest bona fide bid or negotiated proposal, the Owner shall

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User Notes:

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- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 cooperate in revising the Project scope as required to reduce the estimated construction cost to an estimated cost within the Owner's budget. Costs or time incurred by the Architect to review the design to align with the Budget shall be borne entirely by the Architect.
- .6 implement any other mutually acceptable alternative, which may include the Owner's decision to suspend the Project, in which case the Architect shall be paid for services actually rendered under this agreement.

**§ 6.7** If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

**§ 7.1** The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

**§ 7.2** 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 shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

**§ 7.3** The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

**§ 7.3.1** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**§ 7.4** Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this 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 Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### § 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them 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 this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution 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 proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 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.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box.)*

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

If the Owner and Architect 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, the dispute will be resolved in a court of competent jurisdiction.

### **§ 8.3 Arbitration**

**§ 8.3.1** If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement 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 this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

**§ 8.3.1.1** 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, dispute or other matter in question 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, dispute or other matter in question.

**§ 8.3.2** The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

**§ 8.3.3** The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

### **§ 8.3.4 Consolidation or Joinder**

**§ 8.3.4.1** Either party, at its sole discretion, 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).

**§ 8.3.4.2** Either party, at its sole discretion, 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.

**§ 8.3.4.3** The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

**§ 8.4** The provisions of this Article 8 shall survive the termination of this Agreement.

## **ARTICLE 9 TERMINATION OR SUSPENSION**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable, quantifiable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.2** If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the

interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.3** If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

**§ 9.4** Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

**§ 9.5** The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

**§ 9.6** If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

**§ 9.7** In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

\$0

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

\$0

**§ 9.8** Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

**§ 9.9** The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

## **ARTICLE 10 MISCELLANEOUS PROVISIONS**

**§ 10.1** This Agreement 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 8.3.

**§ 10.2** Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 10.3** The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

**§ 10.4** If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the

Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

**§ 10.5** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

**§ 10.6** Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

**§ 10.6.1** Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in § 10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

**§ 10.7** The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

**§ 10.8** If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

**§ 10.8.1** The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information 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 such information as set forth in this Section 10.8.

**§ 10.9** The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement 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 Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

## **ARTICLE 11 COMPENSATION**

**§ 11.1** For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
(Insert amount)

Defined in EXH-A Project Charter

- .2 Percentage Basis  
(Insert percentage value)

Init.

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**User Notes:**

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( )% of the Owner’s budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other

*(Describe the method of compensation)*

Defined in EXH-A Project Charter

**§ 11.2** For the Architect’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Defined in EXH-A Project Charter.

**§ 11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

Defined in EXH-A Project Charter

**§ 11.4** Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent ( %), or as follows:  
*(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)*

**§ 11.5** When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows and defined in EXH-B Project Design Milestones & Deliverables:

Schematic Design Phase	percent (	%)
Design Development Phase	percent (	%)
Construction Documents Phase	percent (	%)
Procurement Phase	percent (	%)
Construction Phase	percent (	%)
Total Basic Compensation	one hundred percent (	100 %)

**§ 11.6** When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

**§ 11.6.1** When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

**§ 11.7** The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices.  
*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Defined in EXH-A Project Charter

Init.

**Employee or Category**

**Rate (\$0.00)**

**§ 11.8 Compensation for Reimbursable Expenses**

**§ 11.8.1** Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner’s prior written approval, the Architect’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect’s consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

**§ 11.8.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus five percent ( 5 %) of the expenses incurred.

**§ 11.9 Architect’s Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

\$0

**§ 11.10 Payments to the Architect**

**§ 11.10.1 Initial Payments**

**§ 11.10.1.1** An initial payment of zero ( \$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

**§ 11.10.1.2** If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ( \$ 0 ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect’s payments to the Certifying Authority shall be credited to the Owner’s account at the time the expense is incurred.

**§ 11.10.2 Progress Payments**

**§ 11.10.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect’s invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. The Architect shall send invoices directly to the Contract Representative named in paragraph 1.1.7.

*(Insert rate of monthly or annual interest agreed upon.)*

%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner upon written request.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:  
(Include other terms and conditions applicable to this Agreement.)

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined in EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

## ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .2 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

Init.

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- .3 Exhibits: A-D as identified on page 1 of this agreement and named below
- .4 AIA Document G201-2013 Project Digital Data Protocol Form
- .5 AIA Document G202-2013 Project Building Information Modeling Protocol Form  
*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204-2017 incorporated into this agreement.)

Other Exhibits incorporated into this Agreement:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

- EXH-A Project Charter
- EXH-B Project Design Milestones & Deliverables
- EXH-C Owner Insurance
- EXH-D Owner Requirements

.6 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

AIA Document A201-2017 General Conditions

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

\_\_\_\_\_  
**OWNER** (Signature)  
\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
**ARCHITECT** (Signature)  
\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

# **Additions and Deletions Report for AIA<sup>®</sup> Document B101<sup>™</sup> – 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 12:06:29 CT on 01/15/2021.

## **PAGE 1**

**AGREEMENT** made as of the 10 day of February in the year 2021

...

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

...

Miller Dunwiddie  
100 Washington Ave South, Suite 500  
Minneapolis, MN 55401

...

Justice Page Middle School Renovation  
1 West 49<sup>th</sup> Street  
Minneapolis, MN 55419

...

The standards of professional services are set forth in this document and schedule of exhibits as follows:

...

EXH-A Project Charter

...

EXH-B Project Design Milestones & Deliverables

...

EXH-C Owner Insurance

...

EXH-D Owner Requirements

**PAGE 2**

**TABLE OF ARTICLES**

...

*(Insert the Owner’s program, identify documentation that establishes the Owner’s program, or state the manner in which the program will be developed.)*

...

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter

**PAGE 3**

Defined in EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter

...

Defined in EXH-B Project Design Milestones & Deliverables

...

Defined in EXH-A Project Charter

...

Sustainable Design solutions which optimize or promote improved energy efficiency, occupant well-being, comfort, health, and improved long-term maintenance serviceability as standard to LEED rating system and B3 requirements are valued. Owner will not pursue LEED certification or complete B3 compliance. The Architect is not required to provide additional services for Sustainable Design.

...

Laurie McGinley and Christina Johnson

Minneapolis Public Schools  
1250 West Broadway Ave  
Minneapolis, MN 55411

**PAGE 4**

Commissioning Agent, Geotechnical Engineer, Special Inspections, Hazardous Materials Abatement,  
Special Testing, and Investigative Analysis

...

Paul May, Miller Dunwiddie  
100 Washington Ave South, Suite 500  
Minneapolis, MN 55401

...

**§ 1.1.11** The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:EXH-A Project Charter.

...

*(List name, legal status, address, and other contact information.)*

...

**§ 1.1.11.1** Consultants retained under Basic Services:

...

~~.1~~ Structural Engineer:

...

~~.2~~ Mechanical Engineer:

...

~~.3~~ Electrical Engineer:

...

**§ 1.1.11.2** Consultants retained under Supplemental Services:

...

Professional Consultant Team as defined in EXH-A Project Charter

**PAGE 5**

~~§ 2.5~~ The Architect shall maintain ~~the following insurance until termination of this Agreement.~~ insurance as defined in EXH-C Owner Insurance until termination of this Agreement and for the period of the statutes of repose set forth in Minnesota Statute 541.051, so long as such insurance is commercially available and reasonably affordable. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

...

~~§ 2.5.1~~ Commercial General Liability with policy limits of ~~not less than (\$ ) for each occurrence and (\$ ) in the aggregate for bodily injury and property damage as defined in EXH-C Owner Insurance.~~

...

~~§ 2.5.2~~ Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect 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.~~

...

~~§ 2.5.3~~ The Architect 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 liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, 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. Defined in EXH-C Owner Insurance.

...

~~§ 2.5.4~~ Workers' Compensation at statutory limits. Defined in EXH-C Owner Insurance.

...

~~§ 2.5.5~~ Employers' Liability with policy limits ~~not less than (\$ ) each accident, (\$ ) each employee, and (\$ ) policy limit as defined in EXH-C Owner Insurance.~~

...

~~§ 2.5.6~~ Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of ~~not less than (\$ ) per claim and (\$ ) in the aggregate as defined in EXH-C Owner Insurance.~~

...

~~§ 3.1~~ The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect's Basic Services are defined in EXH-B Project Design Milestones & Deliverables.

**PAGE 6**

**§ 3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt (within 7-10 business days of discovery) written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Architect is encouraged to provide prompt written notice to the Owner within this timeframe; it is most critical during the construction administration phase.

...

**§ 3.1.3** As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the ~~Initial Information~~. Information and defined in EXH-B Project Design Milestones & Deliverables. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

...

**§ 3.1.5** The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and ~~entities~~ entities and initiate governmental planning review processes as defined in EXH-B Project Design Milestones & Deliverables.

...

**§ 3.1.7** The Architect shall fully cooperate and coordinate with the Owner and its hired Commissioning Agent during all phases of design, construction, and commissioning to achieve the Project's final completion and full systems operability and ongoing use per the approved final design. The Architect is responsible for the duration of the contract to provide adequate support to its sub-consultants who provide services integral to commissioning.

...

**§ 3.1.8** The Architect shall assist the Owner in connection with the Owner's responsibility to communicate the project design and construction to the school community, school neighbors, and neighborhood associations.

...

**§ 3.1.9** The Owner shall provide available historical building documentation and the Architect shall field verify building elements as a basis for design. Additional design fees and reimbursable expenses incurred by the Architect related to remedying or addressing incorrectly identified building elements following the Architect's completion of field verification shall be borne solely by the Architect. Field verification shall include (1) field measurements of readily visible elements, (2) removing and replacing lay-in ceiling tiles, and (3) opening and closing access panels. The Architect is encouraged to identify areas that are not readily visible and merit further destructive testing that may include (1) drilling holes to use a scope camera to see inside a wall, (2) cutting small holes to identify sub surface conditions, or (3) moving non-functioning equipment to facilitate investigation. The Owner will perform any requested destructive testing. The Architect is responsible for field verification for the portion of the building within the scope of services. Field verification and destructive testing shall not be required for portions of the building or building systems that are not within the scope of services as defined in AIA G202-2013 Article

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§

...

**3.3.**

**PAGE 7**

**§ 3.2 Schematic Design Phase Services**

...

**§ 3.2.1** The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect’s services. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables, AIA contracts G201-2013, G202-2013, and E203-2013.

...

**§ 3.2.7** The Architect shall submit the Schematic Design Documents to the ~~Owner, and request the Owner’s approval.~~ Owner as defined in EXH-B Design Milestones & Deliverables, and request the Owner’s approval before proceeding with Design Development Documents as defined in EXH-B Design Milestones & Deliverables.

...

**§ 3.3.1** Based on the Owner’s approval of the Schematic Design Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner’s approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Architect shall submit reports, documents for review, and deliverables as defined in EXH-B Project Design Milestones & Deliverables and AIA contracts G201-2013, G202-2013, and E203-2013.

**PAGE 8**

**§ 3.3.3** The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the ~~Work, and request the Owner’s approval.~~ Work as defined in EXH-B Project Design Milestones & Deliverables, and request the Owner’s approval before proceeding with Construction Documents as defined in EXH-B Design Milestones & Deliverables.

...

**§ 3.4.5** The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner’s approval. The Architect shall submit construction documents which are estimated to bid within 5% of the budgeted construction cost. The Cost of Work submittal is defined in EXH-B Project Design Milestones & Deliverables.

...

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner’s approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive

bids or negotiated proposals; (2) confirming responsible and responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; ~~and,~~ (4) awarding and preparing contracts for ~~construction-construction~~; and, (5) Any review of bid anomalies or irregularities requiring legal review shall be provided by the Owner.

...

**§ 3.5.2.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect ~~shall, as an Additional Service,~~ shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

## PAGE 9

**§ 3.6.1.2** The Architect shall ~~advise-advise, lead,~~ and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent ~~aets-acts,~~ acts, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

...

**§ 3.6.1.3** Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and the Owner's written notice to proceed to Construction Administration and terminates on the date the Architect ~~issues the~~ authorizes the Contractor's final Certificate for Payment.

...

**§ 3.6.2.2** The Architect has the authority and obligation to reject Work that does not conform to the Contract ~~Documents.~~ Documents unless the Owner accepts non-conforming work in writing after consulting with the Architect. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority and obligation to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority and obligation 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.

...

**§ 3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within ~~any time limits agreed upon~~ five business days of requests or otherwise with reasonable promptness.

## PAGE 10

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's 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 (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent documented tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect's certification on the

Certificate for Payment shall be that the percentages of Work shown on the application are completed, to the best of the Architect's knowledge, information, and belief. No judgement is made by the Architect as to the value of the Work or the value of uncompleted Work.

...

**§ 3.6.4.2** The Architect shall 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~~. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**PAGE 11**

**.3** forward to the Owner, for the Owner's review and records, written warranties including a warranty schedule of major building systems and warranty expiration dates, and related documents required by the Contract Documents and received from the Contractor; and,

...

**.5** The Architect shall produce punch list items as part of the certificate of Substantial Completion issued to the Contractor. The Architect shall create the list(s), present them to the Owner, incorporate Owner feedback, and compile all punch items for the contractor in a timely

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manner.

...

