# Regular Business Meeting

Tuesday, February 11, 2025 5:30 PM
Board Assembly Room, 1250 West Broadway Avenue, Minneapolis, Minnesota 55411

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

2) **Adoption of the Agenda**

3) **Introduction of 2025 Student Board Representatives**

4) **Public Comments**

5) **Recess**

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

6)a. Presentations and Updates

7) **Policy Committee Report**

7)a. Resolution Revising Policies 3000, 3002, 3003, 3004, 8111, 8510; Repealing and Replacing Policy 3001; and Adopting Policy 4300

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

8)a. Approval of the Consent Agenda

8)a.1. Acceptance of Minutes

8)a.1.a. January 21, 2025 Regular Business Meeting

8)a.2. Human Resources Transactions

8)a.2.a. Approval of List A personnel matters (2025-2-ER-A)

8)a.2.b. Approval of List B personnel matters (2025-2-ER-B)

8)a.2.c. Acceptance and Filing of Charges and Causes for Discharges of Tenured Teachers

8)a.2.c.(1) Charges and Causes for Discharge (2025-ER-03-7058)

8)a.2.c.(2) Charges and Causes for Discharge (2025-ER-03-7076)

8)a.3. Contracts

8)a.3.a. Contract with All Furniture Inc (2025-1000251878)

8)a.3.b. Amendment to contract 2025-4400002839 with Bille Bus Transportation

8)a.3.c. Amendment to Contract 2025-440002347 with College Nannies and Tutors.

8)a.3.d. Contract with Construction Results Corporation (2025-4400002847)

8)a.3.e. Amendment to contract 2025-4400002488 with David Hoy and Associates

8)a.3.f. Contract with H2I (2025-4400002846)

8)a.3.g. Amendment to contract 2025-4400002850 with Lorenz Bus Service

8)a.3.h. Contract with Minneapolis Community & Technical College (4400002806)

8)a.3.i. Contract with Upper Midwest Athletics (2025-1000251584)

8)a.3.j. Amendment to contract 2025-4400002849 with MTN Transportation

8)a.3.k. Contract with Roofers Mart (2025-1000251381)

8)a.3.l. Contract with Sun Life (2025 - 4400002841)

8)a.3.m. Contract with True North Consulting Group (2025-4400002832)

8)b. Approving an Amended Calendar for School Year 2026-2027 (2025-0020)

9) **New Business**

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

11) **Adjournment**

# Superintendent's Report

## Regular Business Meeting

February 11, 2025

MINNEAPOLIS PUBLIC SCHOOLS

# Superintendent's Update

## Superintendent Dr. Lisa Sayles-Adams



MINNEAPOLIS PUBLIC SCHOOLS

# FY26 Budget Development Update

## Senior Finance Officer Ibrahima Diop



MINNEAPOLIS PUBLIC SCHOOLS

# Context and Current Status

# Reminder: A Shared Challenge

LOCAL NEWS

## Anoka-Hennepin school board votes to cut hundreds of admin jobs, but saves teachers for now

The board is facing a $26 million shortfall and will first make $9 million in reductions at the central office.

LOCAL

## Budget cuts eminent: Seattle Public Schools looks to renew levies, get more money from the state

COVID STIMULUS NATIONAL BUDGET & FINANCE

## What's at the heart of the turmoil at Chicago Public Schools? Money.

By Reema Amin and Erica Meltzer | October 29, 2024, 3:23pm CDT

MINNETONKA, Minn — In a letter to district families and staff addressing "significant financial challenges," Minnetonka Public Schools Superintendent David Law acknowledges he's received questions on what "caused this."

"Dozens of metro school districts and districts across the state that are in the same spot that we're in," Law said. "All of us are in the same financial straits. If we're not there this year, they'll be there next year."

## SF Schools Won't Close Yet, But the City Still Has Questions About Huge Budget Cuts



MINNEAPOLIS PUBLIC SCHOOLS

# Reminder: Approach to Addressing Fiscal Challenges

**Delivering on MPS' vision, mission, commitment, and goals, now and sustainably into the future**

Nov. 2024 tech levy ballot question

**ONGOING**

- Expense reductions and operational efficiencies to reduce gap from loss of ESSER funds
- Transforming how we educate and serve students
- Increasing student enrollment
- Continued advocacy with state and federal government

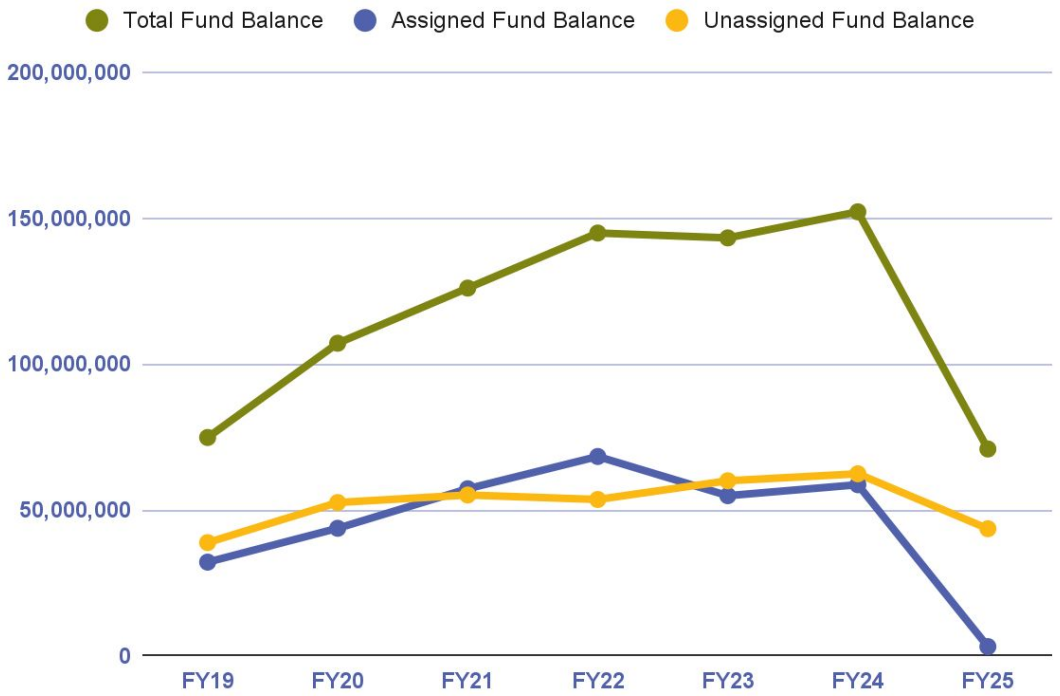
# Reminder: Key Drivers to a School District Budget

| | | | | |
|---|---|---|---|---|
| **Enrollment** | **State funding** | **Local property tax funding** | **Federal funding** | **Grants** |

Any differences in projected **revenue** and **expenditures** =
**estimated shortfall ($75 million for FY26)**

| | | | | |
|---|---|---|---|---|
| **Employment contracts** | **Impact of inflation** | **Academic programs and student supports** | **Operational services** | **Funding use restrictions** |

# Reminder: Fund Balance over 5 years




| Fiscal Year | Total Fund Balance | Assigned Fund Balance | Unassigned Fund Balance |
|---|---|---|---|
| FY20 | 107,173,682 | 43,737,399 | 52,573,025 |
| FY21 | 126,073,756 | 57,295,506 | 55,149,040 |
| FY22 | 144,954,221 | 68,347,003 | 53,613,743 |
| FY23 | 143,285,449 | 54,915,232 | 60,025,539 |
| FY24 | 152,225,438 | 58,679,416 | 62,418,131 |
| FY25* | 70,920,596 | 3,179,416 | 43,593,289 |

*The total fund balance is made up of restricted and reserved items not depicted in the graph. FY25 amounts shown are projected.



MINNEAPOLIS PUBLIC SCHOOLS

# Operating Assumptions

- ✓ Programs and departments with their own funding streams cannot rely on additional general fund contributions to operate
- ✓ Identify expenses in current year that can be eliminated or reduced to build carryover for FY26
- ✓ Focus restricted funds and grants on core functions and priorities

# Review Board Values and Priorities

# Approach: Students in the Center

MINNEAPOLIS PUBLIC SCHOOLS

# **Board Budget Values and Priorities:** What We Will Offer

- Evidence- and standards-based programming and instructional strategies, focused staff professional development and accountability, and adequate school staffing models that **improve student academic outcomes**, especially on **literacy and math**
- Using the budgeting process and changes to enrollment management practices, ensure **class sizes adhere to the allocated and approved ratios**
- **Fiscal and programmatic equity** in support of Students of Color, Indigenous Students, students receiving special education services, and students learning English
- Adequately fund a **holistic set of programmatic and academic offerings** (i.e., the arts, music, languages, specialized programs, activities) that attract and retain students
- A comprehensive system of supporting student **mental health and well-being** with a focus on culturally responsive supports and services
- A comprehensive system of supporting **student and staff safety**

# **Board Budget Values and Priorities:** How We Will Get There

- **Minimize the impact on students, classrooms, and schools** by reducing central office functions and budget allocations
- Focus central office-allocated resources first on **core operations and key strategic functions** before considering optional investments; reduce the number of non-school based FTE
- Increase the allocated amount of **restricted and dedicated funding towards direct student services and school-based supports**
- Reduce the amount of **contracted/purchased services**
- **Align and utilize external financial and programmatic support** in ways that supports the above-mentioned priorities, rather than creating new initiatives or programs
- Recognize that our financial situation necessitates an **analysis of the impact and number of students served by our programs** (must consider viability, sustainability, and efficiency of programs and services)

# Additional Administrative Priorities

- Focus on **core functions and operations**
- Ensure **compliance functions** can be fulfilled (items required by law, policy, and contracts)
- Provide adequate **support to schools and staff**
- Positioned to continue progress on the **strategic plan** goals

# Process, Timeline, and Next Steps

# Process Overview

| Key Milestones | Ongoing Activities |
| --- | --- |
| • Revenue projected ✓<br>• Expenses projected (status quo model) ✓<br>• Values and priorities set by board ✓<br>• Develop a balanced budget using board budget values and priorities<br>• Department and school allocations proposed<br>• Presentation of comprehensive budget<br>• Board review<br>• Board approval | • Share updates with stakeholders via website and family update<br>• Gather community input<br>  ○ Caregiver survey<br>  ○ School-specific feedback through site council and other methods<br>• Updates to finance committee and board<br>• Direction from finance committee and board |