**§ 3.6.6.2** The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the ~~list~~ list(s) including and not limited to Architectural, Civil, Mechanical, Electrical, Structural, and Plumbing systems submitted by the Contractor of Work to be completed or corrected.

...

**§ 3.6.6.5** Upon request of the ~~Owner~~, Owner ten (10) months following substantial completion, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**PAGE 12**

**§ 3.6.6.6** The Architect shall issue an As Constructed Record set of construction documents that will consist of the As Designed Record Sets of construction documents and Revit model with redlined changes from the General Contractor incorporated into the digital deliverables as defined in AIA G201 2013 Article 2.3 to the Owner upon final completion of the Project. The As Constructed Record documents shall reflect all digital changes made by the Architect between issuing the Bid Documents set and final completion as well as the General Contractor's redline changes. The Architect shall not be held responsible for field verification of the General Contractor's changes. The Architect's full set of deliverables during Construction Administration are defined in EXH-D Owner Requirements.

PAGE 13

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. Additional Services are Defined in EXH-A Project Charter.

...

- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) ~~contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b)~~ contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

...

- ~~.5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;~~

...

- ~~.6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~

...

- ~~.7 Preparation for, and attendance at, a public presentation, meeting or hearing;~~

...

- ~~.9 Evaluation of the qualifications of entities providing bids or proposals;~~

PAGE 14

- ~~.11 Assistance to the Initial Decision Maker, if other than the Architect.~~

...

- .1 2 ( two ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

...

- .2 1 ( one ) visits per week to the site by the Architect during construction

...

- .3 2 ( two ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

...

- .4 1 ( one ) inspections for any portion of the Work to determine final completion.

...

**§ 4.2.5** If the services covered by this Agreement have not been completed within eighteen ( 18 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

...

**§ 5.1** Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site ~~requirements~~requirements and stakeholder engagement requirements as defined in EXH-B Project Design Milestones & Deliverables.

**PAGE 15**

**§ 5.8** The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work ~~provided~~provided and defined in Article 2.

...

**§ 5.8.1** Architect's responsibility in connection with the services of Owner's consultants, contractors, or design-build contractor shall be to coordinate Owner's consultants', contractors', or design-build contractor's portion of the Instruments of Service. Owner shall require consultants, contractors, or design-build contractor retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

**PAGE 16**

**§ 5.16** The Owner shall provide coordination, installation, and procurement of furniture, furnishings, and equipment for the Project.

...

**§ 5.17** The Owner shall provide Information Technology equipment plugged into networks. Cabling and infrastructure designed by the Architect and installed by the Contractor.

...

**§ 5.18** The Owner shall provide Testing and Special Inspections.

...

**§ 5.19** The Owner shall coordinate closely with the Architect and the Contractor for design and installation of security systems in the Project. The Owner shall design systems by locating cameras and designating doors for access control, the Architect shall document and complete the initial design by designing pathways, the Contractor shall install cabling and infrastructure required for the systems to be operational as well as devices, and the Owner shall work with the Contractor to program and test the

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**ARTICLE**

...

systems.

...

**ARTICLE 6 COST OF THE WORK**

...

**§ 6.1** For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of ~~labor,~~ labor including escalation for phased work or market conditions, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

...

**§ 6.3** In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's ~~budget.~~ budget as defined in EXH-A Project Charter and EXH-B Project Design Milestones & Deliverables. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

...

**§ 6.4** If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work ~~shall~~ may be adjusted to reflect changes in the general level of prices in the applicable construction market.

...

**§ 6.6** If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by five percent (5%) by the lowest bona fide bid or negotiated proposal, the Owner shall

**PAGE 17**

.5 cooperate in revising the Project scope as required to reduce the estimated construction cost to an estimated cost within the Owner's budget. Costs or time incurred by the Architect to review the design to align with the Budget shall be borne entirely by the Architect.

...

~~implement any other mutually acceptable alternative.~~ 6 implement any other mutually acceptable alternative, which may include the Owner's decision to suspend the Project, in which case the Architect shall be paid for services actually rendered under this agreement.

...

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

**PAGE 18**

[  ] Litigation in a court of competent jurisdiction

**PAGE 19**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any reasonable, quantifiable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**PAGE 20**

**§ 9.6** If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the committed costs or performance of services attributable to the Architect's termination of consultant agreements.

...

\$0

...

\$0

**PAGE 21**

**§ 10.6** Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. A hazardous material or toxic substance is any material or substance that may be considered hazardous, toxic, or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. For purposes of this agreement, the term hazardous material shall include and not be limited to asbestos, polychlorinated biphenyl (PCB), mold, mildew, fungi, or other similar microbial conditions.

...

**§ 10.6.1** Owner agrees to defend, indemnify, and save harmless the Architect from and against any and all liabilities, demands, claims, penalties, forfeitures, suits, and the costs and expenses arising from the discovery, presence, handling, removal, or disposal of, or exposure to hazardous materials or toxic substances (as defined in §

...

10.6), except to the extent that the presence of or exposure to hazardous materials or toxic substances result from the sole negligence or willful misconduct of the Architect.

...

Defined in EXH-A Project Charter

**PAGE 22**

Defined in EXH-A Project Charter

...

Defined in EXH-A Project Charter.

...

Defined in EXH-A Project Charter

...

**§ 11.5** When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:follows and defined in EXH-B Project Design Milestones & Deliverables:

...

Defined in EXH-A Project Charter

**PAGE 23**

**§ 11.8.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent ( 5 %) of the expenses incurred.

...

\$0

...

**§ 11.10.1.1** An initial payment of zero ( \$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

...

**§ 11.10.1.2** If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero ( \$ 0 ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

...

**§ 11.10.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. The Architect shall send invoices

directly to the Contract Representative named in paragraph 1.1.7.

**PAGE 24**

**§ 11.10.2.3** Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner ~~at mutually convenient times upon~~ written request.

...

12.1 The Architect and the Owner agree that the Project may be phased, include multiple bid packs (as few as one or as many as three) or require accelerated design deliverables to best meet the Owner's schedule of funding approvals and day one operations for building occupants. As a standard of working with the Owner the Architect agrees that additional compensation above fees for Basic Services and Additional Services as defined in EXH-A Project Charter will not be paid to the Architect to perform and deliver services within known parameters for the Project as defined in EXH-A Project Charter, EXH-B Project Design Milestones & Deliverables, and EXH-D Owner Requirements.

12.2 The Architect and the Owner agree to incorporate the Owner's feedback as defined ni EXH-D Owner Requirements. The Owner's written notice to proceed to the next design phase will not be granted without written receipt of required deliverables.

12.3 If the Owner elects to employ an accelerated, phased, or fast track design process (in which some of the Architect's design services overlap the construction work and are out of sequence with the traditional delivery method), Owner does so with full recognition of the inherent risks associated with these design methodologies. Such risks include the Owner incurring costs for the Architect to coordinate and re-design portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. In recognition of the inherent risks of the fast tracking to the Architect and the benefits to the Owner, the Owner agrees to (i) waive all claims against the Architect for design changes, delays, disruptions, or other modifications of portions of the Work already constructed due to the Owner's decision to employ the fast track process and (ii) indemnify and hold the Architect harmless, to the maximum extent permitted by law, from any and all damage, liability, and cost, including reasonable attorney fees and defense costs, arising from third party claims, excepting those attributable to the negligence of the Architect or those for whom the Architect is legally liable. To compensate the Architect for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Owner's program requirements because of the Owner's decision to construct the Project in a fast track manner. Owner further agrees to include in the budget for the Project sufficient contingencies to cover such Additional Services.

12.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, other natural disasters; fires, riots, acts of terrorism, war, or other emergencies or acts of God.

...

January 31, 2020

**PAGE 25**

**.3** Exhibits: A-D as identified on page 1 of this agreement and named below

...

.4 AIA Document G201-2013 Project Digital Data Protocol Form

...

.5 AIA Document G202-2013 Project Building Information Modeling Protocol Form

...

Other Exhibits incorporated into this Agreement:

...

EXH-A Project Charter

...

EXH-B Project Design Milestones & Deliverables

...

EXH-C Owner Insurance

...

EXH-D Owner Requirements

...

~~.4~~ .6 Other documents:

...

AIA Document A201-2017 General Conditions

## **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 12:06:29 CT on 01/15/2021 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 B101™ - 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

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*(Signed)*

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*(Title)*

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*(Dated)*

# EXHIBIT A - Project Charter

## Project Identification, Intent, and Scope

**Re:** MPS Project Number: 21PAGE001  
MPS Project Name: FY21 Justice Page Middle School Renovation  
School Website: <https://page.mpls.k12.mn.us/Home>

## Building Context

Justice Page has a student population ranging from grade Kindergarten through grade 8. The school has a total of 149,346 square feet and is classified as a K8-4K building.

## Project Intent

Capital renovations for science laboratories, entrances, and gymnasium.  
Infrastructure investments in plumbing systems.

## Project Summary

<b>Project Delivery Method:</b>	MPS has not yet selected a contracting method
<b>Project Construction Budget:</b>	\$ 4,363,261
<b>Phased Construction Completion:</b>	December 2021 – Substantial Completion of Science Classrooms August 2022 – Substantial Completion of Entry and Lighting Upgrades

## Scope/Budget Context

It is possible that project scope items, not included in the Project Scope below, will be known at the commencement of project design or become apparent during design to one or more of the multiple stakeholders who may be represented on the Project Steering Committee and Project Review Committee. Some of these additional scope items will be desirable on their own merits but may not be possible due to project construction budget. Therefore, discipline on the part of the Consultant will be expected to focus on Project Scope identified below, while also documenting and, if requested, reviewing such items for possible inclusion in this project scope in lieu of scope defined below, or in future District capital projects.

Accordingly, not all of the Building Context information contained herein will be applicable to project scope, but it is intended to inform the design process such that, at the conclusion of construction, the existing building is better positioned for current and future instructional activities; and additional capital investment that might be funded in future capital plans.

The Consultant will provide consulting services for the development of Justice Page Middle School and provide architectural and engineering services for improvements to science laboratories, safe and welcoming entrance, lighting replacement throughout the building.

## Project Schedule

Project Phase	Suggested Completion Date
BOE Design Contract Approval	N/A
Schematic Design Report	February 28, 2021
Design Development Report	March 2021
Cost Estimate #3	March 2021
Construction Documents Report	April 2021
Receive bids	May 2021
BOE Construction Contract Approval	June 2021
Pre-Construction Activities	July 2021
Construction area 1	July 2021 – December 2021
Construction area 2	May 2022 – August 2022
Warranty (one year)	September 2023

## Project Staff

The following MPS staff are anticipated to serve on the Project Steering Committee (PSC):

Laurie McGinley	Project Manager - Capital Planning, Construction, and Maintenance (CPCM)
Christina Johnson	Project Manager - CPCM
Grant Lindberg	Manger - Plant Maintenance
David Richards	District Master Planner
LaShawn Ray	Associate Superintendent
Karen DeVet	Senior Operating Officer
Curt Hartog	Executive Director - CPCM
Jibriil Yusuf	Manager - CPCM
Jason Matlock	Director - Emergency Management, Safety and Security (EMSS)

## Project Communications

Consultant and District representative will coordinate the development and implementation of a project communications plan, including:

Communication
Meetings with Project Steering Team
Meetings with Project Stakeholder Team
Project web page updates
Project e-updates
Updates for elected representatives
Updates for families and staff
Updates for neighborhood
Construction signage
BOE updates

## Project Budget

### Construction Budget

Type	LTFM	FY19 Grant	Capital Improvement	Total
Ceiling	\$ 161,500		\$0	\$161,500
Lighting	\$1,306,778		\$0	\$1,306,778
Panels	\$934,607		\$0	\$934,607
Student Safety	\$0	\$500,000	\$2,968,700	\$3,468,700
Plumbing, Mechanical	\$250,000		\$0	\$250,000
<b>PROJECT TOTALS</b>	<b>\$2,652,885</b>	<b>\$500,000</b>	<b>\$2,968,700</b>	<b>\$6,121,585</b>
<b>CONSTRUCTION TOTAL</b>				<b>\$4,407,541</b>

## Consultant's Fee, Hourly Rates, and Reimbursable Expenses

Compensation for Project Services as defined herein is a fixed fee of \$533,000. Basic Design Services will be allocated to the phases of work as defined in EXH-B Project Design Milestones & Deliverables.

#### **FEES:**

Our fees for the project will be \$533,000.00, which includes \$7,500 in estimated reimbursable expenses. These fees are outlined below.

<b>Bid Package #1: Science Classrooms, Monument Sign</b>					
Phase	Schematic Design	Design Development	Construction Documents, Bid, Award	Construction Administration	Total
Fees	\$19,500	\$28,500	\$47,000	\$25,000	\$120,000
<b>Bid Package #2: Welcoming Entry, Interior &amp; Exterior Lighting Upgrades</b>					
Fees	\$63,500	\$84,500	\$156,500	\$101,000	\$405,500
Totals 1&2	\$83,000	\$113,000	\$203,500	\$126,000	\$525,500
Estimated Reimbursable Expenses					\$7,500
<b>Total Fee (including RE)</b>					<b>\$533,000</b>

<b>Team Member</b>	<b>Role</b>	<b>2020 Hourly Rate**</b>
Paul May	Principal Architect	\$205
Melissa Christenson Ekman	Architect, Project Manager	\$165
Elise Kelly	Project Architect	\$130
Katie Hunsley	Principal Interior Designer	\$205
Denita Lemmon	Principal Community Engagement	\$205
Wing Kong	Senior Engineer	\$205
Brent Visser	Senior Code Specialist	\$205
Eric Belo	BIM Manager	\$130
Staff Designer	Architectural Designer / Interior Designer	\$80
Staff Intern	Clerical	\$65
Bob Zimmerman	Specifications Writer	\$185
Scott Vander Heiden	Principal Mechanical Engineer	\$190
Brian Ringsven	Mechanical Engineer	\$140
Kelly Artz	Principal Electrical Engineer	\$190
Cory Meier	Electrical Engineer	\$140
Matt Thomas	Principal Structural Engineer	\$230
Staff Engineer	Structural Engineer	\$150
Brandon Frazier	Principal Technology Consultant	\$175
Brian Porter	Technology Designer	\$110
Rhonda Pierce	Principal Civil Engineer	\$140
Tim Setela	Civil Engineer	\$125
Jennifer Germain	Design Landscape Architect	\$150
Jonathan Murray	Senior Cost Consultant	\$150

*\*\* 3% annual salary increase beyond year 2021*

# Exhibit B – Project Design Milestones & Deliverables

## Project Design Milestones

Architect Responsibilities	Owner Responsibilities
Fully Executed Contract	0%
	1%
	5%
	10%
Three Design Options Delivered	15%
City Planning Processes initiated	20%
Schematic Design Report Delivered	25%
	35%
Design Development Report Delivered	50%
	75%
Construction Document Report Delivered	80%
Procurement Begins	90%
	95%
Bid Period Ends	99%
	100%

- Project Steering Team Kickoff
- QAQC #1 Existing Conditions
- Project Stakeholder Team Kickoff
- Commissioning Provider Kickoff
- MEP Systems Decisions Made
- All major scope items have final decisions
- QAQC #3 Two Week Comprehensive Design Review
- Fully Executed Construction Contract



## Design Milestones

### 0% Complete – Fully executed architectural contract

Once the Design team has a fully executed contract, work may commence. The Architect is required to download a new copy of the Minneapolis Public Schools (MPS) Master Specifications at this time. Previous project specifications shall not be used as a template for new projects. All changes to MPS Master Specifications will be recorded with track changes, with additions and deletions clearly identified at each Design Report Phase. The Architect shall utilize the MPS Design Guidelines in the development of the Work. Deviations from design guidelines shall be documented and sent to the Owner for Approval. The Architect shall conform to the MPS Revit and Drafting Standards including MPS sheet numbering conventions and begin the Work with the MPS Revit template provided by the Owner.

### 1% Complete – Project Steering Team Kickoff Meeting

The Owner will schedule the first meeting of the Project Steering Team, a team that discusses project scope, schedule, and budget and makes recommendations to the Owner. This team needs to meet at the onset of the project to provide background and input for the design team. The meeting will be in person and will have an agenda prepared by the Owner's Project Manager that includes:

1. Welcome and Introductions
2. Team roles and responsibilities
3. Communication protocol and confidentiality agreement
4. Project Overview
5. Next Steps

The Architect is expected to provide a presentation, a clear ask of the group, and any available graphics that can describe the scope of work to the team. Graphics at this stage may include aerial photographs, photographs of the building and site, massing models if available, or rudimentary renderings if available. Any graphics that were included in the RFP may be used to describe the scope of work. The Owner will present the most recent list of maintenance requirements that should be incorporated into the project. Generally, the maintenance needed matches the project budget detail. However, on occasion, the maintenance required for the project may change to accommodate the most needed items.

### 5% Complete – Quality Assurance / Quality Control (QAQC) #1 – Existing Conditions Meeting

The Owner will coordinate a meeting on site at the school with the Architect and the Owner's QAQC team. The purpose of the meeting is to:

1. Introduce the design team to the QAQC team
2. Allow the QAQC team an opportunity to present important existing conditions to the Architect
3. Inform the Architect of any work that has been performed during pre-planning of the project and can be removed from scope.
4. Document all presented conditions for future reference whether they are included in the budget provided by the Owner at project kickoff or if they are outside the scope of the Work.
5. Identify known deficiencies in the building that are identified in the budget provided by the Owner at project kickoff.
6. Provide the Owner an opportunity to present deficiencies not identified in the budget that should be considered as part of the Work.

The Architect is expected to provide:



- Sign in sheet
- One person whose sole role at the meeting is to document the conversation and take photographs as needed
- Minutes that capture all presented conditions and general discussions during the meeting.
- If multiple component meetings are conducted (e.g. mechanical, electrical, plumbing) the Architect shall assign a person to each team to document the review.

### 10% Complete – Project Stakeholder Team Kickoff Meeting

The Owner will identify members of the Project Stakeholder team and schedule a meeting with the Architect. The Architect is expected to present preliminary information on the project that includes scope, schedule, and budget. The Architect shall provide graphics that are easy to interpret for a non-technical audience such as 3-D views, renderings, photographs, or video fly throughs.

### 15% Complete - Three Options Delivered

The Architect will deliver at least three options to illustrate proposed solutions that will be presented to the Steering Team. All three options must be within the budget provided by the Owner at project kickoff and address programmatic and maintenance goals of the Work. The goal of the meeting is to present options to the Steering Team and ask for recommendations to proceed with design. The Architect is responsible for providing:

- Images that depict the scope options in 3-D formats. Acceptable formats are:
  - Greyscale camera views from Revit
  - Video flythrough
  - Hand drawn perspectives
- Color-coded floor plan that clearly describes scope of work and any associated programmatic moves within the building.
- A table summary of preliminary costs broken into categories of maintenance and new items
- A meeting agenda
- A digital presentation as well as paper handouts
- Minutes

Estimates of expected costs at this stage shall be AACE International Class 4 levels. The cost estimate shall clearly show the expected accuracy range and provide sufficient detail and reference to determine the source and scope of the information. The estimate shall also identify potential risks to the project and estimated costs and mitigation strategies for further refinement.

### 20% Complete – City planning processes started

It is expected that projects with additions in excess of 2,500 sf or those that disturb more than one acre of land to take 10 to 12 weeks to complete the City of Minneapolis Planning Process. As soon as the Architect has:

- A survey, even in draft form
- A preliminary understand of how big and where any addition(s) will be
- Elevations or camera views from Revit
- Site plan, even in draft form

The Architect shall have an initial meeting with the Planning Department at the City of Minneapolis to discuss initial feedback related to site improvements and storm water conditions on the site. The architect shall

invite the Owner's Project Manager to the meeting. As soon as is practicable after the meeting, the Architect shall complete the online application to begin the PDR, LUA, CUP, and variance processes. The Architect shall develop meeting minutes for all meetings with the City. The meeting minutes shall be sent to all parties in attendance for verification of items discussed and to the Owner's Project Manager.

### 20% Complete – Commissioning Agent kickoff

The Owner will hire a Commissioning Agent for most projects. The Commissioning Agent will be responsible for design review and input throughout the project. The Architect will incorporate the Commissioning Agent comments upon review and approval by the Owner's Project Manager.

### 25% Complete – Schematic Design (SD) Report, Cost Estimate 1, Constructability Review 1, EDA preliminary report

The Architect will deliver the Schematic Design (SD) report to the Owner for review. . The SD Report will be used to make final scope determinations, select mechanical options, and determine if the project is on budget and on schedule. The Owner will provide Bluebeam software to compile Owner comments to return to the Architect. The Architect will identify any non-standard equipment or processes in this report for Owner approval. SD report shall include:

- All drawings created for the project to date. This shall include a complete title page that indicates all potential drawings that will form the Construction Drawings. All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- MEP narratives
- Cost Estimate #1 that contains cost information for up to three mechanical options and up to two architectural variations that meet program needs. The cost estimate shall be an AACE International Class 3 estimate. The estimate shall provide enough detail to determine the major cost drivers for the project and adequate to understand the scope of the project. The cost estimate shall detail the level of accuracy and provide a narrative on the contingency value used and why. Where appropriate the maintenance items that are not part of the improvement items shall be detailed in the cost estimate
- Constructability Review #1
- Preliminary EDA report (not all projects should participate in EDA)
- All meeting minutes to date
- Survey
- City Planning Documentation
- Revit file archived at delivery of SD report

SD report must be in 8 ½ x 11 format, in a binder, with tabs. It must also be delivered digitally as a PDF. Provide two paper copies to the Project Manager for review. The table of contents should read:

1. Project Background
  - a. Executive Summary
  - b. Project Goals
  - c. Program goals
  - d. Project Scope
  - e. Preliminary Project Schedule showing both design, bidding and construction schedules
2. Existing Conditions
  - a. Survey
  - b. Site Plan
  - c. Code Reviews

- d. Revit Camera Views or renderings
3. Design Options
  - a. Architectural
  - b. Mechanical
  - c. Electrical
  - d. Plumbing
  - e. Food Service (if applicable), etc.
  - f. Maintenance items identified in the 5% meeting.
4. Cost Estimate
  - a. Project Budget breakdown for consultant services
  - b. Cost Estimate. AACE International Class 3
  - c. Constructability Review. List all risks and any unknown complexities.
5. EDA report (if applicable)
6. Minutes

### 35% Complete – MEP decisions Made

The Owner is committed to making any major MEP decisions such as choosing system types at this stage in order to allow the Architect to progress with drawings, designs and specifications. Documentation of decisions shall be provided in meeting minutes.

### 50% Complete – Design Development (DD) report, Cost Estimate 2, Constructability Review 2, Final EDA report

The Owner is committed to making design decisions early in order to have a robust submittal at this phase for review. For the DD Report, the Architect shall provide:

- Enough detail completed in at least one portion of the building (or major component of the project), to produce detail sheets, an idea of design intent with mechanical systems, and architectural decisions that indicate a final configuration.
- Specification sections that represent all or nearly all sections to be included in construction documents
- All drawings needed for a Construction Document shall be identified and in order.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.

DD report shall contain:

- Two half size drawings sets, unbound, and two paper copies of the specification, unbound
- All drawing sheets that will be included in the final set, even if they are blank, developed to 65% complete.
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions, even if they are blank
- Cost estimate #2 in organized by major CSI division for construction items and detailed non-construction items. The cost estimate shall be an AACE International Class 3 estimate that shows the accuracy range of each item and the total.
- Constructability review #2
- Final EDA report (if applicable)
- Update on City of Minneapolis planning progress (if applicable)
- Revit file archived at delivery of DD report and delivered to the Owner

DD report shall have letter sized pages that can be delivered in a binder. The DD report shall include drawings that are 11x17. The Architect shall deliver two printed copies and one electronic copy to the Owner.

### 50% Complete – All major scope items have final decisions

The Owner will make final decisions on all major scope items in order to allow the Architect to create detailed drawings for the next review. The deliverable from the Owner to the Architect will be written confirmation of scope decisions.

### 75% Complete – QAQC #3 – Two Week Comprehensive Design Review

The Architect will prepare complete and detailed drawing sets and complete specifications for review by the Owner. The 75% set of drawings shall have 75% of all the drawings completed (100%) and all drawings in the Construction drawing set identified in the index. Detail numbering and references shown in the 75% drawings cannot be changed. Specifications shall be provided such that all specifications are identified and 75% of the specifications are considered to be in final form. All changes to the MPS Master Specifications shall be clearly shown using track changes. New specifications that are not part of the MPS Master Specifications shall be identified. Specifications shall be provided in an MS Word format for review. Drawings shall be provided in a PDF format for review. Comments to specifications will be made using track changes. Comments to drawings will be made in Bluebeam. The Architect shall document all comments and either incorporate them into the documents or provide an issue resolution document that details the comment and resolution and reasons not to include the change in the Construction Document. The Owner will compile comments and return them to the Architect following a two week review period. Documentation shall include all elements required to accurately describe the work. The Architect shall maintain the 75% review set for reference. The Architect shall provide the Owner with a list of unresolved comments/changes at the 90% review stage. The Owner and Architect shall document any unresolved item not included in the final project set and place that in the file.

### 80% Complete – Construction Document (CD) report, Cost Estimate #3, Constructability Review #3

Construction Document (CD) report is the basis for a final quality control check by the Owner. At this stage the drawings shall be complete. Cost estimates at this stage shall be at the AACE International Class 2 level with documented levels of accuracy for each item. The estimate shall include any risks and contingencies, exceptions and sources. Expected accuracy for each item is -10% to +20% or better. An estimate simulation shall be completed showing the outcome of various scenarios inside of the accuracy range. The final cost estimate shall not contain any amount for design contingency. At a minimum, 5% of the budget shall be represented in add alternates. Deliverables will include:

- Two half size drawings sets, unbound, and two paper copies of the specification, unbound
- one printed binder of letter sized documentation
- Digital versions of all documentation. Drawings shall be in PDF and REVIT.
- All drawings shall be bookmarked in Bluebeam by the Architect as defined in Article 5 of the AIA E203-2015 to facilitate Owner reviews.
- Specifications shall be in MS Word format.
- Correspondence relevant to City of Minneapolis Planning processes or Plan Review processes
- All drawing sheets that will be included in the final set.
- Egress plan for construction zones while building is occupied
- Diagrammatic layouts of building systems
- Draft specification that contains all divisions
- No major changes in design intent or scope can occur between DD and CD report

- cost Estimate #3 organized by CSI division for construction items and detailed non-construction items at Class 2 level
- Constructability Review narrative
- Revit file archived at delivery of CD report

The Owner will require two weeks to review the documents to ensure completeness and accuracy. Architect shall incorporate Owner comments into the final construction documents prior to issuing the set for bid release.