# Key Deliverables to Finance Committee and School Board

1. Report of fiscal and other budget inputs and assumptions used in budget development process
2. Proposed department allocations and corresponding expenditure plans
3. Proposed school allocations with key budget parameters provided to schools to ensure alignment with board priorities and values
4. Crosswalk of proposed budget to board priorities and values
5. Equity considerations report of proposed budget
6. Comprehensive budget proposal in form of Budget Book
7. FY26 capital plan and budget resolution
8. FY26 budget resolution

# Finance Committee & Committee of the Whole Schedule and Plan

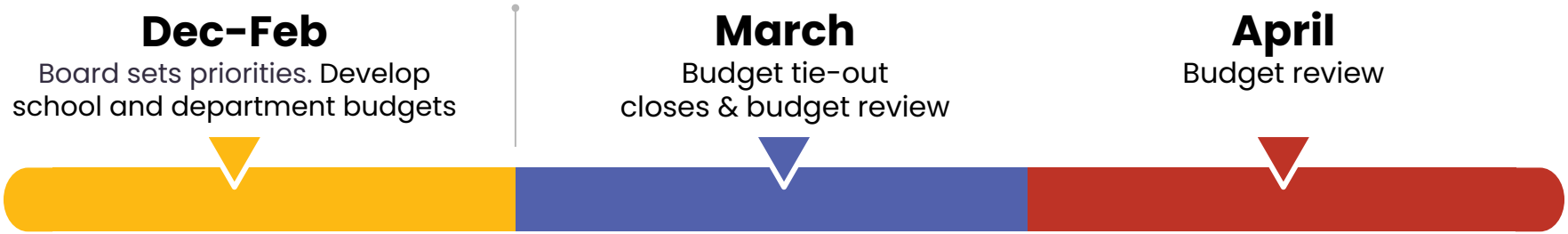
| | | |
|---|---|---|
| ~~**February 4**~~ | ~~Finance Committee~~ | ~~• Process overview~~<br>~~• Review operating assumptions, guiding principles, board priorities and values, and schedule and plan~~ |
| **February 18** | Committee of the Whole | • Budget shortfall closure plan<br>• Department and school allocations |
| **February 25** | Finance Committee | • Review proposed school and department allocations |
| **March 18** | Committee of the Whole | • Review post-BTO school and department allocations |
| **March 25** | Finance Committee | • Review post-BTO school and department allocations<br>• Review capital plan |
| **April 18** | Committee of the Whole | • Review comprehensive budget proposal<br>• Review capital plan |
| **April 29** | Finance Committee | • Final review and referral of proposed budget and capital plan to the full board |

# Regular Business Meeting Schedule and Plan

| | |
|---|---|
| **February 11** | • Budget development process update |
| **March 11** | • Budget development process update |
| **April 15** | • Budget development process update |
| **May 13** | • First reading<br>• Receive proposed budget and capital plan |
| **June 10** | • Budget and capital plan approval |

# FY26 Budget Timeline Overview

Schools receive budget allocations and engage with stakeholders






Budget website including full timeline: [bit.ly/mpsbudget26](bit.ly/mpsbudget26)

MINNEAPOLIS PUBLIC SCHOOLS

# Questions

# Comprehensive Achievement & Civic Readiness Advisory Committee

Deputy Superintendent Ty Thompson

Assistant to the Superintendent and Board Ryan Strack

# Goals

- Update to align with changes in state law
- Better utilize the expertise and time of community members
- Meet board directive to propose changes to the current structure

# Background

**State law (MN Statutes Section 120B.11) requires:**

- a comprehensive, long-term strategic plan and budget to support and improve teaching and learning that is aligned with creating comprehensive achievement and civic readiness (Strategic Plan)
- an advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards (World's Best Workforce Advisory Committee)
- publish a report and hold an annual public meeting to review, and revise where appropriate, goals, outcomes, plans, strategies, and practices (Strategic Plan website and updates at Committee of the Whole meetings)
- a school must establish a site team to develop and implement strategies and education effectiveness practices to improve instruction, curriculum, cultural competencies (School Site Councils and Instructional Leadership Teams)

# Advisory Committee Requirements

- to the extent possible, must reflect the diversity of the district and its school sites, include teachers, parents, support staff, students, and other community residents, and provide translation to the extent appropriate and practicable
- must pursue community support to accelerate the academic and native literacy and achievement of English learners with varied needs
- recommend to the school board: rigorous academic standards; student achievement goals and measures
- whenever possible, parents and other community residents must comprise at least two-thirds of advisory committee members

# Advisory Committee (Current)

- Called World's Best Workforce (WBWF) Advisory Committee per Board charter
- Up to 22 members, including a board director liaison
- Reflective of our community; no less than 75% are parents, students, or community members
- Board Members each appoint up two members, the Superintendent appoints up to two members, and there's one slot for the Student Board Representatives
- Led by co-chairs selected by the committee
- Charter includes provisions on member roles, conflicts of interest, decision-making process, meeting frequency, quorum, and reporting

# New Advisory Committee (Proposed)

- Renamed to 'Comprehensive Achievement and Civic Readiness Advisory Committee' to align with state law
- Comprised of board appointees (1 per board member), representatives from the CityWide Student Leadership Board, members from the District's Parent Advisory Committees (PACs) and an appointee from the superintendent
- Committee to determine meeting frequency, but anticipate 2 to 4 times per year
- Proposed format would include a round table component where committee members hear from staff and discuss how work aligns to the strategic plan & WBWF goals, and how funding is used
- Provide input and feedback on curriculum and the Achievement and Integration plan
- Committee feedback can be integrated into the strategic plan updates provided at committee of the whole meetings

# Proposed Advisory Committee Composition

| Seat(s) | Appointing Authority | Total |
|---|---|---|
| Board appointments | School Board | 9 |
| Superintendent appointment | Superintendent | 1 |
| Student appointments | CityWide Student Leadership Board | 2 |
| DPAC representatives | DPAC | 3 |
| | **Total** | 15 |

# Opportunities

- Reporting to the state will be more streamlined
- Reduces the number of meetings and makes them more meaningful (improves recruitment)
- Provides alignment between the district's strategic plan, state-required goals, and Federal Title program goals
- Provides an opportunity for community members (including students) to provide ongoing feedback to district leaders and the school board

# Next Steps

| Task | Date |
|---|---|
| Present concept and recommendation to the board | 2/11/2025 |
| Receive board feedback | 2/11/2025 |
| Draft resolution, new committee charter, and overview materials | 2/12/2025-3/4/2024 |
| Board members consider potential appointees | 2/12/2025-3/4/2024 |
| Board receives draft committee charter | 3/4/2025 |
| Board approves committee charter | 3/11/2025 |
| Members are appointed to the committee | 3/12/2025- |
| First meeting of the new committee | Early April |

# Resources

- Minnesota Statutes 120B.11
- Current World's Best Workforce Advisory Committee Charter
- MPS Accountability Department website

# Questions

**SECTION 1:** **AMENDMENT** "Policy 3000: Conflicts Of Interest And Fiduciary Duty" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 3000: Conflicts Of Interest And Fiduciary Duty

1. **PURPOSE**
   The proper operation of democratic government requires that ~~public officials and~~District personnel~~employees~~ be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

   In recognition of these goals, the ~~Board of Directors~~school board adopts policies related to conflicts of interest and fiduciary duty for school board members and District personnel. ~~all officials and employees whether elected or appointed, paid or unpaid.~~ The purpose of this policy is to establish ethical standards of conduct for all ~~such officials and employees~~District personnel by setting forth those acts or actions that are incompatible with the best interest of the Minneapolis Public Schools and by directing disclosure by such ~~officials and employees~~District personnel of private financial or other interests in matters affecting the Minneapolis Public Schools.
2. **GENERAL STATEMENT OF POLICY**
   This policy establishes minimum standards of conduct for District personnel. Failure to meet these standards may subject the actor to disciplinary action, up to and including termination.
   - ~~a. This policy establishes minimum standards of conduct for public officials, employees and other district personnel. Failure to meet these standards shall subject the actor to disciplinary action.~~
   - ~~b. Responsibilities of Public Office. Public officials and employees are agents of public purpose and hold office for the benefit of the public. Their conduct in both their official and private affairs should be above reproach. They must avoid misconduct, apparent or real. They are bound to:~~
     - ~~i. uphold the Constitution of the United States and the Constitution of this State;~~
     - ~~ii. carry out impartially the laws of the nation, state, and school district; and~~
     - ~~iii. discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.~~
   - ~~c. Dedicated Service and Fiduciary Duty.~~
     - ~~i. All public officials of the school district shall be loyal to the district~~

and its mission and goals, and the programs developed to attain those objectives.

ii. All employees of the district shall be loyal to the district, its mission and goals, and the program developed to attain those objectives.

iii. Appointed officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

iv. Public officials and employees and other district personnel may not exceed their authority or break the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

v. Public officials and employees and other district personnel shall not disclose any confidential or private, nonpublic, educational or employee data during their term of appointment, election or employment and shall likewise refrain from disclosing any private educational or employee data after their term of election or appointment, or employment has ended unless permitted by law.

vi. Public officials, employees and other district personnel shall not disclose or use any confidential, private, nonpublic, privileged or proprietary information gained by reason of their employment, election or appointment by or to the District other than in the course of their duties. Such a prohibition shall continue after the term of their election, appointment or employment ends.

vii. Public officials and employees shall manage the assets both real and personal of the district with highest integrity, and exercise any discretionary powers they may have for the benefit of the District with the care a reasonably prudent person would do.

viii. Employees must accept employment with the district as their primary employment, unless otherwise agreed to at the time of their hiring, and shall prefer the needs of their employment with the district over the needs of any additional employment they may have. Further, employees shall not engage in any work, paid or unpaid, incompatible with their employment at the district.

d. Fair and Equal Treatment

i. No public official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

ii. Schools, programs and departments may enter into partnerships with corporate or business citizens to promote civic engagement, sponsorship of district activities or support of academic programs. Such partnerships shall not imply preference or endorsement of or for the services or products of those corporate or business partners. Any such partnerships are subject to the terms of this policy.

e. Conflict of Interest

i. No public official or employee shall engage in any business or transaction or shall have a financial or personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

ii. "Personal interest" may be defined as an interest arising from:

(1) blood or marriage relationships;
(2) domestic partnerships;
(3) status of dependent of the person;
(4) membership in the same household;
(5) close business or political associates.

iii. Conflicts of interest include but are not limited to:

(1) Use of confidential information, obtained as a result of public position, for personal gain.
(2) Any use of official position for personal gain.
(3) Holding (possession) investments which interfere, or tend to interfere, with the proper discharge of public duty.
(4) Representation by public officials or employees of private interests before the Minneapolis Board of Education or departments and participation in the profits from such representation.
(5) Participation in transactions as a public representative with a business entity in which the public official or employee has a direct or indirect financial or other personal interest.
(6) Personal interest in legislation to the extent that private interest takes precedence over public interest and public duty.
(7) Entry by the district into contracts or other conduct of business for profit with a business in which a public official or employee has substantial or controlling interest, when the public official or employee can influence such contract or business because of his or her public position.

f. Use of Position for Influence

i. Recommendations.