### 90% Complete – Procurement Begins

100% Construction Documentation set is released for public bid. Architect will coordinate with Owner to set a date for the mandatory pre-bid meeting, publicize bid release, and produce a call for bids. Owner will approve all addenda issued during the procurement process and will have adequate time to review any major changes issued via addenda. The Architect is expected to attend the pre-bid meeting and provide responses to questions, issue addendums and document changes to designs, specifications and contract documents.

### 95% Complete

This is considered as the bid opening. All addenda have been issued and questions responded to. The bid opening shall be attended by the Architect. The Architect shall provide a review of the apparent low bid and a written recommendation of award to the Owner. If the apparent low bid exceeds the cost estimate provided by the Architect, a detailed review and analysis shall be conducted by the Architect to determine the areas that caused the over bid. The Architect shall also make a written recommendation to accept or deny the add alternates in the bid document.

### 100% Complete – Fully executed contract between Owner and General Contractor

The Architect shall submit to the Owner the Revit file containing the Construction drawings, the specifications in an MS Word format and any addenda issued in an MS Word format. The architect shall prepare the contract documents for award of the contract using Owner provided forms, issue the notice of award to the Contractor and collect the payment and performance bonds, insurance, letter of assent and other documents. Once executed by the Contractor, the Architect shall provide a complete set to the Owner for signature. Upon Board of Education approval of the contract, the Architect shall prepare a Notice to Proceed for the Contractor. The Architect shall provide the Notice to Proceed to the Owner for review. The Owner shall issue the Notice to Proceed to the Contractor.

## Construction Phase

The Architect shall prepare all meeting agendas and produce meeting minutes for regular meetings throughout the construction phase. The Architect will notify the Owner of discussion topics prior to the scheduled meeting so the Owner may invite the appropriate MPS staff to participate in the meeting. Meeting minutes for all meetings shall be distributed within 5 working days of the meeting. All agendas and meeting minutes shall be provided to the Owner for review in an MS Word format. Changes will be documented using track changes.

### Submittals

The Architect shall follow the Owner’s process for submittals. Contractor shall send submittals to the Architect in accordance with the submittal schedule prepared by the Contractor. The Architect shall document submittal schedule variances and provide the information to the Contractor and the Owner each

month. The Architect shall review all submittals and determine if the submittal meets the Contract Documents. Each submittal shall be labeled with a stamp or similar that identifies the reviewer of the submittal, date of review and action. Submittals shall be marked as:

- No exception taken
- Make Corrections Noted
- Revise and Resubmit
- Rejected
- No submittal is required

A copy of each submittal shall be provided to the Owner. The Architect shall be responsible for developing and maintaining a complete and accurate submittal log. The submittal log shall identify the submittal number, description, date received from contractor, date sent to reviewer, date returned from reviewer, action, date sent back to the Contractor and date when Owner was provided a copy. If the Architect is unclear as to the requirements of the contract documents or should the Architect need input from the Owner, the Architect shall contact the Owner's Project Manager. All substitution requests shall be sent to the Owner for review. The Owner requires a minimum of 1 week for all reviews. The Architect shall log and track all items sent to the Owner for review and monitor the review schedule.

### Substantial Completion

The Architect shall review the punch list provided by the Contractor to verify the list is complete and accurate based on the Architect's review. The Architect shall issue a preliminary final punch list of items to the Owner and schedule a punch list site review with the Owner. The punch list may be modified as a result of the Owner's punch list site review. The Architect shall then issue a final punch list to the Owner and Contractor. If the Owner and Architect deem the project substantial complete in accordance with Contract Documents, the Architect shall prepare and deliver a Certificate of Substantial Completion to the Contractor and Owner establishing the date of substantial completion. The punch list provided at the time of Substantial Completion shall include the Architect's estimate of costs to repair each of the items on the punch list. The estimate provided shall form the basis of the amount of retainage to be withheld for the punch list items in accordance with Minnesota Statute. Issuance of the Certificate of Substantial Completion shall include the final punch list and establish the date of substantial completion. The punch list shall include a complete list of all manuals, warranties, commissioning reports and other items required by the Contractor as part of the Contract Documents that was not previously provided to the Owner and accepted. If the project is not deemed substantially complete by the date established in the Contract Documents, the Architect will inform the Contractor of the liquidated damages provision in the Contract Document and apply liquidated damages to the next progress payment until the Certificate of Substantial Completion is issued.

# 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 - Owner Requirements

## Targeted Group Business

The Owner's Targeted Group Business goal is 12%. The Architect will employ the following strategies:

- Expanding the Professional identity of the targeted business with the design and construction industry.
- Creating opportunities for networking and exposure of the targeted business by team with other consultants.
- Encouraging leadership and management within both organizations and the targeted business through the design and construction process.
- Gaining new perspectives and encouraging cultural change within the firm by working with targeted business.

## Quality Performance and Owner Provisions

The following are checklists to enhance quality performance tracking and requirements to promote improved delivery for Architect work items most commonly encountered throughout design and construction.

### Before design commences

1. The Architect shall begin design with current download of the Owner's published Master Specifications as provided by the Owner at design kickoff.
2. The Architect shall design to the Owner's published design guidelines and requirements as provided by the Owner at design kickoff. Deviation from the design standard shall be clearly noted on all drawings and specifications up to CD.
3. The Architect shall conform to the Owner's Revit and Drafting Standards as provided by the Owner at design kickoff.
4. The Architect shall begin the 3-D model with the Owner's Revit template as provided by the Owner at design kickoff.
5. The Architect shall be familiar with the City of Minneapolis Planning Review Process.

### During Design

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall conform to the Owner's design milestones and deliverables as defined in EXH-B.

3. The Architect shall incorporate the Owner's review comments provided during design phases into the final design prior to project bid. Comments shall be cataloged by the Architect and resolution to comments clearly explained.
4. The Architect shall be familiar with the Owner's Procurement requirements.
5. The Architect shall own all agendas and meeting minutes throughout the design process.
6. The Architect shall document all major decision points.
7. The Architect shall present to the Owner's community stakeholders as required.

### During Construction Administration

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. The Architect shall own all agendas and meeting minutes throughout the construction process.

### During Substantial Completion

1. Conform to the requirements of Article 3 in AIA Document B101-2017.
2. Confirm with the Owner the completeness of the punchlist before finalizing.
3. Provide the Owner with a detailed estimate to complete or repair all items on the substantial completion punchlist.

### During Project Closeout

1. Conform to all activities required in Article 3 of AIA Document B101-2017.
2. Within thirty (30) days of the date of Substantial Completion, the Architect shall provide the Owner, in writing, a list of incomplete items and the cost to complete those items.

## Safety Precautions and Programs

While on location of the Project, the Architect hereby agrees to and shall comply with the following Owner safety requirements.

1. Security Identification Badges: The Owner requires all personnel to wear an identification badge when at a facility of the Owner. The identification badge is to remain on personnel and clearly visible at all times. No one is permitted on-site without an identification badge. The identification badge shall contain the following:
  - a. A legible photograph of the individual (passport sized photo)
  - b. Name of the individual (Minimum 14 point font)
  - c. Name of the employer (Company name, minimum 14 point font)

- d. The badge shall be plastic-laminated.
  - e. The badge identification size shall be 3 ½" x 2 ½" minimum.
2. All personnel are required to check in with the main office to sign in, get a badge, and indicate their destination within the building while school is in session. All personnel are required to sign out in the main office upon completion of their site visit.
  3. No personnel will be allowed to prop doors open and leave them unattended.

## ***Building Information Modeling and Digital Data Exhibit***

This Exhibit dated the 31 day of January in the year 2020 is incorporated into the agreement (the “Agreement”) between the Parties for the following Project:  
*(Name and location or address of the Project)*

Defined in EXH-A Project Charter

### **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.)*

<b>Anticipated Digital Data</b>	<b>Applicability to the Project</b> <i>(Indicate Applicable or Not Applicable)</i>	<b>Location of Detailed Description</b> <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
---------------------------------	-------------------

#### 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;

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- .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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## ARTICLE 5 OTHER TERMS AND CONDITIONS

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

### § 5.1 Digital Reviews in Bluebeam

PDF documents shall be produced from the 3-D Digital Model as requested by the Owner and digitally transmitted to the Owner for digital review. The PDF files shall be produced with the following criteria

- .1 All sheets in the drawing set shall be listed on the title sheet.
- .2 All sheets shall be bookmarked accurately from the title sheet of the drawing set allowing users to click on a sheet name and arrive at that sheet.
- .3 All drafting symbols representing enlarged plans, sections, and details shall be accurately linked to the respective drawings.
- .4 The Architect shall create a bookmark list of each major discipline allowing users to jump to the first sheet for each discipline.

# Additions and Deletions Report for AIA® Document E203™ – 2013

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 10:18:49 ET on 01/31/2020.

## PAGE 1

This Exhibit dated the ~~day of~~ 31 day of January in the year 2020 is incorporated into the agreement (the “Agreement”) between the Parties for the following Project:

...

Defined in EXH-A Project Charter

## PAGE 4

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

## PAGE 5

[ X ] 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

### § 5.1 Digital Reviews in Bluebeam

...

PDF documents shall be produced from the 3-D Digital Model as requested by the Owner and digitally transmitted to the Owner for digital review. The PDF files shall be produced with the following criteria

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...

.3 All drafting symbols representing enlarged plans, sections, and details shall be accurately linked to the respective drawings.

...

.4 The Architect shall create a bookmark list of each major discipline allowing users to jump to the first sheet for each discipline.

## **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 10:18:49 ET on 01/31/2020 under Order No. 0188038492 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document E203™ - 2013, Building Information Modeling and Digital Data Exhibit, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

---

*(Signed)*

---

*(Title)*

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*(Dated)*



# AIA<sup>®</sup> Document G201<sup>™</sup> – 2013

## Project Digital Data Protocol Form

PROJECT: *(Name and address)*

### 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 a project specific AIA Document E203<sup>™</sup>–2013, Building Information Modeling and Digital Data Exhibit, which the Parties will incorporate into their Agreement for the Project.

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AIA Document G201<sup>™</sup> – 2013. Copyright © 2013 by The American Institute of Architects. All rights reserved. **WARNING: This AIA<sup>®</sup> Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA<sup>®</sup> Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 11:55:14 on 04/17/2018 under Order No. 8259021829 which expires on 03/18/2019, and is not for resale.

User Notes:

(3B9ADA25)

Defined in EXH-A Project Charter

**PROTOCOL VERSION NUMBER:**

**DATE:** March 13, 2018

**PREPARED BY:** Minneapolis Public Schools

**DISTRIBUTION TO:** *(List each individual to whom this protocol is distributed. Include individuals listed in Section 1.2, or reference Section 1.2, along with any additional recipients.)*

Defined in EXH-A Project Charter

**TABLE OF ARTICLES**

**1 GENERAL PROVISIONS REGARDING USE OF DIGITAL DATA**

**2 DIGITAL DATA MANAGEMENT PROTOCOLS**

**3 TRANSMISSION AND USE OF DIGITAL DATA**

**ARTICLE 1 GENERAL PROVISIONS REGARDING USE OF DIGITAL DATA**

**§ 1.1** List each Project Participant that has incorporated AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated , into its agreement for the Project:

Project Participant	Discipline

**§ 1.2 Project Participants.** For each Project Participant listed in Section 1.1, identify and provide contact information for the individuals responsible for implementation of the Digital Data protocols.

Project Participant	Individual Responsible	Contact Information

**§ 1.3** Terms in this document shall have the same meaning as those in AIA Document E203–2013.

**ARTICLE 2 DIGITAL DATA MANAGEMENT PROTOCOLS**

**§ 2.1.1 Electronic Document Management System.** If, pursuant to Section 3.5.1 of the Project specific version of AIA Document E203–2013, the Project Participants indicated an intent to use a centralized electronic document management system on the Project, the requirements for the centralized electronic document management system are as follows:

*(The requirements for the system shall address, among other things, access to and security of Digital Data.)*

**§ 2.1.2 System Startup Requirements.** Initial training and other startup requirements to be implemented with respect to the use or management of Digital Data, if any, are as follows:

*(Describe in detail any initial training or other startup requirements.)*

The Owner shall provide a Revit template to be used to create the Model. The Owner shall provide Revit and Drafting Standards as outlined in EXH-C.2 Quality Performance & Owner Provisions of AIA B101-2017.

**§ 2.1.3 Ongoing System Requirements.** Ongoing training or support programs to be implemented with respect to the use or management of Digital Data, if any, are as follows:

*(Describe in detail any ongoing training or support programs to be implemented.)*

**§ 2.2 Digital Data Storage Requirements.** The procedures and requirements for storing Digital Data during the course of the Project, if any, are as follows:  
*(Describe in detail the procedures and requirements for storing Digital Data during the course of the Project.)*

**§ 2.3 Digital Data Archiving Requirements.** The procedures and requirements for archiving and preserving Digital Data during the course of the Project and following final completion of the Project, if any, are as follows:  
*(Describe in detail the procedures and requirements for archiving and preserving Digital Data during the course of the Project and following final completion.)*

The Architect shall maintain digital versions of all meeting minutes. The Architect shall maintain digital versions of the Model at all project Report Milestones as well as the Conformed As Bid Model and the As Designed Record Model. All other requirements are defined in the Owner's Revit and Drafting Standards as defined in EXH-C.2 Quality Performance & Owner Provisions to and article 3.6.6.6 AIA B101-2017.

**§ 2.4 Other Digital Data Management protocol requirements, if any, are as follows:**  
*(Describe in detail any other requirements.)*

**ARTICLE 3 TRANSMISSION AND USE OF DIGITAL DATA**

**§ 3.1 Digital Data Protocol Table.** The Project Participants shall comply with the data formats, transmission methods and Authorized Uses set forth in the Digital Data Protocol Table below when transmitting or using Digital Data on the Project.

*(Complete the Digital Data Protocol Table by entering information in the spaces below. Adapt the table to the needs of the Project by adding, deleting or modifying the listed Digital Data as necessary. Use Section 3.2 Digital Data Protocol Table Definitions and Notes to define abbreviations placed, and to record notes indicated, in the Digital Data Protocol Table.)*

Digital Data	Digital Data Format	Transmission Method	Authorized Uses	Note Number <i>(See Sec. 3.2)</i>
<b>§ 3.1.1</b> Project Agreements and Modifications				
<b>§ 3.1.2</b> Project communications				
General communications				
Meeting notices				
Agendas				
Minutes				
Requests for information				
Architect's Supplemental Instructions				
<b>§ 3.1.3</b> Architect's pre-construction submittals				
Schematic Design Documents				
Design Development Documents				
Construction Documents				
<b>§ 3.1.4</b> Contract Documents				
Architect's Drawings				
Architect's Specifications				
<b>§ 3.1.5</b> Contractor's submittals				
Product data				
Submitted by Contractor				
Returned by Architect				
Shop drawings				
Submitted by Contractor				
Returned by Architect				
<b>§ 3.1.6</b> Subcontractor's submittals				

Product data				
Submitted by Subcontractor				
Returned by Contractor				
Shop drawings				
Submitted by Subcontractor				
Returned by Contractor				
<b>§ 3.1.7 Modifications</b>				
Requests for proposal				
Architect's order for a minor change in the Work				
Proposals				
Construction Change Directives				
Change Orders				
<b>§ 3.1.8 Project payment documents</b>				
<b>§ 3.1.9 Notices and Claims</b>				
<b>§ 3.1.10 Closeout documents</b>				
Record documents				
Operations and Maintenance Manual				

**§ 3.2 Digital Data Protocol Table Definitions and Notes**

**Digital Data Format:**

*(Provide required data format, including software version, if applicable.)*

Digital Data Format	Definition
---------------------	------------

**Transmission Method:**

*(Below are suggested abbreviations and definitions. Delete, modify or supplement, as necessary.)*

Abbreviation	Definition
CD	Delivered via Compact Disk
EM	Via e-mail
DMS	Centralized Electronic Document Management System

**Authorized Uses of Digital Data:**

*(Below are suggested abbreviations and definitions. Delete, modify or supplement, as necessary.)*

Abbreviation	Definition
I	Integrate (incorporate additional digital data without modifying data received)
M	Modify as required to fulfill obligations for the Project
R	Reproduce and distribute
S	Store and view only

**Notes:**

*(List by number shown on table.)*

# **Additions and Deletions Report for** **AIA® Document G201™ – 2013**

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 11:55:14 on 04/17/2018.

## **PAGE 2**

Defined in EXH-A Project Charter

...

**DATE:** March 13, 2018

**PREPARED BY:** Minneapolis Public Schools

...

Defined in EXH-A Project Charter

...

The Owner shall provide a Revit template to be used to create the Model. The Owner shall provide Revit and Drafting Standards as outlined in EXH-C.2 Quality Performance & Owner Provisions of AIA B101-2017.

## **PAGE 3**

The Architect shall maintain digital versions of all meeting minutes. The Architect shall maintain digital versions of the Model at all project Report Milestones as well as the Conformed As Bid Model and the As Designed Record Model. All other requirements are defined in the Owner's Revit and Drafting Standards as defined in EXH-C.2 Quality Performance & Owner Provisions to and article 3.6.6.6 AIA B101-2017.



# AIA<sup>®</sup> Document G202<sup>™</sup> – 2013

## Project Building Information Modeling Protocol Form

**PROJECT:** *(Name and address)*

Defined in EXH-A Project Charter

**PROTOCOL VERSION NUMBER:**

**DATE:** March 13, 2018

**PREPARED BY:** Minneapolis Public Schools

**DISTRIBUTION TO:** *(List each individual to whom this protocol is distributed. Include individuals listed in Section 1.1, or reference Section 1.1, along with any additional recipients.)*

Defined in EXH-A Project Charter

### TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 LEVEL OF DEVELOPMENT
- 3 MODEL ELEMENTS

### ARTICLE 1 GENERAL PROVISIONS

§ 1.1 For each Project Participant that has incorporated the Project specific AIA Document E203<sup>™</sup>-2013, Building Information Modeling and Digital Data Protocol Exhibit, dated , into its agreement for the Project, identify and provide the contact information for individuals responsible for implementation of the Modeling protocols. If, for any Project Participant, more than one individual will be responsible for implementation of the Modeling protocols, list each individual separately and describe the unique Modeling Role assigned to each individual.

Modeling Role	Project Participant	Individual Responsible	Contact Information

§ 1.2 This document establishes the Modeling protocols for the Project. For purposes of these protocols, the Model is comprised of the following information and other data sets: *(Indicate disciplines, separate models, and other data that will be included within the Model and governed by the Modeling protocols.)*

§ 1.3 **Collaboration Protocols.** The Project Participants' protocols for the collaborative utilization of the Model, if any, including communications protocols, a collaboration meeting schedule and colocation requirements, are as follows:

§ 1.4 **Technical Requirements.** The technical requirements relating to the utilization of Building Information Modeling, including specific software and hardware requirements are 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.

This document is intended to be used in conjunction with a Project specific AIA Document E203<sup>™</sup>-2013, Building Information Modeling and Digital Data Exhibit, which the Parties will incorporate into their agreement for the Project, and a Project specific AIA Document G201<sup>™</sup>-2013, Project Digital Data Protocol Form.

Init.

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User Notes:

(1685548663)

**§ 1.5 Training and Support.** The parameters for any training or support program(s) that will be implemented with respect to any collaboration strategy or technical requirements are set forth below:

**§ 1.6 Model Standard.** The Model shall be developed in accordance with the following Model Standard, if any:

**§ 1.7 Model Management Protocols and Processes**

The following Model Management Protocols and Processes shall apply to the Project only if specifically designated in the table below as being applicable.

*(Designate the Model Management Protocols and Processes applicable to the Project in the second column of the table below. In the third column, indicate whether the detailed description of the Model Management Protocol or Process is located in Section 1.8 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

<b>Model Management Protocols and Processes</b>	<b>Applicability to Project</b> <i>(Applicable or Not Applicable)</i>	<b>Location of Detailed Description</b> <i>(Section 1.8 below or in an attachment to this exhibit identified below)</i>
§ 1.7.1 Model origin point, coordinate system, precision, file formats and units		
§ 1.7.2 Model file storage location(s)		
§ 1.7.3 Processes for transferring and accessing Model files		
§ 1.7.4 Naming conventions		
§ 1.7.5 Processes for aggregating Model files from varying software platforms		
§ 1.7.6 Model access rights		
§ 1.7.7 Design coordination and clash detection procedures.		
§ 1.7.8 Model security requirements		

**§ 1.8** Insert a description of each Model Management Protocol and Process identified in Section 1.7, if not further described in an exhibit attached to this document:

**§ 1.9** Terms in this document shall have the same meaning as those in AIA Document E203–2013.

**ARTICLE 2 LEVEL OF DEVELOPMENT**

**§ 2.1** The Level of Development (LOD) descriptions, included in Section 2.2 through Section 2.6 below, identify the specific minimum content requirements and associated Authorized Uses for each Model Element at five progressively detailed levels of completeness. The Parties shall utilize the five LOD descriptions in completing the Model Element Table at Section 3.3.

**§ 2.2 LOD 100**

**§ 2.2.1 Model Element Content Requirements.** The Model Element may be graphically represented in the Model with a symbol or other generic representation, but does not satisfy the requirements for LOD 200. Information related to the Model Element (i.e., cost per square foot, tonnage of HVAC, etc.) can be derived from other Model Elements.

**§ 2.2.2 Authorized Uses**

**§ 2.2.2.1 Analysis.** The Model Element may be analyzed based on volume, area and orientation by application of generalized performance criteria assigned to other Model Elements.

**§ 2.2.2.2 Cost Estimating.** The Model Element may be used to develop a cost estimate based on current area, volume or similar conceptual estimating techniques (e.g., square feet of floor area, condominium unit, hospital bed, etc.).

**§ 2.2.2.3 Schedule.** The Model Element may be used for Project phasing and determination of overall Project duration.

**§ 2.2.2.4 Other Authorized Uses.** Additional Authorized Uses of the Model Element developed to LOD 100, if any, are as follows:

### **§ 2.3 LOD 200**

**§ 2.3.1 Model Element Content Requirements.** The Model Element is graphically represented within the Model as a generic system, object, or assembly with approximate quantities, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

#### **§ 2.3.2 Authorized Uses**

**§ 2.3.2.1 Analysis.** The Model Element may be analyzed for performance of selected systems by application of generalized performance criteria assigned to the representative Model Elements.

**§ 2.3.2.2 Cost Estimating.** The Model Element may be used to develop cost estimates based on the approximate data provided and quantitative estimating techniques (e.g., volume and quantity of elements or type of system selected).

**§ 2.3.2.3 Schedule.** The Model Element may be used to show ordered, time-scaled appearance of major elements and systems.

**§ 2.3.2.4 Coordination.** The Model Element may be used for general coordination with other Model Elements in terms of its size, location and clearance to other Model Elements.

**§ 2.3.2.5 Other Authorized Uses.** Additional Authorized Uses of the Model Element developed to LOD 200, if any, are as follows:

### **§ 2.4 LOD 300**

**§ 2.4.1 Model Element Content Requirements.** The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of quantity, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

#### **§ 2.4.2 Authorized Uses**

**§ 2.4.2.1 Analysis.** The Model Element may be analyzed for performance of selected systems by application of specific performance criteria assigned to the representative Model Element.

**§ 2.4.2.2 Cost Estimating.** The Model Element may be used to develop cost estimates suitable for procurement based on the specific data provided.

**§ 2.4.2.3 Schedule.** The Model Element may be used to show ordered, time-scaled appearance of detailed elements and systems.

**§ 2.4.2.4 Coordination.** The Model Element may be used for specific coordination with other Model Elements in terms of its size, location and clearance to other Model Elements including general operation issues.

**§ 2.4.2.5 Other Authorized Uses.** Additional Authorized Uses of the Model Element developed to LOD 300, if any, are as follows:

## § 2.5 LOD 400

**§ 2.5.1 Model Element Content Requirements.** The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of size, shape, location, quantity, and orientation with detailing, fabrication, assembly, and installation information. Non-graphic information may also be attached to the Model Element.

### § 2.5.2 Authorized Uses

**§ 2.5.2.1 Analysis.** The Model Element may be analyzed for performance of systems by application of actual performance criteria assigned to the Model Element.

**§ 2.5.2.2 Cost Estimating.** Costs are based on the actual cost of the Model Element at buyout.

**§ 2.5.2.3 Schedule.** The Model may be used to show ordered, time-scaled appearance of detailed specific elements and systems including construction means and methods.

**§ 2.5.2.4 Coordination.** The Model Element may be used for coordination with other Model Elements in terms of its size, location and clearance to other Model Elements, including fabrication, installation and detailed operation issues.

**§ 2.5.2.5 Other Authorized Uses.** Additional Authorized Uses of the Model Element developed to LOD 400, if any, are as follows:

## § 2.6 LOD 500

**§ 2.6.1 Model Element Content Requirements.** The Model Element is a field verified representation in terms of size, shape, location, quantity, and orientation. Non-graphic information may also be attached to the Model Elements.

**§ 2.6.2 Authorized Uses.** Specific Authorized Uses of the Model Element developed to LOD 500, if any, are as follows:

## ARTICLE 3 MODEL ELEMENTS

### § 3.1 Reliance on Model Elements

**§ 3.1.1** At any particular Project milestone, a Project Participant may rely on the accuracy and completeness of a Model Element only to the extent consistent with the minimum data required for the Model Element's LOD for that Project milestone as identified below in the Model Element Table, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

### § 3.1.2 Coordination and Model Refinement

Where conflicts are found in the Model, regardless of the phase of the Project or LOD, the Project Participant that identifies the conflict shall promptly notify the Model Element Authors and the Project Participant identified in AIA Document E203–2013 Section 4.8 as being responsible for Model management. Upon such notification, the Model Element Author(s) shall act promptly to evaluate, mitigate and resolve the conflict in accordance with the processes established in Section 1.7.7, if applicable.

**§ 3.2 Table Instructions**

**§ 3.2.1** The Model Element Table in Section 3.3 indicates the LOD to which each Model Element shall be developed at each identified Project milestone and the Model Element Author.