(1) School personnel shall not make recommendations for a provider of professional services. School personnel may be asked by parents to recommend providers; this is particularly true of health care staff, who may be asked to recommend a physician, a dentist, or an optometrist. School personnel shall not make such recommendations.
(2) Employees may prepare and distribute lists of professional organizations or providers of professional services available in the region for the purposes of informing parents, but shall make no evaluation of the services or organizations, and shall

not indicate a preference for any of them.

(3) Persons making requests for referrals to providers should be directed to the proper professional association for advice.

ii. Polities. The District recognizes and encourages the rights of its employees, as citizens, to engage in political activity, with the following restrictions:

(1) No employee of the school district shall solicit support of any political candidate, partisan or non-partisan, during regular work hours or on school property.

(2) No employee of the school district shall solicit support of any referendum issue not directly related to public education, during regular work hours, or on school property.

(3) No employee may use the name of the district, or any school, department or program to support any political candidate, ballot proposition or referendum.

(4) No resources of the district may be used to support any political candidate, partisan or non-partisan, or any ballot proposition or referendum not directly related to public education.

3. **APPLICABILITY**DEFINITIONS

District personnel, solely for purposes of this policy, include Board of Education members, District employees, agents, volunteers, contractors, or persons subject to the supervision and control of the District.

a.

b. This policy applies to all Minneapolis Public Schools

i. officials,

ii. employees,

iii. contractors on district premises,

iv. council and advisory council members, and

v. site based council members.

c. This policy applies to all persons, whether

i. elected, appointed, employed, or supplying goods or services to the district under contract,

ii. paid or unpaid,

iii. engaged in any activity on behalf of the Minneapolis School District including activities at every school, department or program of the District.

d. When a public official or employee has doubt as to the applicability of a provision of this policy to a particular situation, he or she should submit the question to the General Counsel's Office for review and determination of applicability. Questions may be made anonymously, in which case the General Counsel shall make such answer available to the appropriate persons subject to this policy. The General Counsel may make any question and response or guidance public.

4. RESPONSIBILITIES AND DUTIES

a. District personnel are agents of public purpose and must avoid conflicts of interest, apparent or real. They are bound to discharge faithfully the duties of their role regardless of personal considerations, recognizing that the public interest must be their primary concern in the performance of their duties.

b. District personnel should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
c. District personnel may not exceed their authority or break the law or ask others to do so, and they should work in full cooperation with other District personnel unless prohibited from so doing by law or by officially recognized confidentiality of their work.
d. District personnel shall not disclose or use any confidential, private, nonpublic, privileged or proprietary information gained by reason of their employment, election or appointment by or to the District other than in the course of their duties and as permitted by law. Such a prohibition shall continue after the term of their election, appointment or employment ends.
e. District personnel shall manage the assets both real and personal of the District with highest integrity, and exercise any discretionary powers they may have for the benefit of the District with the care a reasonably prudent person would do.
f. No District personnel shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
g. Partnerships with corporate or business citizens to promote civic engagement, sponsorship of District activities or support of academic programs shall not imply preference or endorsement of or for the services or products of those corporate or business partners. Any such partnerships are subject to the terms of this policy.

5. PROHIBITED CONDUCT
   a. *Conflicts of Interest*
      i. No District personnel shall engage in any business or transaction or shall have a financial or personal interest, direct or indirect, which is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their independence of judgment or action in the performance of their official duties.
      ii. "Personal interest" may be defined as an interest arising from:
         (1) blood or marriage relationships;
         (2) domestic partnerships;
         (3) status of dependent of the person;
         (4) membership in the same household;
         (5) close business or political associates.
      iii. Conflicts of interest include but are not limited to:
         (1) Use of confidential information, obtained as a result of public position, for personal gain.
         (2) Any use of official position for personal gain.
         (3) Holding (possession) investments which interfere, or tend to

interfere, with the proper discharge of public duty.

(4) Representation by District personnel of private interests before the Minneapolis Board of Education or departments and participation in the profits from such representation.

(5) Participation in transactions as a public representative with a business entity in which the District personnel has a direct or indirect financial or other personal interest.

(6) Personal interest in legislation to the extent that private interest takes precedence over public interest and public duty.

(7) Entry by the District into contracts or other conduct of business for profit with a business in which a District personnel has substantial or controlling interest, when the District personnel can influence such contract or business because of their public position.

iv. *Use of Position for Influence*

(1) *Recommendations.* District personnel shall not make recommendations for a provider of professional services. Instead, District personnel may prepare and distribute lists of professional organizations or providers of professional services for the purposes of informing parents, but shall make no evaluation of the services or organizations, and shall not indicate a preference for any of them.

(2) *Politics*

The District recognizes and encourages the rights of District personnel, as citizens, to engage in political activity, with the following restrictions:

(A) No District personnel shall solicit support of any political candidate, partisan or non-partisan, during regular work hours or on school property.

(B) No District personnel shall solicit support of any referendum issue not directly related to public education, during regular work hours, or on school property.

(C) No District personnel may use the name of the District, or any school, department or program to support any political candidate, ballot proposition or referendum.

(D) No resources of the District may be used to support any political candidate, partisan or non-partisan, or any ballot proposition or referendum not directly related to public education.

b. Outside Employment

Employees of the school district may engage in outside employment provided such employment does not compromise the fulfillment of employees' responsibilities to the School District, is not conducted during assigned duty

hours and does not involve the use of School District facilities.

6. **REPORTING SUSPECTED VIOLATIONS**
   a. All ~~employees, contractors, public officials or council members~~District personnel have a duty and obligation to report what they believe to be a violation of this policy.

   b. ~~The report must be made to their supervisor or manager of the department or building concerned.~~The report must be made to the Senior Human Resources Officer.
   c. ~~In those instances in which the immediate supervisor is involved in the alleged violation, the report should be made to the person at the next highest supervisory level.~~In those instances which the complainant feels uncomfortable reporting the suspected violation to the Senior Human Resources Officer, that person may make a direct report to the Superintendent.
   ~~d. In those instances which the complainant feels uncomfortable reporting the suspected violation to any of the aforementioned persons, that person may make a direct report to the Office of District General Counsel.~~
   ~~e. Supervisors, Department Managers, Principals and Site Administrators will forward suspected violations of this policy to the General Counsel's Office. Any employee may also make a report to the General Counsel's Office.~~
   f. Suspected violations submitted in good faith and in an appropriate manner, whether or not further investigation substantiates the claim, will be free from retaliation in any form. The identity of complainants will be protected, within legal limits, and any ~~public official, employee or other d~~District personnel who retaliate against them ~~will be disciplined.~~may be subject to disciplinary action, up to and including termination.

7. **INVESTIGATION AND RESOLUTION OF SUSPECTED VIOLATIONS**
   a. ~~The District General Counsel will promptly investigate alleged violations.~~The District will promptly investigate alleged violations and may take appropriate disciplinary action, up to and including termination of employment, contract, and/or appointment.
   ~~b. Those accused of suspected violations will be given an opportunity to respond.~~
   ~~c. The District General Counsel will prepare a report of the investigation.~~
   ~~d. If the investigation concerns the actions of an employee the report will be submitted to the manager or supervisor and Employee Relations with a copy to the Superintendent.~~
   ~~e. If the investigation concerns the actions of a non-employee or contractor, the report will be submitted to the appropriate supervisor of the person's activities with a copy to the Superintendent.~~
   ~~f. Any discipline of an employee shall follow District policies, contracts and procedures, up to and including termination of employment.~~
   ~~g. Any discipline of a contractor may include termination of the contract.~~
   ~~h. Any discipline of an appointee to an advisory board or site council may include termination of the appointment.~~

8. **REFRAINING FROM ABUSE**
    a. Any complainant or witness who abuses the enforcement procedure by knowingly submitting false reports, claims, testimony or evidence will be subject to disciplinary action up to and including termination.
9. **RESPONSIBILITY**
    a. The Superintendent shall take the necessary steps to assure that all individuals are in compliance.
    b. The Superintendent is authorized to promulgate regulations to implement this policy.

**Original Adoption:**
11/12/1991 (formerly Code of Ethics)

**Revision Dates:**
04/14/1992, 02/27/2007, 01/14/2014

**Legal References:**
**Minnesota Rules 3512.5200 (Code of Ethics for School Administrators) Minnesota Rules 8710.2100 (Code of Ethics for Minnesota Teachers) Minneapolis Code of Ordinances, Title 2, Chapter 15, Article II, § 15.160**

- ~~Minnesota Rules 3512.5200 (Code of Ethics for School Administrators)~~
- ~~Minnesota Rules 8700.7500 (Code of Ethics for Minnesota Teachers)~~

**MPS Policy Cross References:**

- Policy 4200 (Personnel Data)
- Policy 5690 (Student Data)
- Policy 1100 (Advertising in the Schools)
- Policy 1050 (Media Relations)
- Policy 1301 (Community Partners)
- Policy 1302 (Corporate Involvement in Schools)
- Policy 1320 (Board of Directors Advisory Committees)
- Policy 1450 (Volunteers)
- Policy 1692 (Shared Leadership for Continuous Improvement)
- Policy 2305 (Superintendent Advisories)
- Policy 3313 (Vendor Relations)
- Policy 3327 (Payment for Food and Drink)
- Policy 3330 (Travel Expense: Employee)
- Policy 3331 (Travel Expense: Non-employee)
- Policy 4000 (Equal Employment Opportunity)
- Policy 8505 (Director Travel)
- Policy 8510 (Conflict of Interest)

**SECTION 2:** **REPEAL** "Policy 3001: Gifts To District Personnel" of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