**§ 3.2.2** Abbreviations for each Model Element Author to be used in the Model Element Table are as follows:  
*(Provide abbreviations, such as "A—Architect," or "C—Contractor.")*

**Abbreviation**

**Model Element Author (MEA)**

**§ 3.3 Model Element Table**

Model Element Category	Scope Status	Required LOD at Project milestones as defined in EXH-B Project Milestones & Deliverables					
		15%	25%	50%	75%	90%	100%
Exterior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior Walls	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Roofs	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Floors	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Exterior doors and windows	Within Scope	200	300	300	300	300	300
	Outside of Scope	100	300	300	300	300	300
Interior doors and windows	Within Scope	200	200	300	300	300	300
	Outside of Scope	100	200	200	200	200	200
Major structural elements	Within Scope	Not required	200	200	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required
Plumbing Fixtures	Within Scope	100	300	300	300	300	300
	Outside of Scope	Not required	Not required	Not required	Not required	Not required	Not required

**§ 3.4 Model Element Table Notes**

Notes:  
*(List by number shown on table.)*

# Additions and Deletions Report for AIA® Document G202™ – 2013

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

Defined in EXH-A Project Charter

...

**DATE:** March 13, 2018

**PREPARED BY:** Minneapolis Public Schools

...

Defined in EXH-A Project Charter

## PAGE 5

### § 3.3 Model Element Table

<u>Model Element Category</u>	<u>Scope Status</u>	<u>Required LOD at Project milestones as defined in EXH-B Project Milestones &amp; Deliverables</u>					
		<u>15%</u>	<u>25%</u>	<u>50%</u>	<u>75%</u>	<u>90%</u>	<u>100%</u>
Exterior Walls	<u>Within Scope</u>	<u>200</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
	<u>Outside of Scope</u>	<u>100</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
Interior Walls	<u>Within Scope</u>	<u>200</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
	<u>Outside of Scope</u>	<u>100</u>	<u>200</u>	<u>200</u>	<u>200</u>	<u>200</u>	<u>200</u>
Roofs	<u>Within Scope</u>	<u>200</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
	<u>Outside of Scope</u>	<u>100</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
Floors	<u>Within Scope</u>	<u>200</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
	<u>Outside of Scope</u>	<u>100</u>	<u>200</u>	<u>200</u>	<u>200</u>	<u>200</u>	<u>200</u>
Exterior doors and windows	<u>Within Scope</u>	<u>200</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
	<u>Outside of Scope</u>	<u>100</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
Interior doors and windows	<u>Within Scope</u>	<u>200</u>	<u>200</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>

	<u>Outside of Scope</u>	<u>100</u>	<u>200</u>	<u>200</u>	<u>200</u>	<u>200</u>	<u>200</u>
<u>Major structural elements</u>	<u>Within Scope</u>	<u>Not required</u>	<u>200</u>	<u>200</u>	<u>300</u>	<u>300</u>	<u>300</u>
	<u>Outside of Scope</u>	<u>Not required</u>	<u>Not required</u>	<u>Not required</u>	<u>Not required</u>	<u>Not required</u>	<u>Not required</u>
<u>Plumbing Fixtures</u>	<u>Within Scope</u>	<u>100</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
	<u>Outside of Scope</u>	<u>Not required</u>	<u>Not required</u>	<u>Not required</u>	<u>Not required</u>	<u>Not required</u>	<u>Not required</u>



## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, \_\_\_\_\_, 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 12:25:37 on 03/23/2018 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 G202™ – 2013, Project Building Information Modeling Protocol Form \_\_\_\_\_, 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)*



January 14, 2021

Laurie McGinley, CPCM Project Manager  
Minneapolis Public Schools  
1250 West Broadway Avenue  
Minneapolis, MN 55411

**RE: Fee and Scope Proposal**

Dear Ms. McGinley:

Based upon the Minneapolis Public Schools RFP #21-02 for services at Justice Page Middle School Renovations, a visit to the project site, and subsequent discussions with you and the project Steering Committee, we have prepared a proposal for architectural services to complete the work noted.

**PROJECT UNDERSTANDING**

Minneapolis Public Schools would like to complete numerous renovations to Justice Page Middle School in a phased design and construction sequence. This project scope will include:

- New exterior Monument Sign along 50<sup>th</sup> Street near Nicollet Avenue
- Creation of 2 new science classrooms through renovation of interior space in the lower-level north wing currently occupied by the Minneapolis Kids program.
- Replacement and upgrade of interior lighting and lighting controls. Evaluation of exterior lighting associated with the building east of the athletic fields.
- New welcoming and secure entry utilizing concepts from the entry predesign document.

**SCOPE OF SERVICES:**

The scope of services for this phase of work will follow the AIA B101-2017 Standard form of Agreement. This includes:

- Exhibit A – Project Charter
- Exhibit B – Project Design Milestones & Deliverables
- Exhibit C – Owner Insurance
- Exhibit D – Owner Requirements

**SCHEDULE:**

We have already begun some initial work on the project. Our preliminary schedule is noted below:

- Monument sign-
  - Design: Jan 2021-March 2021
  - Construction: Summer 2021
- Science classrooms –
  - Schematic Design: Jan 13 – Feb 28, 2021
  - Design Development: March
  - Construction Documents: April

- o Bid & Award: May/June
- o Construction: July / August / September / October / November 2021
- o Open 2<sup>nd</sup> semester – Jan 2022
- Entry & Lighting –
  - o Schematic Design: Jan / Feb / Mar 2021
  - o Design Development: April / May / June 2021
  - o Construction Documents: July / Aug / Sept / Oct 2021
  - o Bid & Award: Nov / Dec 2021
  - o Shops and mobilization: Jan-April 2022
  - o Construction: May 2022 – August 2022 (4 months)
  - o Punch: September 2022

**TEAM:**

Our proposed team is outlined below. Our fee proposal includes fees for all our consultant team members, including several which meet the requirements for Women Owned Business (WBE) and Minority Owned Business (MBE):

- Miller Dunwiddie (Architecture, Interior Design)
- BTR (Specifications) \*WBE
- Emanuelson Podus (MEP)
- MBJ (Structural)
- Pierce Pini (Civil) \*WBE
- Damon Farber (Landscape Architecture)
- Tru North (IT) – *MPS to provide security consulting through Tru North*
- Loeffler (Cost Estimating)

**FEES:**

Our fees for the project will be \$533,000.00, which includes \$7,500 in estimated reimbursable expenses. These fees are outlined below.

<b>Bid Package #1: Science Classrooms, Monument Sign</b>					
Phase	Schematic Design	Design Development	Construction Documents, Bid, Award	Construction Administration	Total
Fees	\$19,500	\$28,500	\$47,000	\$25,000	\$120,000
<b>Bid Package #2: Welcoming Entry, Interior &amp; Exterior Lighting Upgrades</b>					
Fees	\$63,500	\$84,500	\$156,500	\$101,000	\$405,500
Totals 1&2	\$83,000	\$113,000	\$203,500	\$126,000	\$525,500
Estimated Reimbursable Expenses					\$7,500
<b>Total Fee (including RE)</b>					<b>\$533,000</b>

If you have any questions, please feel free to contact me at 612-278-7712.

Sincerely,

Miller Dunwiddie

Paul G. May, AIA  
Principal | Architect

**AMENDMENT #2 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 1/21/2021 ("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:* \$314,215
2. *Accumulative contract amount:* \$328,547

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

**Section: 1.1 Description and 3.1 Total Obligation**

**Description:**

- 1.1 Description:** Reimbursement rate for contact hours is now \$7.74 instead of \$7.30, causing the existing total amount
- 3.1** District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$328,547. 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.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: \_\_\_\_\_

Name: Kim Ellison

Title: Board Chair

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

**Contractor:**

Signature: *Seyou Nurie*

Name: Seyou Nurie

Title: Program Coordinator, Education

Date: 1-26-2021

**AMENDMENT 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 1/21/2021 ("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: \$549,497*
2. *Accumulative contract amount: \$574,562*

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

**Section:** 1.0 Description and 3.1 Total Obligation

**Description:**

**1.1 Description** - Reimbursement rate for contact hours is now \$7.74 instead of \$7.30, causing the existing total amount

**3.1** - District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$574,562. 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.)

**SPECIAL SCHOOL DISTRICT NO. 1**

Signature: \_\_\_\_\_

Name: Kim Ellison

Title: Board Chair

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

**Contractor:**

Signature:  \_\_\_\_\_

Name: Amal Abdalla

Title: CEO, Somali Success School

Date: 2/25/2021

**AMENDMENT #2 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 1/21/2021 ("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:* \$237,612
2. *Accumulative contract amount:* \$248,450

NOW THEREFORE IT IS HEREBY AGREED by the Parties to amend the Contract as follows:

**Section: 1.1 Description and 3.1 Total Obligation**

**Description:**

**1.1 Description** - Reimbursement rate for contact hours is now \$7.74 instead of \$7.30, causing the existing total amount

**3.1** - District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$248,450. 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.)

**SPECIAL SCHOOL DISTRICT NO. 1**

Signature: \_\_\_\_\_

Name: Kim Ellison

Title: Board Chair

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

**Contractor:**

Signature:  \_\_\_\_\_

Name: Leroy West

Title: CAO, Summit Academy OIC

Date: Jan 26, 2021

SPECIAL SCHOOL DISTRICT NO. 1

Board of Education

February 9, 2021

**RESOLUTION AUTHORIZING ACCEPTANCE OF TEMPORARY CONSTRUCTION EASEMENTS**

**WHEREAS**, Minneapolis Public Schools seeks to support the Metropolitan Council and improvements to create the D-Line rapid transit bus line, and

**WHEREAS**, the project requires temporary easements for construction purposes on property owned by the District at 1101 Plymouth Avenue North (M&O building) and 3345 Chicago Avenue (Wilder School), and

**WHEREAS**, the temporary easement compensation will be for the estimated use of the property during the 44-month construction and optional two six-month extensions and

**WHEREAS**, Board of Education policy 3270 requires the Board to approve leases of District property.

**NOW, THEREFORE BE IT RESOLVED**, that the Minneapolis School Board hereby authorizes the temporary construction easements to support the D line rapid transit bus service for property owned by the District at 1101 Plymouth Avenue and 3345 Chicago Avenue and accepts compensation for the easements as provided by the Metropolitan Council. The Minneapolis School Board further resolves that the Senior Operations Officer can sign the temporary lease agreements for said property.

Signed by:

\_\_\_\_\_  
Kim Ellison  
Board of Education Chairperson

\_\_\_\_\_  
Date

\_\_\_\_\_  
Josh Pauly  
Board of Education Clerk

\_\_\_\_\_  
Date

(Above space reserved for Recording Information)

**TEMPORARY CONSTRUCTION EASEMENT**  
**Parcel No. 30**

This Temporary Construction Easement (“Easement”) is made by Board of Education of the City of Minneapolis (“Grantor”) and the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota (“Grantee”) (collectively referred to as the “Parties”).

**Whereas**, Grantor is the fee owner of real property that is legally described on the attached **Exhibit A** (“Property”); and

**Whereas**, Grantee is constructing the Metro D-Line Bus Rapid Transit Project #62800 (“Project”) for which it needs an Easement over, under and across portions of Grantor’s Property; and

**Whereas**, the purpose of the Easement is to, without limitation, locate, stage, install, and construct the Project and associated improvements on the Property (“Work”).

**NOW THEREFORE**, for the sum of \$3,600.00 to be paid by Grantee to Grantor, and in consideration for the mutual promises made herein, the parties agree as follows:

1. **Grant of Easement.** Grantor hereby grants and conveys to Grantee, its agents, contractors, permittees, successors, and assigns, an Easement over, under and across that part of the Property legally described on the attached **Exhibit B** (the “Easement Area”) and depicted on the attached **Exhibit C** for the Work.

Subsequent to the date of the Easement and until such Easement has expired, Grantor, its heirs, successors, and assigns, will not erect, construct, or create any building, improvement, obstruction, perpendicular utility crossing, or structure of any kind, either above or below the surface of the Easement Area or plant any trees, or stockpile construction debris or construction equipment, or change the grade of the Easement Area without Grantee’s express written consent.

2. **Term of Easement.** The Easement shall commence on the **March 1, 2021** and shall remain in full force and effect until **October 31, 2024** unless otherwise extended in writing by the Parties consistent with paragraph 6.

3. **Restoration.** Upon completion of the Project Grantee shall make reasonable efforts to restore the Easement Area to a like kind condition or the condition that existed prior to the granting of this Easement.

4. **Extension Option of Temporary Easements and Payment.** Grantor also grants to Grantee two (2) options to extend the term of the Temporary Construction Easement for a period of six (6) months each in accordance with the following terms:

- a. Each option to extend the term of the Temporary Construction Easement must be exercised by written notice from Grantee to Grantor not less than fourteen (14) days prior to the expiration of the then current term of the Temporary Construction Easement.
- b. Grantee shall pay Grantor the sum of \$500.00 dollars upon exercise of each option for the extension term. All terms and conditions of this Agreement shall remain in full force and effect during the extension term.

5. **Covenant of Ownership.** Grantor covenants that it is the lawful owner and is in lawful possession of the above described real estate and has the lawful right and authority to convey and grant the Easement.

6. **Notices and Demands.** All notices, requests, demands, consents, and other communications required or permitted under this Easement shall be in writing and shall be deemed to have been duly and properly given 3 business days after the date of mailing if deposited in a receptacle of the United States mail, first class postage prepaid, addressed to the intended recipient as follows:

Grantor: Board of Education of the City of Minneapolis  
1250 West Broadway Avenue  
Minneapolis, MN 55407

Grantee: Metropolitan Council  
390 Robert Street North  
Saint Paul, MN 55101-1805  
Attn: Real Estate Office

7. **Termination, Amendment, or Release of Easement.** The Easement may only be amended by written agreement signed by the Parties or their successors and/or assigns. If amended, either the Grantee or the Grantor shall record the amendment against the Property. Grantee may release the Easement at any time during the Term by a executing a Release of Easement and recording the same against the Property and providing a copy of the Release of Easement to the Grantor. After the Term of the Easement has expired, this Easement shall automatically expire without further action by the parties.