REPEAL

~~Policy 3001: Gifts To District Personnel~~ *(Repealed)*

1. **PURPOSE** The proper operation of a public funded institution requires that district personnel be independent, impartial, and responsible to their supervisors or to the public that elected or appointed them; that decisions be made in the proper channels of the organizational structure; that public employment and public service not be used for personal gain; and that the public have confidence in the integrity of the district. Many parents and students with a sincere wish to honor or express appreciation to their teachers, administrators, and other school personnel want to give gifts or solicit donations in order to purchase gifts for school employees. The purpose of this policy is to establish ethical standards of conduct for all district personnel regarding gifts from individuals, organizations or businesses, and to avoid the appearance of impropriety or conflict of interest on the part of district personnel.
2. **GENERAL STATEMENT OF POLICY**
    a. Minneapolis Public Schools discourages gift-giving to district personnel. Persons inclined to show appreciation to district personnel are encouraged to show that appreciation through letters or notes to the individual, or individual's superiors regarding the individual, or to make gifts to the donor's choice in the name of the individual to be honored.
    b. District personnel shall not solicit either by direct or indirect means a gift from a student, parent, or other individual or organization.
3. **VENDOR AND PROVIDER GIFTS**
    a. Except as allowed below no district personnel may receive any gift from individuals or companies selling equipment, materials, supplies or services required in the operation, maintenance, or capital construction of the district.
    b. District personnel may accept gifts from any organization in which they hold a membership, so long as an equivalent gift is given to all members.
    c. District personnel may accept gifts from individuals selling equipment, materials, supplies or services required in the operation, maintenance or capital

construction of the district so long as the individual is related to the district personnel, and the gift is given individually and not as a representative of the individual's business concern.

d. Teachers and Principals may accept sample textbooks and learning materials from publishers.
e. Employees attending a conference, convention, trade show or other event where service providers or vendors who sell or would like to sell or provide equipment, materials, supplies or services to the district are displaying or demonstrating their products and services who offer to all participants on an equal basis samples, gifts or food and beverages of a de minimus value, may accept such gifts.
f. Employees attending a conference, convention, trade show or other event that offers the opportunity to win door prizes that are equally available to all participants may accept such door prizes as they win through chance, provided that entry into any drawing for such a prize is not predicated upon the provider doing business with the district or any of its divisions, schools or programs. Entry into a drawing for door prizes shall not constitute solicitation of a gift under this policy.

4. **GIFTS FROM STUDENTS AND PARENTS OR PARENT ORGANIZATIONS**
   a. Except as allowed below no district personnel may receive any gift from any person of more than a de minimus value.
   b. Volunteer chaperones who are district personnel may accept contributions toward the cost of a district sanctioned field trip up to the full cost of the trip if the sponsor of the trip knows of the gift in advance and advises the parents of the students on the trip that such a gift has been received.
   c. Principals and Teachers should advise their classes and parents that gifts to school personnel are not expected, nor will they be accepted if offered, if they do not meet the exceptions contained herein.
      i. Teachers may accept gifts from the students or parents of the students in their class in the year in which the students are enrolled of a de minimus value. If the class, or any part thereof, makes a joint gift to the teacher, the gift must not be of value more than five dollars ($5.00) per student.
      ii. Teachers and Principals may accept gifts from the official parent organization of the school in which they work if the value of the gift is no more than five dollars ($5.00) per student enrolled.
      iii. Teachers and Principals may, upon retirement from the district, receive such gifts that are offered them without limit as to amount.
5. **GIFTS FROM DISTRICT FUNDS**
   a. Except as allowed below no district personnel may accept any gift from any division, department, school or program of the District of more than a de minimus value.
   b. The Superintendent may establish an Employee Appreciation Program to recognize excellence and longevity of service, and use district funds to

provide gifts to district personnel. Non-food individual gifts may not exceed fifty dollars ($50.00), and gifts of meals and beverages shall not exceed the limits allowed for the provision of food and beverage for employees at district meetings.

6. **RESPONSIBILITY**
    a. The Superintendent is authorized to promulgate regulations to implement this policy.
    b. Employees of the district who accept or solicit a gift in violation of this policy are subject to discipline up to and including termination.
    c. Non-employee district personnel who accept or solicit a gift in violation of this policy are subject to discipline by the appropriate body; for appointed members of district advisories or councils, the discipline may be imposed by the district personnel assigned to the advisory or council upon consultation with the remaining members of the council or advisory, up to and including removal from the council or advisory.
    d. All district personnel have a duty and obligation to report what they believe to be a violation of this policy.
        i. Reports must be made to their supervisor or the manager of the department or building concerned. Any report received by a supervisor or manager should be forwarded to the Office of the District General Counsel.
        ii. If the supervisor or manager is the subject of the report, the report should be made to the next highest supervisory level or directly to the Office of the District General Counsel.
        iii. Suspected violations submitted in good faith and in an appropriate manner, whether or not further investigation substantiates the claim of violation, will be free from retaliation in any form. Any person who retaliates against a reporter or complainant shall be subject to discipline.
        iv. The identity of reporters or complainants will be protected, within legal limits.
        v. Reports shall be investigated by the Office of the General Counsel, and Findings of Fact reports shall be submitted to the subject of the complaint, and to the Superintendent or Superintendent's designee.
    e. District personnel who knowingly submit false reports or claims of violations may be subject to discipline.
7. **DEFINITIONS**
    a. "de minimus value" shall mean a value of Five Dollars ($5.00) or less.
    b. "district personnel" shall mean Directors of the Board of Education, employees of the District, appointees to district boards, committees and advisory councils, and contractors.
    c. "gift" shall mean any of the following when the receipt of which is without a return of consideration of equal or greater value:
        i. commissions
        ii. expense-paid trips

iii. money
iv. real or personal property
v. loans
vi. services
vii. forgiveness of indebtedness
viii. promise of future employment
ix. meals or lodging, or reimbursement for the same.

d. "Employee Appreciation Program" shall mean a district established and regulated program of acknowledging the service and performance of district employees equally available to all employees with the same criteria for selection. Such a program may include acknowledgements based on:
    i. Exemplary performance beyond the basic requirements of the employee's position.
    ii. Exemplary innovation resulting in improvement of delivery of district services or academic goals;
    iii. Exemplary service to students or parents;
    iv. Longevity of employment with the District.
e. "operation of the schools" shall include the purchase of materials for the:
    i. repair or maintenance of the physical assets of the district;
    ii. conduct of student classes;
    iii. conduct of student activities including but not limited to clubs, classes, athletic or other competitive teams.
f. "related to the district personnel" means those individuals in a familial or household relationship with the district personnel including, but not limited to:
    i. parents or children
    ii. brothers, sisters, nieces, nephews, aunts or uncles
    iii. domestic partners, and their familial relations
    iv. other dependents,
    v. persons who reside in the same household as the district personnel, and their familial relations.

~~**Original Adoption:**~~
~~04/25/1967 (as 1560)~~

~~**Revised Dates:**~~
~~10/12/1971, 01/30/1973, 01/14/2014~~

~~**Legal References:**~~

- Minn. Stat. §10A.071 (Prohibition of Gifts)
- Minn. Stat. §15.43 (Acceptance of Advantage…)
- Minn. Stat. §471.895 (Certain Gifts by Interested Persons Prohibited)

~~**MPS Policy Cross References:**~~

- Policy 3000 (Conflicts of Interest and Fiduciary Duty)

- Policy 3327 (Payment for Food and Drink)
- Regulation 3327 A (Food and Meal Expense Procedures and Limitations)

**SECTION 3:** **ADOPTION** "Policy 3001: Administrator Code Of Ethics" of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

A D O P T I O N

Policy 3001: Administrator Code Of Ethics*(Added)*

1. **PURPOSE**
   The purpose of this policy is to establish the requirements of the school board that school administrators adhere to the standards of ethics and professional conduct in this policy and Minnesota law.
2. **GENERAL STATEMENT OF POLICY**
   a. An educational administrator's professional behavior must conform to an ethical code. The code must be idealistic and at the same time practical, so that it can apply reasonably to all educational administrators. The administrator acknowledges that the schools belong to the public they serve for the purpose of providing educational opportunities to all. However, the administrator assumes responsibility for providing professional leadership in the school and community. This responsibility requires the administrator to maintain standards of exemplary professional conduct. It must be recognized that the administrator's actions will be viewed and appraised by the community, professional associates, and students. To these ends, the administrator must subscribe to the following standards.
   b. The Educational Administrator:
      i. Makes the well-being of students the fundamental value of all decision-making and actions.
      ii. Fulfills professional responsibilities with honesty and integrity.
      iii. Supports the principle of due process and protects the civil and human rights of all individuals.
      iv. Obeys local, state, and national laws and does not knowingly join or support organizations that advocate, directly or indirectly, the overthrow of the government.
      v. Implements the school board's policies.
      vi. Pursues appropriate measures to correct those laws, policies, and regulations that are not consistent with sound educational goals.
      vii. Avoids using positions for personal gain through political, social, religious, economic, or other influence
      viii. Accepts academic degrees or professional certification only from duly accredited institutions.
      ix. Maintains the standards and seeks to improve the effectiveness of the

profession through research and continuing professional development.

x. Honors all contracts until fulfillment, release, or dissolution is mutually agreed upon by all parties to the contract.

xi. Adheres to the Code of Ethics for School Administrators in Minnesota Rule.

**Original Adoption: Legal References:** Minn. Stat. § 122A.14, Subd. 4 (Duties of Board of School Administrators) Minn. Rules Part 3512.5200 (Code of Ethics for School Administrators) **MPS Policy Cross References**

**SECTION 4:** **AMENDMENT** "Policy 3002: Outside Employment, Copyright And Royalties" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 3002: ~~Outside Employment, Copyright And Royalties~~Employee Publications, Instructional Materials, Inventions, and Creations

1. **PURPOSE**
   ~~The public is due that propriety and dedication of service of the district's employees that fosters confidence in the delivery of services and advancement of district goals that they have a right to expect. Individual employees have the right during their non-duty hours to such employment as does not conflict with the interests of the district or appears to conflict with the interests of the district. The purpose of this policy is to balance these two rights in favor of the public purpose of the district.~~The purpose of this policy is to identify and reserve the proprietary rights of the school district to certain publications, instructional materials, inventions, and creations which employees may develop or create, or assist in developing or creating, while employed by the school district.
2. **GENERAL STATEMENT OF POLICY**
   Unless the employee develops, creates or assists in developing or creating a publication, instructional material, computer program, invention or creation entirely on the employee's own time and without the use of any school district facilities or equipment, the employee shall immediately disclose and, on demand of the school district, assign any rights to publications, instructional materials, computer programs, materials posted on websites, inventions or creations which the employee develops or creates or assists in developing or creating during the term of employee's employment. In addition, employees shall sign such documents and perform such other acts as may be necessary to secure the rights of the school district relating to such publications, instructional materials, computer programs, materials posted on websites, inventions and/or creations, including domestic and foreign patents and copyrights.
3. ~~**COPYRIGHT AND ROYALTIES**~~

a. ~~The district claims copyright on any and all intellectual property created or developed by the employee that pertains to his or her employment with the district unless the employee and the Superintendent or Superintendent's designee enter into a written agreement granting copyright of the material to the employee, or to the employee and the district jointly.~~

b. ~~Any royalties or other benefits accrued based on intellectual property work done while an employee of the district shall be the property of the district unless royalties are assigned to the employee or to the district and the employee in shares according to a written agreement between the Superintendent or Superintendent's designee and the employee.~~

4. ~~**RESPONSIBILITY**~~

a. ~~This policy applies to all employees of the district whether full or part time, seasonal or year-round, salaried or hourly.~~

b. ~~District principals and other managers are responsible for monitoring the outside employment affects on the employee's job performance. If the employee's job performance is adversely affected, the principal or manager will take appropriate disciplinary action including but not limited to, counseling, warning, or requiring the employee to choose one job or the other.~~

c. ~~Failure to disclose outside employment or failure to follow this policy may result in discipline of the employee up to and including termination.~~

d. ~~Questions regarding the compatibility of outside employment with the district employment shall be referred to the Office of the General Counsel, which shall make the final determination of compatibility.~~

e. ~~The Superintendent is authorized to promulgate regulations to implement this policy.~~

5. **NOTICE OF POLICY**

The school district shall give employees notice of this policy by such means as are reasonably likely to inform them of this policy.

a. ~~District employees, whether salaried or hourly, shall not accept employment, enter into a contract with another, or pursue a self-employment business interest that:~~

   i. ~~Interferes with the proper execution of his or her employment with the district; or~~

   ii. ~~Creates or appears to create a conflict of interest that would materially impair the ability of the employee to serve the district.~~

b. ~~District employees, whether salaried or hourly, shall not accept employment, enter into a contract with another or pursue a self-employment business interest to:~~

   i. ~~participate as an employee, principal or manager on a pending or existing district contract if the employee was involved in the negotiation, development, awarding, or management of that contract.~~

   ii. ~~participate in the negotiation or development on behalf of the outside employer of a pending contract with the District.~~

c. ~~District employees, whether salaried or hourly, shall not accept employment, enter into a contract with another, or pursue a self-employment business~~

interest to provide services that would bring the district into disrepute.

d. Employees accepting outside employment are required to inform their immediate supervisor of the employment including the name of the employer, the type of work to be done, and the expected hours of employment.

e. Subject to the above, hourly employees may accept outside employment limited to the employee's non-duty hours. Hourly employees may accept employment, enter into a contract with another or pursue a self-employment business interest during the employee's approved vacations, earned compensatory time or non-duty release days but not during a medical leave from employment with the district.

f. Subject to the above, salaried employees may accept outside employment, enter into a contract with another, or pursue a self-employment business interest scheduled outside of the employee's regularly scheduled work hours with the knowledge and consent of their supervisor, however

    i. outside employment may not be allowed to conflict with the scheduled and unscheduled time demands of the individual's district employment;

    ii. effect of the outside employment on the ability of the employee to perform their duties to the District shall be monitored, and adverse effects on the district employment may lead to withdrawal of permission for outside employment.

g. Employees who accept outside employment, enter into a contract with another, or pursue a self-employment business interest may not employ any district resource in the pursuit of that employment, contract or business interest. District resources include, but are not limited to:

    i. Use of the district internet access, or computers;

    ii. Use of district telephones, whether stationary or mobile;

    iii. Use of copying, faxing or scanning machines;

    iv. Use of office supplies or equipment

    v. Use of a district issued email address;

    vi. Use of district-created list-serves, distribution lists, or directories;

    vii. Use of district mailboxes or mailing services;

    viii. Use of district facilities, except as under an appropriately requested and granted permit under the community use of facilities program;

    ix. Use of district vehicles, except under a negotiated contract for their use;

    x. Use of the District brand, or that of any of its schools, facilities or programs;

    xi. Use of any intellectual property developed while an employee of the district unless specific written permission is granted by the Superintendent or Superintendent's designee.

h. Work assignments and schedules will not be changed to accommodate outside employment.

i. Employees shall not share, use or reveal private, non-public information or proprietary materials, techniques learned while a district employee with any

~~other employer, contractor or in their self-employed business interest.~~

**Original Adoption:**
01/14/2014

**Revised:**

**Legal References:**
Minn. Stat. § 181.78 (Agreements; Terms Relating to Inventions) 17 U.S.C. § 101 et seq. (Copyrights)

**MPS Policy Cross References:**

- Policy 3000 (Conflicts of Interest and Fiduciary Duty)

**SECTION 5:** **AMENDMENT** "Policy 3003: Nepotism" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 3003: Nepotism

1. **PURPOSE**
   As a public entity, the District must be held to high standards to deserve the public trust. Nepotism, or the appearance of nepotism, diminishes the integrity of the district in the public's eye and should be avoided at all times. Employing persons who are related to each other, or who reside with each other, but whose work assignments do not bring them into supervisory work relationships, and whose employment was not influenced by the other does not constitute nepotism. Balancing ~~the ability of the~~ District's ability to attract and keep the best employees for the public purposes of the district with a prohibition against nepotism requires the disclosure of potential conflicts with this policy and district action to prevent and arrange placement of related persons within the district to avoid valid claims of nepotism.
2. **GENERAL STATEMENT OF POLICY**
   a. No individual shall be assigned, reassigned, permanently or temporarily employed or issued an independent contract in a department, program, location or school where a related person will have administrative or supervisory responsibility over that individual.
   b. No district employee shall be part of the interviewing, hiring or contracting process for a related person.
   c. No district employee shall influence or attempt to influence the hiring, transfer, suspension, promotion, discharge, reward, discipline or adjustment of grievances of a related person. If the district employee has been granted an exception to have a related person under their administrative or supervisory

responsibility, any transfer, suspension, promotion, discharge, reward, discipline or adjustment of grievances for the excepted related person shall be handled by the ~~supervisor's superior~~individual designated by the Senior Human Resources Officer.

d. Related persons may work in the same department, location, or school so long as the relationship is disclosed and approved by both party's supervisors.
e. Potential employees are required to disclose their relationship to a district employee who is a related person during the application process.
f. Employees shall disclose any potential conflict with this policy due to a proposed reassignment, transfer, promotion, or demotion, to their supervisor.
g. Unique circumstances may allow an exception to this policy. Requests for exceptions must be made in writing with sufficient documentation to justify the exception. Exceptions for circumstances that do not involve a relationship to or with the Superintendent shall be determined by the Superintendent, or Superintendent's designee. Exceptions for circumstances that involve a relationship with the Superintendent shall be determined by the Board of Education upon a recommendation of the chief officer of the Division or Department affected by the employment or contract.
h. Willful breaches of this policy may result in employee discipline up to and including reassignment or termination of employment.
i. This policy does not apply generally to situations where students enroll in or are assigned to classes taught by related persons. In such cases, the related person shall notify the Principal of the relationship and the Principal may make reassignments. I~~n the event that~~f no reassignment is made, the related person shall be responsible for making those academic decisions normally incident to their instructional duties.

3. **RESPONSIBILITY**
   a. The Superintendent is authorized to promulgate regulations to implement this policy.
   b. All employees and all persons under an independent contract with the district or any of its subdivisions are responsible to comply with this policy.

**Original Adoption:**
08/31/1999 (as 4035)

**Revised Dates:**
01/14/2014

**Legal References:**

- Minneapolis Code of Ordinances, Title 2, Chapter 15, Article II, §15.160

**MPS Policy Cross References:**

- Policy 3000 (Conflicts of Interest and Fiduciary Duty)
- Regulations 3003 A (Definitions)

- Regulations 3003 B (Reporting, Investigation and Action)

**SECTION 6:** **AMENDMENT** "Policy 3004: Employee Use Of District Property" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 3004: Employee Use Of District Property

1. **PURPOSE**
   ~~As custodians of the public trust, the District is responsible for the appropriate use of all equipment and material acquired for the District. Employees have access due to their employment to such equipment and material. The purpose of this policy is to establish when employees may use equipment or material owned by the district.~~ This policy establishes the circumstances upon which District employees may use District property.
2. **GENERAL STATEMENT OF POLICY**
   As custodians of the public trust, the District is responsible for the appropriate use of all and material acquired for the District. Employees have access due to their employment to such equipment and material. The purpose of this policy is to establish when employees may use equipment or material owned by the District.
3. **USE OF DISTRICT PROPERTY**
   a. Employees may have specific equipment or material assigned for their use by their supervisor, or supervisor's designee.
   b. Employees are responsible for the care, appropriate use and security of equipment and material provided for the performance of his or her duties.
      i. Employees shall use equipment and material assigned to them for the purposes for which the equipment or material has been assigned.
      ii. Employees shall only use equipment and material assigned to them, or generally available to all employees, for appropriate uses to discharge their duties.
      iii. Employees shall take reasonable and prudent steps to secure equipment or materials assigned to them in the course of their employment.
      iv. Employees shall surrender all equipment and material assigned to them as required by their supervisor.
   c. Borrowing district equipment or material for personal uses is not allowed.
   d. Removal of district equipment from its usual location is permitted if the removal is for the purposes of executing the employee's duties.
   e. Equipment and material assigned to school-year employees may be checked out and removed from their usual location for the summer months, if requested in writing by the employee and required for the proper execution of the

employee's duties for the District. Any equipment checked out or removed from a school or department under this section must be approved in advance by the employee's supervisor.

f. Employees may apply to use district premises, equipment or material for personal purposes through the permit process that is available to all persons on the same basis as any applicant.

4. **RESPONSIBILITY**
   a. The Superintendent is authorized to promulgate regulations for the implementation of this policy.
   b. Employees who lose or damage district equipment or materials due to their gross neglect may be required to pay the replacement cost of the equipment or materials lost or damaged. Normal wear and tear of use shall not be considered damage to district equipment.
   c. Employees who damage district equipment or materials by intentional acts shall be required to pay the replacement cost of the equipment or material.
   d. Principals, Site Administrators and Department Heads are responsible for the supervision of the equipment and material assigned to their location, and to their employees. Principals, Site Administrators and Department Heads are required to properly account for all equipment and material assigned to their location or to their employees. Reports of loss or damage shall be made by the principal, site administrator or department head to their supervisor and to the appropriate district department in charge of distribution of the lost or damaged equipment or material.