8. **Miscellaneous.**

a. **Binding Covenant.** The provisions and conditions of this Easement shall be binding upon and inure to the benefit of the Parties and their successors and assigns and shall constitute a covenant running with the land.

b. **Waiver.** No waiver of any provision of this Easement shall be binding unless executed in writing by the Party making the waiver. No waiver of any provision of this Easement shall be deemed to constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver unless the written waiver so specifies.

c. **Liability.** Each Party is responsible for their own acts and omissions and the results thereof to the extent authorized by the law. This shall not be construed to waive any liability limits or immunities including those arising under Minnesota Statutes Chapter 466.

d. **Governing Law.** This Easement is governed, construed, and enforced under the laws of the State of Minnesota without regard to conflicts of law provisions.

e. **Counterparts.** This Easement may be executed in any number of counterparts, each of which is to be deemed to be an original and the counterparts together constitute one and the same Easement. A physical copy or electronic copy of this Easement, including its signature pages, will be binding, and deemed to be an original.

f. **Severability.** The provisions of this Easement are severable, and in the event that any provision is held to be invalid or unenforceable, the Parties intend that the remaining provisions will remain in full force and effect.

g. **No Presumption against Drafter.** This Easement has been negotiated at arm's length and with the opportunity for the Parties to consult legal counsel regarding its terms. Accordingly, this Easement shall be interpreted to achieve the intent and purpose of the Parties, without any presumption against the drafting party.

h. **Authority of Signatory.** Each party to this Easement warrants to the other that it has the right and authority to enter into this Easement.

*The remainder of this page is intentionally left blank.*





**EXHIBIT A**

**Legal Description of the Property**

The West half of Lot 8 in Lawrence & Reeve's Outlots to Minneapolis, Hennepin County,  
Minnesota

Abstract Property

**EXHIBIT B**

**Temporary Construction Easement Area Legal Description**

A temporary easement for construction purposes over, under and across the above-described property, described as follows:

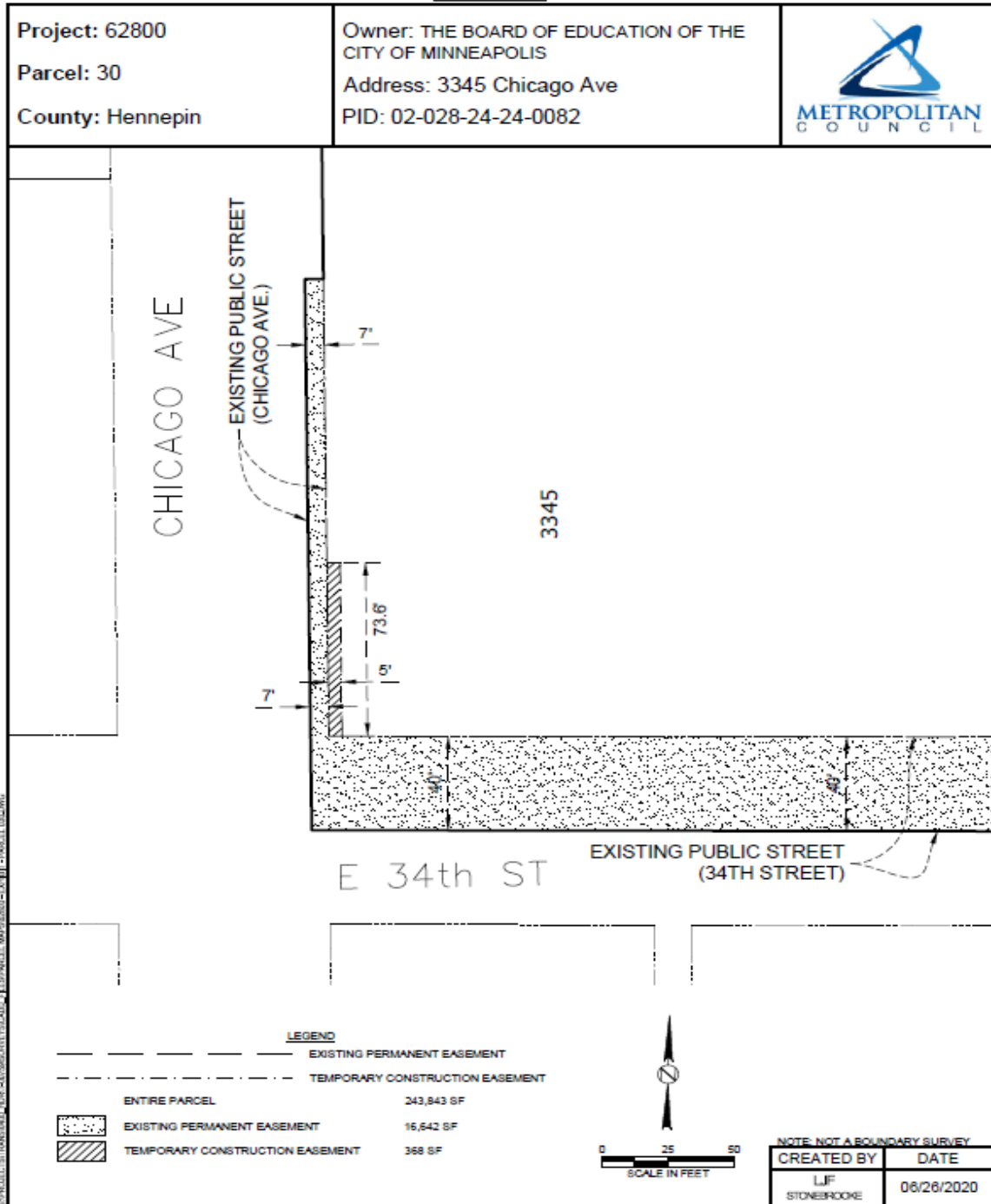
The north 73.60 feet of the south 113.60 feet of the east 5.00 feet of the west 12.00 feet of said Lot 8, Lawrence & Reeve's Outlots to Minneapolis.

(Said Temporary Easement contains 368 Square Feet, more or less.)

**EXHIBIT C**

**Temporary Construction Easement Area Depiction  
For Reference Purposes Only**

EXHIBIT A



(Above space reserved for Recording Information)

**TEMPORARY CONSTRUCTION EASEMENT**  
**Parcel No. 53**

This Temporary Construction Easement (“Easement”) is made by Special School District No. 1, a special school district created and existing under the laws of Minnesota (“Grantor”) and the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota (“Grantee”) (collectively referred to as the “Parties”).

**Whereas**, Grantor is the fee owner of real property that is legally described on the attached **Exhibit A** (“Property”); and

**Whereas**, Grantee is constructing the Metro D-Line Bus Rapid Transit Project #62800 (“Project”) for which it needs an Easement over, under and across portions of Grantor’s Property; and

**Whereas**, the purpose of the Easement is to, without limitation, locate, stage, install, and construct the Project and associated improvements on the Property (“Work”).

**Now therefore**, for the sum of \$3,600.00 to be paid by Grantee to Grantor, the receipt of which is acknowledged by Grantor, and in further consideration for the mutual promises made below, the Parties agree as follows:

1. **Grant of Easement.** Grantor hereby grants and conveys to Grantee, its agents, contractors, permittees, successors, and assigns, an Easement over, under and across that part of the Property legally described on the attached **Exhibit B** (the “Easement Area”) and depicted on the attached **Exhibit C** for the Work.

Subsequent to the date of the Easement and until such Easement has expired, Grantor, its heirs, successors, and assigns, will not erect, construct, or create any building, improvement, obstruction, perpendicular utility crossing, or structure of any kind, either above or below the surface of the Easement Area or plant any trees, or stockpile construction debris or construction equipment, or change the grade of the Easement Area without Grantee’s express written consent.

2. **Term of Easement.** The Easement shall commence on the **March 1, 2021** and shall remain in full force and effect until **October 31, 2024** unless otherwise extended in writing by the Parties consistent with paragraph 6.

3. **Restoration.** Upon completion of the Project Grantee shall make reasonable efforts to restore the Easement Area to a like kind condition or the condition that existed prior to the granting of this Easement.

4. **Extension Option of Temporary Easements and Payment.** Grantor also grants to Grantee two (2) options to extend the term of the Temporary Construction Easement for a period of six (6) months each in accordance with the following terms:

- a. Each option to extend the term of the Temporary Construction Easement must be exercised by written notice from Grantee to Grantor not less than fourteen (14) days prior to the expiration of the then current term of the Temporary Construction Easement.
- b. Grantee shall pay Grantor the sum of \$500.00 dollars upon exercise of each option for the extension term. All terms and conditions of this Agreement shall remain in full force and effect during the extension term.

5. **Covenant of Ownership.** Grantor covenants that it is the lawful owner and is in lawful possession of the above described real estate and has the lawful right and authority to convey and grant the Easement.

6. **Notices and Demands.** All notices, requests, demands, consents, and other communications required or permitted under this Easement shall be in writing and shall be deemed to have been duly and properly given 3 business days after the date of mailing if deposited in a receptacle of the United States mail, first class postage prepaid, addressed to the intended recipient as follows:

Grantor: Special School District No. 1  
1250 West Broadway Avenue  
Minneapolis, MN 55411

Grantee: Metropolitan Council  
390 Robert Street North  
Saint Paul, MN 55101-1805  
Attn: Real Estate Office

7. **Termination, Amendment, or Release of Easement.** The Easement may only be amended by written agreement signed by the Parties or their successors and/or assigns. If amended, either the Grantee or the Grantor shall record the amendment against the Property. Grantee may release the Easement at any time during the Term by a executing a Release of Easement and recording the same against the Property and providing a copy of the Release of Easement to the Grantor. After the Term of the Easement has expired, this Easement shall automatically expire without further action by the parties.

8. **Miscellaneous.**

a. **Binding Covenant.** The provisions and conditions of this Easement shall be binding upon and inure to the benefit of the Parties and their successors and assigns and shall constitute a covenant running with the land.

b. **Waiver.** No waiver of any provision of this Easement shall be binding unless executed in writing by the Party making the waiver. No waiver of any provision of this Easement shall be deemed to constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver unless the written waiver so specifies.

c. **Liability.** Each Party is responsible for their own acts and omissions and the results thereof to the extent authorized by the law. This shall not be construed to waive any liability limits or immunities including those arising under Minnesota Statutes Chapter 466.

d. **Governing Law.** This Easement is governed, construed, and enforced under the laws of the State of Minnesota without regard to conflicts of law provisions.

e. **Counterparts.** This Easement may be executed in any number of counterparts, each of which is to be deemed to be an original and the counterparts together constitute one and the same Easement. A physical copy or electronic copy of this Easement, including its signature pages, will be binding, and deemed to be an original.

f. **Severability.** The provisions of this Easement are severable, and in the event that any provision is held to be invalid or unenforceable, the Parties intend that the remaining provisions will remain in full force and effect.

g. **No Presumption against Drafter.** This Easement has been negotiated at arm's length and with the opportunity for the Parties to consult legal counsel regarding its terms. Accordingly, this Easement shall be interpreted to achieve the intent and purpose of the Parties, without any presumption against the drafting party.

h. **Authority of Signatory.** Each party to this Easement warrants to the other that it has the right and authority to enter into this Easement.

*The remainder of this page is intentionally left blank.*





**EXHIBIT A**

**Legal Description of the Property**

Parcel 1 – Those parts of Lot 1 to 15 inclusive, Block 21, Gales Subdivision in Sherburne & Beebe’s Addition to Minneapolis, lying South of the Southerly right-of-way line of Plymouth Avenue North as widened in 1891 and all of the adjoining vacated East-West alley dedicated in said plat lying between the Southerly extensions across it of the West line of said Block 21 ad a line which is parallel with the 21 feet West from the East line of said Block 21.

Parcel 2 – Lots 1 to 8 inclusive, Block 5, Gale’s Second Addition to the City of Minneapolis and all of the vacated North-South alley in said Block 5 dedicated in said plat lying between the Westerly extensions across it of the North line of Lot 1 and South line of Lot 4 in said Block 5.

Parcel 3 – Tract A, Registered Land Survey No. 1659, Hennepin County, Minnesota

Torrens Property – Certificate of Title 1376094

**EXHIBIT B****Temporary Construction Easement Area Legal Description**

A temporary easement for construction purposes over, under and across the above-described property, described as follows:

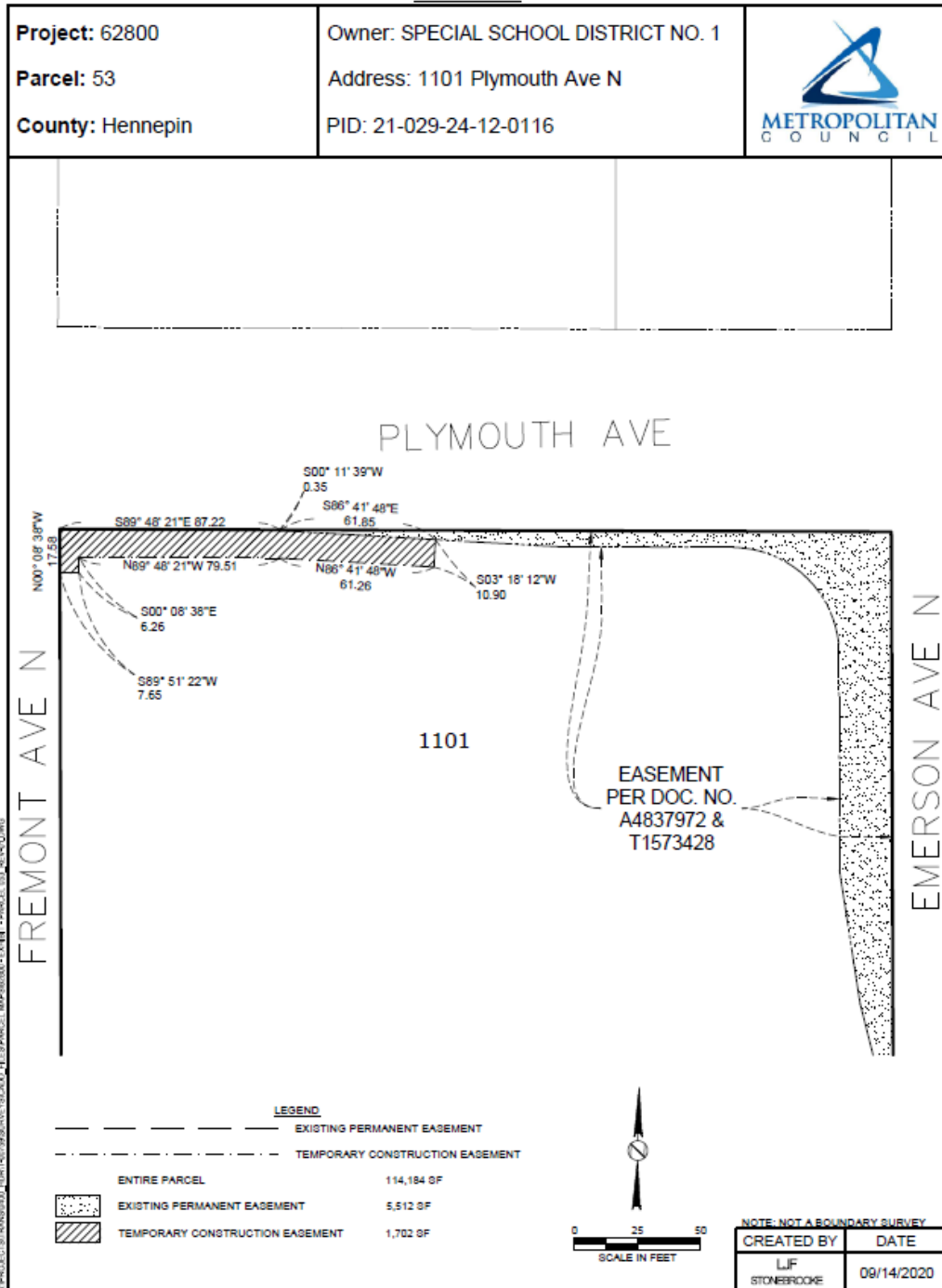
Beginning at a point on the west line of said Block 21, distant 7.00 feet southerly, measured at a right angle, from the north line of said Block 21; thence on an assumed bearing of South 89 degrees 48 minutes 21 seconds East parallel with said north line a distance of 87.22 feet to the west line of Lot 11, said Block 21; thence South 00 degrees 11 minutes 39 seconds West along said west line a distance of 0.35 feet to a point on said west line 7.35 feet southerly from the northwest corner of said Lot 11; thence South 86 degrees 41 minutes 48 seconds East, along a line of which the easterly prolongation would intersect the easterly line of Lot 7, said Block 21, distant 13.35 feet southerly of the northeast corner of said Lot 7, for a distance of 61.85 feet; thence South 03 degrees 18 minutes 12 seconds West a distance of 10.90 feet; thence North 86 degrees 41 minutes 48 seconds West a distance of 61.26 feet; thence North 89 degrees 48 minutes 21 seconds West a distance of 79.51 feet; thence South 00 degrees 08 minutes 38 seconds East a distance of 6.26 feet; thence South 89 degrees 51 minutes 22 seconds West a distance of 7.65 feet to the west line of said Block 21; thence North 00 degrees 08 minutes 38 seconds West a distance of 17.58 feet to the point of beginning.

(Said Temporary Easement contains 1,702 Square Feet, more or less.)

**EXHIBIT C**

**Temporary Construction Easement Area Depiction  
For Reference Purposes Only**

**EXHIBIT A**



**Resolution for Safe Routes to School (SRTS) Boost Grant**

**WHEREAS**, the Minnesota Department of Transportation Safe Routes to School Program assists schools and communities by making it so youth in Minnesota can safely, confidently, and conveniently walk, bike, and roll to school and in daily life.; and

**WHEREAS**, the Minnesota Department of Transportation Safe Routes to School Program solicits applications to enable school and communities to implement Safe Routes to School planning, implementation, and programmatic activities; and

**WHEREAS**, since Minneapolis Public Schools Special School District 1 was awarded Boost funds, these grant funds will be used to provide implementation activities to local communities to develop Safe Routes to School initiatives that increase safety and encourage more children to walk and bicycle to school; and

**WHEREAS**, No local match funding is required; and

**WHEREAS**, SRTS programmatic activities will commence after the grant agreement is fully executed.

**THEREFORE, BE IT RESOLVED:**

1. That Minneapolis Public Schools Special School District 1 authorizes the Board Chair to enter into a grant agreement with the Minnesota Department of Transportation for financial assistance to fund a Safe Routes to School program and eligible expenses.
2. That the Board Chair is authorized to execute such Agreement and any amendments without further approval by the Minneapolis Public Schools Special School District 1 Board of Directors.

Adopted and approved at a duly called meeting, this 9th day of February, 2021.

---

Kim Ellison  
Chair, Board of Directors

Attest:

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Josh Pauly  
Clerk, Board of Directors

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

February 2, 2021

**Resolution regarding 2021-22 school year calendar changes**

Be it resolved that the Board of Directors of Special School District No. 1 hereby approves the following changes to the 2021-22 school year calendar:

1. October 13, 14, and 15 (2021) shall become student contact days
2. October 20, 21, and 22 (2021) shall become non-student contact (no school) days

Signed by:

---

Kim Ellison  
Board of Education Chairperson

---

Date

---

Josh Pauly  
Board of Education Clerk

---

Date

**MINNEAPOLIS PUBLIC SCHOOLS  
RESOLUTION 2021-0003**

**RESOLUTION REPEALING POLICY 6420**

**WHEREAS**, the Board's Policy Committee has determined this policy is redundant to state and federal law, and recommends its repeal.

**THEREFORE BE IT RESOLVED**, that the Board of Directors of Special School District No. 1 hereby adopts the changes as follows:

**SECTION 1:**            **REPEAL** “Policy 6420: Copyright” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

R E P E A L

~~Policy 6420: Copyright (Repealed)~~

~~In adherence to the current federal copyright law, the Board of Education, Special School District No. 1, Minneapolis Public Schools, recognizes the doctrine of "Fair Use" regarding copyrighted materials and will support all employees of the district who adhere to the policies and guidelines concerning copyright.~~

~~The Fair Use of a copyrighted work, including use by reproduction in copies of phonorecords for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include:~~

~~the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;~~

~~the nature of the copyrighted work;~~

~~the amount and substantiality of the portion used in relation to the copyrighted work as a whole;  
and~~

~~the effect of the use upon the potential market for or value of the copyrighted work.~~

**Original Adoption:**

12/16/1975

**Revision Dates:**  
~~06/12/1978, 08/13/1985~~

PASSED AND ADOPTED BY THE MINNEAPOLIS PUBLIC SCHOOLS BOARD OF DIRECTORS \_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Arneson	_____	_____	_____	_____
Ali	_____	_____	_____	_____
Caprini	_____	_____	_____	_____
Cerrillo	_____	_____	_____	_____
El-Amin	_____	_____	_____	_____
Ellison	_____	_____	_____	_____
Inz	_____	_____	_____	_____
Jourdain	_____	_____	_____	_____
Pauly	_____	_____	_____	_____

Presiding Officer

Attest

\_\_\_\_\_  
Kim Ellison, Chair, Minneapolis  
Public Schools

\_\_\_\_\_  
Josh Pauly, Clerk, Minneapolis Public  
Schools

**MINNEAPOLIS PUBLIC SCHOOLS  
RESOLUTION 2021-0004**

**RESOLUTION AMENDING POLICY 6800**

**WHEREAS**, As a part of its regular review process, the Board's Policy Committee has recommended the revisions to update this policy to current formatting standards and to outline a clear process for proposed changes.

**THEREFORE BE IT RESOLVED**, that the Board of Directors, Special School District No. 1 hereby adopts the changes as follows:

**SECTION 1:            AMENDMENT** “Policy 6800: Naming Of School Symbols, Teams, Mascots” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

**A M E N D M E N T**

Policy 6800: Naming Of School Symbols, Teams, Mascots

~~No school shall have a mascot, namesake, official symbol, team name, newspaper, yearbook, or other official group or publication bearing the name of any ethnic, racial, tribal, or religious group. Academic classes and/or clubs specifically aimed at exploring such groups would not be subject to this prohibition. Examples of exceptions include: Black History classes, Native American culture classes.~~

**1. PURPOSE**

A significant element of school climate and spirit is the adoption of school mascots, symbols and team names. Minneapolis Public Schools is intent on assuring that all students and families are welcomed by their schools and having a school symbol, mascot or team name should be welcoming to all. The purpose of this policy is to establish the minimum requirements for the adoption of such items and the recommended procedure for adopting or changing mascots, symbols or team names.

**2. GENERAL STATEMENT OF POLICY**

- a. No school shall have a mascot, namesake, official symbol, team name, newspaper title, yearbook title or other official group or publication bearing the name of any ethnic, racial, tribal, linguistic, gender identity or religious group.
- b. Academic classes or student activities specifically aimed at teaching and learning about such groups are not subject to the prohibition of using the name of an ethnic, racial, tribal, language, or religious group. Examples of such exceptions are:
  - i. Black History courses or club
  - ii. Latinx culture course or club
  - iii.

- Asian culture course or club
      - iv. Gay-Straight Alliance clubs
      - v. LGBTQ+ courses or clubs
      - vi. Somali Language courses or clubs
    - c. No school shall have a mascot, namesake, official symbol, team name, newspaper title, yearbook title or other official group or publication bearing the name of any living person.
  - 3. **ADOPTION OR CHANGING OF A MASCOT, SYMBOL OR TEAM NAME**
    - a. All schools proposing the adoption or changing of a mascot, symbol or team name shall provide opportunities for input by students, parents, and staff members.
    - b. Schools shall avoid duplication of mascots, symbols or team names that currently exist in the district.
    - c. A school site council shall consider all input received and make a choice of the mascot, symbol or team name.
    - d. The choice shall be submitted to the appropriate Associate Superintendent for approval, which shall not be unreasonably withheld.
    - e. Use of the adopted mascot, symbol or team name may begin after approval from the appropriate Associate Superintendent is received.
    - f. If the choice is not approved by the Associate Superintendent, reasons for the refusal shall be given and the site council may appeal this decision to the Superintendent whose decision shall be final.

**Original Adoption:**

05/12/1987

PASSED AND ADOPTED BY THE MINNEAPOLIS PUBLIC SCHOOLS BOARD OF DIRECTORS \_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Arneson	_____	_____	_____	_____
Ali	_____	_____	_____	_____
Caprini	_____	_____	_____	_____
Cerrillo	_____	_____	_____	_____
El-Amin	_____	_____	_____	_____
Ellison	_____	_____	_____	_____
Inz	_____	_____	_____	_____
Jourdain	_____	_____	_____	_____
Pauly	_____	_____	_____	_____

Presiding Officer

Attest

\_\_\_\_\_  
 Kim Ellison, Chair, Minneapolis  
 Public Schools

\_\_\_\_\_  
 Josh Pauly, Clerk, Minneapolis Public  
 Schools

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

February 9, 2021

**Establishing 2021 School Board Focus Areas**

**WHEREAS**, the School Board and School District have declared a comprehensive set of short- and long-term goals as well as on-going core priorities; and

**WHEREAS**, these goals and core priorities (Equity, Multi-Tiered Systems of Support, Literacy, and Social Emotional Learning) will remain as such; and

**WHEREAS**, the Board recognizes that continued planning and response to the COVID-19 pandemic will remain a central effort for the foreseeable future; and

**WHEREAS**, the Board believes that establishing a specific subset of key areas for the year will provide the needed governance focus on these important topics.

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Directors of Special School District No. 1, sets the following focus areas for the 2021 calendar year; and

- Literacy (curriculum, instruction, and evaluation)
- School climate and culture
- Comprehensive District Design (CDD)

**FURTHER BE IT RESOLVED**, that the Board empowers the Chair and Superintendent to establish a Committee of the Whole topic schedule that aligns to the aforementioned focus areas.

Signed by:

\_\_\_\_\_  
Kim Ellison  
Board of Education Chairperson

\_\_\_\_\_

Date

\_\_\_\_\_  
Josh Pauly  
Board of Education Clerk

\_\_\_\_\_

Date