**Original Adoption:**
01/14/2014

**Revised:**

**MPS Policy Cross References:**

- Policy 3179 (Equipment Replacement)
- Policy 3265 (Obsolete and Excess Materials, Equipment and Supplies)
- Policy 3440 (Inventories)
- Policy 3445 (Property and Equipment)

**SECTION 7:** **AMENDMENT** "Policy 8111: Duties Of Directors" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 8111: ~~Duties Of Directors~~Code of Ethics

1. **PURPOSE**

~~By answering the call to public service, each school board director commits to contributing to the formation of an effective and responsible school board which acts in the interests of the entire district and all of its students. To that end this policy exists to assist directors in fulfilling that commitment.~~The purpose of this policy is to assist the individual school board member in understanding his or her role as part of a school board and in recognizing the contribution that each member must make to develop an effective and responsible school board.

2. **GENERAL STATEMENT OF POLICY**

Each school board member shall follow the code of ethics stated in this policy.

- ~~a. School board directors govern in the interests of the district as a whole. Directors make no personal promises or undertake any independent action that might compromise the Board as a whole. Authority rests with the school board as whole in legal session, not in individual Directors, unless expressly authorized.~~
- ~~b. School board directors act responsibly toward the task of governance by:~~
  - ~~i. Attending all board meetings unless prevented from doing so for good cause;~~
  - ~~ii. Coming to board meetings well prepared, having read all relevant documents;~~
  - ~~iii. Being informed of the proper duties and functions of a school board Director and engaging in ongoing professional development;~~
  - ~~iv. Making decisions in board meetings on the available information, and only after all sides of debatable questions have been presented;~~
  - ~~v. Recognizing that school business may be legally transacted only in an open meeting of the school board;~~
  - ~~vi. Maintaining confidentiality of privileged information, including statements made in Executive Session.~~
  - ~~vii. Delegating details of board action to administrative employees;~~
  - ~~viii. Recognizing that appointed committees serve only in an advisory capacity to the school board;~~
- ~~c. School Board Directors maintain good working relationships with other Directors by:~~
  - ~~i. Listening to all points of view and respecting the right of others to have and express opinions;~~
  - ~~ii. Working with fellow board members in a spirit of cooperation when there are differences of opinion;~~
  - ~~iii. Sharing the work of the Board equitably, including external and internal committee assignments and other tasks as designated by the Board as a whole.~~
- ~~d. School Board Directors maintain the appropriate relationship with the Superintendent and his or her staff by:~~
  - ~~i. Exercising control over the management of the School District through the establishment of policies for the operation of the District and the employment of a Superintendent;~~
  - ~~ii. Holding the Superintendent responsible for the administration of the~~

~~school district and giving the Superintendent authority commensurate with that responsibility;~~

~~iii. Participating in school board action after considering the recommendation of the superintendent and only after the Superintendent has furnished adequate information supporting the recommendations;~~

~~iv. Expecting the superintendent to keep the school board adequately informed at all times through both oral and written reports;~~

~~v. Giving the superintendent counsel and advice;~~

~~vi. Protecting all school personnel by referring any concerns to the Superintendent or her or his designated staff.~~

~~vii. Providing support for the Superintendent and employees of the District so they may perform their proper functions on a professional level.~~

~~e. School Board Directors endeavor to meet their responsibility to the community by:~~

~~i. Working to determine both the present and future educational needs of the school district when making decisions;~~

~~ii. Attempting to obtain adequate financial support for the District by every available legal means;~~

~~iii. Communicating actively with the community and interpreting the needs and attitudes of the community, to the best of their ability;~~

~~iv. Insisting that fiscal information and all business transactions of the school district are presented in an ethical, transparent and responsible manner.~~

~~f. School Board Directors fulfill their legal obligations by:~~

~~i. Complying with all federal, state and local laws relating to board function;~~

~~ii. Complying with all District policies as adopted by the school board;~~

~~iii. Abiding by all rules and regulations as promulgated by the Minnesota Department of Education and other federal and state agencies with jurisdiction over school districts.~~

g. AS A MEMBER OF THE SCHOOL BOARD, I WILL:

i. Attend school board meetings.

ii. Come to the meetings prepared for discussion of the agenda items.

iii. Listen to the opinions and views of others (including, but not limited to, other school board members, administration, staff, students, and community members).

iv. Vote my conscience after informed discussion, unless I abstain because a conflict of interest exists.

v. Support the decision of the school board, even if my position concerning the issue was different.

vi. Recognize the integrity of my predecessors and associates and appreciate their work.

vii. Be primarily motivated by a desire to provide the best possible

education for the students of my school district.

viii. Inform myself about the proper duties and functions of a school board member.

h. IN PERFORMING THE PROPER FUNCTIONS OF A SCHOOL BOARD MEMBER, I WILL:
   i. Focus on education policy as much as possible.
   ii. Remember my responsibility is to set policy – not to implement policy.
   iii. Consider myself a trustee of public education and do my best to protect, conserve, and advance its progress.
   iv. Recognize that my responsibility, exercised through the actions of the school board as a whole, is to see that the schools are properly run – not to run them myself.
   v. Work through the superintendent – not over or around the superintendent.
   vi. Delegate the implementation of school board decisions to the superintendent.

i. TO MAINTAIN RELATIONS WITH OTHER MEMBERS OF THE SCHOOL BOARD, I WILL:
   i. Respect the rights of others to have and express opinions.
   ii. Recognize that authority rests with the school board in legal session – not with the individual members of the school board except as authorized by law.
   iii. Make no disparaging remarks, in or out of school board meetings, about other members of the school board or their opinions.
   iv. Keep an open mind about how I will vote on any proposition until the board has met and fully discussed the issue.
   v. Make decisions by voting in school board meetings after all sides of debatable questions have been presented.
   vi. Insist that committees be appointed to serve only in an advisory capacity to the school board.

j. IN MEETING MY RESPONSIBILITIES TO MY COMMUNITY, I WILL:
   i. Attempt to appraise and plan for both the present and future educational needs of the school district and community.
   ii. Attempt to obtain adequate financial support for the school district's programs.
   iii. Insist that business transactions of the school district be ethical and open.
   iv. Strive to uphold my responsibilities and accountability to the taxpayers in my school district.
   v. Communicating actively with the community and interpreting the needs and attitudes of the community, to the best of their ability.

k. IN WORKING WITH THE SUPERINTENDENT OF SCHOOLS AND

STAFF, I WILL:

i. Hold the superintendent responsible for the administration of the school district.

ii. Give the superintendent authority commensurate with their responsibilities.
iii. Assure that the school district will be administered by the best professional personnel available.
iv. Consider the recommendation of the superintendent in hiring all employees.
v. Participate in school board action after considering the recommendation of the superintendent and only after the superintendent has furnished adequate information supporting the recommendation.
vi. Insist the superintendent keep the school board adequately informed at all times.
vii. Offer the superintendent counsel and advice.
viii. Recognize the status of the superintendent as the chief executive officer and a non-voting, ex officio member of the school board.
ix. Refer all complaints to the proper administrative officer or insist that they be presented in writing to the whole school board for proper referral according to the chain of command.
x. Present any personal criticisms of employees to the superintendent.
xi. Provide support for the superintendent and employees of the school district so they may perform their proper functions on a professional level

l. IN FULFILLING MY LEGAL OBLIGATIONS AS A SCHOOL BOARD MEMBER, I WILL:

i. Comply with all federal, state, and local laws relating to my work as a school board member.
ii. Comply with all school district policies as adopted by the school board.
iii. Abide by all rules and regulations as promulgated by the Minnesota Department of Education and other state and federal agencies with jurisdiction over school districts.
iv. Recognize that school district business may be legally transacted only in an open meeting of the school board.
v. Avoid conflicts of interest and refrain from using my school board position for personal gain.
vi. Take no private action that will compromise the school board or administration.
vii. Guard the confidentiality of information that is protected under applicable law.

**Original Adoption:**

11/12/1991 (as Policy 8260)

**Revision Dates:**
08/11/2009, 04/13/2021

**Legal References:**
Minn. Stat. §123B.02 (General Powers of Independent School Districts)
Minn. Stat. §123B.09 (Boards of Independent School Districts)
Minn. Stat. §128D.01 (Special Independent District: Minneapolis)
Minn. Stat. §128D.04 (District Like Independent District; Exception) Minn. Stat. § 123B.143, Subd. 1 (Superintendent)

**MPS Policy Cross References:**
Policy 8110 (Purposes and Role of the Board)Policy 8500 (Board Director Development)

**SECTION 8:** **AMENDMENT** "Policy 8510: Conflict Of Interest" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 8510: Conflict Of Interest

1. **PURPOSE**
   ~~The purpose of this policy is to establish the commitment of the Board of Directors to engage in District business activities in accordance with law and in a manner designed to avoid any conflict of interest or appearances of impropriety.~~The purpose of this policy is to observe state statutes regarding conflicts of interest and to engage in school district business activities in a fashion designed to avoid any conflict of interest or the appearance of impropriety.
2. **GENERAL STATEMENT OF POLICY**
   It is the policy of the school board to contract for goods and services in conformance with statutory conflict of interest laws and in a manner that will avoid any conflict of interest or the appearance thereof. Accordingly, the school board will contract under the statutory exception provisions only when it is clearly in the best interest of the school district because of limitations that may exist on goods or services otherwise available to the school district.
3. ~~**GENERAL STATEMENT OF POLICY**~~
   a. ~~The Board of Directors of Special School District No. 1, Minneapolis Public Schools will contract for goods and services in conformance with statutory conflict of interest laws and in a manner that will avoid any conflicts of interest or the appearances thereof.~~
   b. ~~The Board will contract under the exceptions to the statutory prohibition only when it is clearly in the best interests of the District because of limitations that~~

~~may exist on the goods or services provided in the contract that are otherwise available to the District.~~

~~c. All contracts under the statutory exceptions must be in accordance with law and by a unanimous vote.~~

~~d. The Board will not employ a teacher related by blood or marriage to a school board member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full Board.~~

~~e. The Board will not contract with a class of school district employees where the spouse of a Director is a member of the class, unless~~

~~i. the spouse of the Director receives no special monetary or other benefit that is substantially different from that other members of the class receive under the contract;~~

~~ii. the Director spouse abstains from voting regarding the contract; and~~

~~iii. the essential facts of the contract are publicly set out at the meeting where the contract is approved.~~

~~f. In the event that a Director has a personal financial interest in a sale, lease or contract with the District which was entered into before the Director took office and presents an actual or potential conflict of interest, the Director shall:~~

~~i. disclose such interest immediately upon discovery to the Board; and~~

~~ii. refrain from participating in any action related to that interest.~~

~~g. If a contract for sale, lease or purchase that meets the criteria of Paragraph 2.F. above is considered for renewal, the contract will only be renewed if it meets one of the statutory exceptions to the general prohibition, and the contract negotiations and conclusion follow the procedures required by law.~~

~~4. **RESPONSIBILITY**~~

~~a. It is the responsibility of every Director to disclose any actual or potential conflict of interest to notify the Board immediately upon discovery of such a conflict.~~

~~b. The determination of whether or not a conflict of interest exists is to be made by the board.~~

~~i. Directors with actual or potential conflicts shall cooperate with other Directors in the process of determining whether or not a conflict exists~~.

~~ii. Findings of the Board on conflicts shall be made publicly.~~

5. **GENERAL PROHIBITIONS AND RECOGNIZED STATUTORY EXCEPTIONS**

a. A school board member who is authorized to take part in any manner in making any sale, lease, or contract in his or her official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom.

b. In the following circumstances, however, the school board may as an exception, by unanimous vote, contract for goods or services with a school board member of the school district:

i. In the designation of a bank or savings association, in which a school board member is interested, as an authorized depository for school

district funds and as a source of borrowing, provided such deposited funds are protected in accordance with Minnesota Statutes, chapter 118A. Any school board member having said interest shall disclose that interest and the interest shall be entered upon the school board minutes. Disclosure shall be made when such bank or savings association is first designated as a depository or source of borrowing, or when such school board member is elected, whichever is later. Disclosure serves as notice of the interest and need only be made once;

ii. The designation of an official newspaper, or publication of official matters therein, in which the school board member is interested when it is the only newspaper complying with statutory requirements relating to the designation or publication;

iii. A contract with a cooperative association of which the school board member is a shareholder or stockholder but not an officer or manager;

iv. A contract for which competitive bids are not required by law. A contract made under this exception will be void unless the following procedures are observed:

(1) The school board shall authorize the contract in advance of its performance by adopting a resolution setting out the essential facts and determining that the contract price is as low as or lower than the price at which the goods or services could be obtained elsewhere.

(2) In the case of an emergency when the contract cannot be authorized in advance, payment of the claims must be authorized by a like resolution wherein the facts of the emergency are also stated.

(3) Before a claim is paid, the interested school board member shall file with the clerk of the school board an affidavit stating:

(A) The name of the school board member and the office held;

(B) An itemization of the goods or services furnished;

(C) The contract price;

(D) The reasonable value;

(E) The interest of the school board member in the contract; and

(F) That to the best of the school board member's knowledge and belief, the contract price is as low as, or lower than, the price at which the goods or services could be obtained from other sources.

v. A school board member may contract with the school district to provide construction materials or services, or both, when the sealed bid process is used. When the contract comes before the school board for consideration, the interested school board member may not vote

on the contract.

vi. A school board member may rent space in a public facility at a rate commensurate with that paid by other members of the public.

c. In the following circumstances, the school board may as an exception, by majority vote at a meeting at which all school board members are present, contract for services with a school board member of the school district: A school board member may be newly employed or may continue to be employed by the school district as an employee only if there is a reasonable expectation on July 1, or at the time the contract is entered into or extended, that the amount to be earned by that school board member under that contract or employment relationship, will not exceed $20,000 in that fiscal year. If the school board member does not receive majority approval to be initially employed or to continue in employment at a meeting at which all school board members are present, that employment is immediately terminated and that school board member has no further rights to employment while serving as a school board member in the school district.

d. The school board may contract with a class of school district employees, such as teachers or custodians, when the spouse of a school board member is a member of the class of employees contracting with the school board and the employee spouse receives no special monetary or other benefit that is substantially different from the benefits that other members of the class receive under the employment contract. For the school board to invoke this exception, it must have a majority of disinterested school board members vote to approve the contract, direct the school board member spouse to abstain from voting to approve the contract, and publicly set out the essential facts of the contract at the meeting in which the contract is approved.

6. **LIMITATIONS ON RELATED EMPLOYEES**

a. The school board must hire or dismiss teachers only at duly called meetings. When a husband and wife, brother and sister, or two brothers or sisters, constitute a quorum, no contract employing a teacher may be made or authorized except upon the unanimous vote of the full school board.

b. The school board may not employ any teacher related by blood or marriage to a school board member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full school board.

7. **CONFLICTS PRIOR TO TAKING OFFICE**

A school board member with personal financial interest in a sale, lease, or contract with the school district which was entered before the school board member took office and presents an actual or potential conflict of interest, shall immediately notify the school board of such interest. It shall thereafter be the responsibility of the school board member to refrain from participating in any action relating to the sale, lease, or contract. At the time of renewal of any such sale, lease, or contract, the school board may enter into or renew such sale, lease, or contract only if it falls within one of the

enumerated exceptions for contracts relating to goods or services provided above and if the procedures provided in this policy are followed.

8. **DETERMINATION AS TO WHETHER A CONFLICT OF INTEREST EXISTS**
   The determination as to whether a conflict of interest exists is to be made by the school board. Any school board member who has an actual or potential conflict shall notify the school board of such conflict immediately. The school board member shall thereafter cooperate with the school board as necessary for the school board to make its determination.

**Original Adoption:**
04/25/1967 (as Policy 8240)

**Revision Dates:**
10/12/1971, 12/12/1972, 11/12/1991, 08/11/2009

**Legal References:**
Minn. Stat. §122A.40, Subd. 3 (Employment; Contracts; Termination: Hiring, Dismissing)
Minn. Stat. §123B.195 (Board Members' Right to Employment)
Minn. Stat. §471.87 (Public Officers, Interest in Contract; Penalty)
Minn. Stat. §471.88 (Exceptions)
Minn. Stat. §471.89 (Contract, When Void)

**MPS Policy Cross References:**
Policy 3000 (Conflicts of Interest and Fiduciary Duty)
Policy 3001 (Gifts to District Personnel)
Policy 3003 (Nepotism)
Policy 8110 (Purposes and Role of the Board)
Policy 8111 (Duties of Directors)

**SECTION 9:** **ADOPTION** "Policy 4300: Gifts To Employees And Board Members" of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

A D O P T I O N

Policy 4300: Gifts To Employees And Board Members*(Added)*

1. **PURPOSE**
   The purpose of this policy is to avoid the appearance of impropriety or the appearance of a conflict of interest with respect to gifts given to school district employees and school board members.
2. **GENERAL STATEMENT OF POLICY**

a. The school district recognizes that students, parents, and others may wish to show appreciation to school district employees. The policy of the school district, however, is to discourage gift-giving to employees and to encourage donors instead to write letters and notes of appreciation or to give small tokens of gratitude as memorabilia.
b. A violation of this policy occurs when any employee solicits, accepts, or receives, either by direct or indirect means, a gift from a student, parent, or other individual or organization of greater than nominal value.
c. A violation of this policy occurs when any employee solicits, accepts, or receives a gift from a person or entity doing business with or seeking to do business with the school district. Employees may accept items of insignificant value of a promotional or public relations nature or a plaque with a resale value of $5 or less with an inscription recognizing an individual for an accomplishment. The superintendent has discretion to determine what value is "insignificant."
d. Teachers may accept from publishers free samples of textbooks and related teaching materials.
e. This policy applies only to gifts given to employees where the donor's relationship with the employee arises out of the employee's employment with the school district. It does not apply to gifts given to employees by personal friends, family members, other employees, or others unconnected to the employee's employment with the school district.
f. An elected or appointed member of a school board, a school superintendent, a school principal, or a district school officer, including the school business official, may not accept a gift from an interested person.

3. **DEFINITIONS**
   a. "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment that is given without something of equal or greater value being received in return.
   b. "Interested person" means a person or a representative of a person or association that has a direct financial interest in a decision that a school board member, a superintendent, a school principal, or a district school officer is authorized to make.
   c. "Financial interest" means any ownership or control in an asset which has the potential to produce a monetary return.
4. **PROCEDURES**
   Any employee considering the acceptance of a gift shall confer with the administration for guidance related to the interpretation and application of this policy.
5. **VIOLATIONS**
   Employees who violate the provisions of this policy may be subject to discipline, which may include reprimand, suspension, and/or termination or discharge.

**Original Adoption: Legal References:**
Minn. Stat. § 10A.07 (Conflicts of Interest)
Minn. Stat. § 10A.071 (Prohibition of Gifts)

Minn. Stat. § 15.43 (Acceptance of Advantage by State Employee; Penalty)
Minn. Stat. § 471.895 (Certain Gifts by Interested Persons Prohibited)

**MPS Policy Cross References:**

**OFFICIAL MINUTES**
**MINNEAPOLIS BOARD OF EDUCATION (SPECIAL SCHOOL DISTRICT NO. 1)**

**REGULAR BUSINESS MEETING**
**JANUARY 21, 2025**

## CALL TO ORDER

In accordance with applicable requirements, notice was provided to each member of the Board of Education and to the public not less than three days prior to the meeting. Board members met in a regular meeting in the assembly room at the John B. Davis Educational Services Center (1250 West Broadway Ave. Minneapolis, MN) on January 21, 2025.

Chair Collin Beachy called the meeting to order at 5:31 p.m., a quorum being present.

## ROLL CALL

Present: Directors Sharon El-Amin, Lucie Skjefte, Adriana Cerrillo, Lori Norvell, Greta Callahan, Collin Beachy, Kim Ellison, Joyner Emerick (participated via interactive technology) (8); Ex Officio member Superintendent Dr. Lisa Sayles-Adams (1)

Absent: Director Abdul Abdi (1)

## APPROVAL OF AGENDA

Ellison moved to approve the agenda.

Ellison moved to amend the agenda to remove item 6a.4.a. (Authorizing cooperative athletic team actions and filings with Minnesota State High School League) from the consent agenda for individual consideration.

On a voice vote, the motion to amend the agenda was adopted with the following result:

Aye: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Nay: (0)
Abstain: (0)
Absent: Abdi (1)

El-Amin moved to amend the agenda to remove item 6a.3.c. (Contract with Minneapolis Convention Center) from the consent agenda individual consideration.

On a voice vote, the motion to amend the agenda was adopted with the following result:

Aye: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Nay: (0)
Abstain: (0)
Absent: Abdi (1)

On a voice vote, the motion to approve the agenda, as amended, was adopted with the following result:

Aye: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Nay: (0)
Abstain: (0)
Absent: Abdi (1)

## PUBLIC COMMENTS

Comments were heard from members of the public.

## RECESS

A 10-minute recess was taken.

## REPORTS AND RECOMMENDATIONS FROM THE SUPERINTENDENT OF SCHOOLS

Superintendent Dr. Sayles Adams and staff provided presentations on the following topics:

a. Presentation and Updates
    - Superintendent's Update
    - Dual Language Task Force Recommendations

No votes or action was taken on these informational items.

## ACTION ITEMS BY THE BOARD OF EDUCATION

### Approval of the Consent Agenda

Norvell moved to approve the consent agenda, which included the following items:

<u>Acceptance of Minutes</u>
- December 10, 2024 Regular Business and Truth-in-Taxation Meeting
- January 6, 2025 Special Annual Organizational Meeting

<u>Personnel Items</u>
- Approval of List A personnel matters (2025-1-ER-A)
- Approval of List B personnel matters (2025-1-ER-B)

<u>Contracts</u>

- Contract with Construction Results Corporation (2025-4400002796)
- Contract with Jorgenson Construction Inc (2025-4400002820)
- Amendment to contract 2025-4400002480 with Parallel Technologies, Inc
- Amendment to contract 2025-4400002571 with Rochon Corporation
- Contract with Shipcom Wireless Software (2025-4400002787)

Agreements and Authorizations

- Authorizing a lease extension with the City of Minneapolis for school-based clinics (2025-0016)

On a voice vote, the motion to approve the consent agenda was adopted with the following result:

Aye: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Nay: (0)
Abstain: (0)
Absent: Abdi (1)

**Authorizing cooperative athletic team actions and filings with Minnesota State High School League (MSHSL) (2025-0016)**

Ellison moved to approve Resolution 2025-0016, Authorizing cooperative athletic team actions and filings with Minnesota State High School League (MSHSL).

On a voice vote, the motion to approve the resolution failed with the following result:

Aye: (0)
Nay: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Abstain: (0)
Absent: Abdi (1)

**Contract with Minneapolis Convention Center (2025-4400002809)**

Ellison moved to approve Contract 2025-4400002809 with the Minneapolis Convention Center.

On a voice vote, the motion to approve the contract was adopted with the following result:

Aye: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Nay: (0)
Abstain: (0)
Absent: Abdi (1)

**Resolution Adopting the 2025 Legislative Agenda (2025-0001)**

Ellison moved to approve Resolution (2025-0001), Adopting the 2025 Legislative Agenda.

On a voice vote, the motion to approve the resolution was adopted with the following result:

Aye: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Nay: (0)
Abstain: (0)
Absent: Abdi (1)

**Resolution Approving Calendars for School Years 2025-2026, 2026-2027, 2027-2028 (2025-0002)**

Norvell moved to approve Resolution 2025-0002, Approving Calendars for School Years 2025-2026, 2026-2027, and 2027-2028.

On a voice vote, the motion to approve the resolution was adopted with the following result:

Aye: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Nay: (0)
Abstain: (0)
Absent: Abdi (1)

**Resolution Regarding District Practices Related to the Dignity and Rights of Immigrant and LGBTQ+ Students, Staff, and Families (2025-0017)**

Norvell moved to approve Resolution 2025-0017, Regarding District Practices Related to the Dignity and Rights of Immigrant and LGBTQ+ Students, Staff, and Families.

On a voice vote, the motion to approve the resolution was adopted with the following result:

Aye: El-Amin, Skjefte, Cerrillo, Norvell, Callahan, Beachy, Ellison, Emerick (8)
Nay: (0)
Abstain: (0)
Absent: Abdi (1)

**Resolution on Fiscal Year 2025-2026 Budget Values and Priorities (2025-0018)**

Ellison moved to approve Resolution 2025-0018, on Fiscal Year 2025-2026 Budget Values and Priorities.

Emerick moved a substitute resolution to add language and make changes to the list of priorities.

On a voice vote, the motion to approve the substitute resolution failed with the following result:

Aye: El-Amin, Cerrillo, Emerick (3)
Nay: Skjefte, Norvell, Callahan, Beachy, Ellison (5)
Abstain: (0)
Absent: Abdi (1)

On a voice vote, the motion to approve the resolution was adopted with the following result:

Aye: El-Amin, Skjefte, Norvell, Callahan, Beachy, Ellison (6)
Nay: Cerrillo, Emerick (2)
Abstain: (0)
Absent: Abdi (1)

**REPORTS FROM BOARD OF EDUCATION DIRECTORS**

The following directors and student representatives provided reports:

- Norvell
- Cerrillo
- Ellison
- Emerick

**ADJOURNMENT**

Without objection, Chair Beachy adjourned the meeting at 9:08 p.m.

DRAFT

**Secretary Notations:**

- Minutes submitted by Ryan Strack, Assistant to the Superintendent and Board
- Meeting materials:
- Minutes approved: February 11, 2024

**Attachments:** *(added upon approval of minutes)*

- Resolution Adopting the 2025 Legislative Agenda (2025-0001)
- Resolution Approving Calendars for School Years 2025-2026, 2026-2027, and 2027-2028 (2025-0002)
- Resolution Regarding District Practices Related to the Dignity and Rights of Immigrant and LGBTQ+ Students, Staff, and Families (2025-0017)
- Resolution on Fiscal Year 2025-2026 Budget Values and Priorities (2025-0018)

**Approvals:**

_____

Collin Beachy, Chair

_____

Lori Norvell, Clerk

DRAFT

# Minneapolis Public Schools

## List A: All Employees: Tuesday, February 11, 2025

## Hiring - Licensed

| | | | |
|---|---|---|---|
| Jennifer Gottenborg | Career and Technical Education | Teacher, TOSA Instructional Specialist | 2/3/2025 |

## Hiring - Non Licensed

| | | | |
|---|---|---|---|
| Zaynab Adan | Roosevelt High | Special Education Assistant | 1/14/2025 |
| Melissa Becker | Hall Academy Elementary | School Success Program Assistant | 1/21/2025 |
| Michelle Estrada Salazar | Minneapolis Kids | Child Care Assistant | 1/21/2025 |
| Sarah Hage | Core Instruction (K-12) | K-12 Content Lead | 2/18/2025 |
| Khatera Herawie | Strategic Procurement & Contract Mgmt. | Buyer, Senior | 1/27/2025 |
| Jeren King | Anishinabe Academy Elementary | Associate Educator | 1/14/2025 |
| David Purtle | Engineers, Zone 1 | Custodian | 1/29/2025 |

## Discharges

**Licensed**

**Non-Licensed**

**Non-Represented**

## Probationary Separations

**Licensed**

**Licensed, Staff Reduction**

**Licensed, Discontinuance of Contract**

| | | |
|---|---|---|
| Executive Director | 03-07-2025 | 2025-02-ER-7119 |

**Non-Licensed**

| | | |
|---|---|---|
| Child Care Assistant | 01-23-2025 | 2025-02-ER-7139 |
| Food Service Assistant | 01-22-2025 | 2025-02-ER-7133 |
| Associate Educator | 01-23-2025 | 2025-02-ER 7151 |
| Food Service Assistant | 01-22-2025 | 2025-02-ER-7138 |
| Associate Educator | 01-28-2025 | 2025-02-ER-7145 |
| Child Care Assistant | 01-23-2025 | 2025-02-ER-7123 |
| Special Education Assistant | 01-31-2025 | 2025-02-ER-7189 |

**Non-Licensed, Discontinuance of Contract**

**Non-Licensed, Staff Reduction**

## Layoffs

**Licensed**

**Non-Licensed**

## Administrative Contract Non-Renewals

MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

**MINNEAPOLIS PUBLIC SCHOOLS**

**AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIALS**

**PROJECT:**

This Agreement (the "Agreement") is made this 28 day of January, 2025 (the "Effective Date") by and between Special School District No. 1, a Minnesota public school corporation (the "School District"), and All Furniture Inc, a moving company (the "Contractor").

**RECITALS:**

A. The School District owns and operates school buildings, administrative offices, and related sites and facilities that are generally located throughout the City of Minneapolis, Minnesota (collectively, the "Sites and Facilities").

B. The Sites and Facilities require maintenance, repair, and updating from time-to-time, necessitating the provision of services by a third-party contractor.

C. The School District also must periodically engage a third-party contractor to facilitate the purchase of equipment, materials and supplies to support its school operations.

D. The School District desires to retain a contractor to perform the services described below (the "Project") in accordance with and subject to the terms and conditions in this Agreement.

E. The Contractor has examined the location of all proposed work if applicable, carefully reviewed and evaluated the specifications set forth by the School District for the Project, is familiar with all conditions relevant to the performance of the services and is committed to perform all work required for the price specified in this Agreement.

In consideration of the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. ***General Terms and Conditions.*** Reference is hereby made to the General Terms and Conditions of this Agreement attached hereto as **Exhibit A** and made a part hereof (the "General Terms and Conditions"). The General Terms and Conditions are incorporated herein by

reference as if set forth in full herein. Without limiting the generality of the foregoing, (a) all capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in the General Terms and Conditions and (b) all capitalized terms used in the General Terms and Conditions without definition shall have the meanings ascribed to them in this Agreement.

2. ***Project Information.***

(a) ***Scope of Work.*** The Project generally consists of relocation of Curriculum, IT, Science Center, GEM & GISE departments as described in the attached quote. A detailed Scope of Work is set forth in **Exhibit B**, attached hereto and made a part hereof. Where applicable, drawings, specifications, lists of equipment, supplies, materials, and/or other existing documents describing or connected to the Project are listed or described on **Exhibit B.**

(b) ***Time of Performance.*** The Project shall be commenced on the Effective Date and completed in accordance with the schedule set forth in the Scope of Work, **Exhibit B** hereto (the "Work Schedule"). Time is of the essence in the performance of services under this Agreement.

(c) ***Compensation.*** The School District shall pay the Contractor for the services in accordance with this Agreement and the Schedule of Rates/Payments attached hereto as **Exhibit C** (the "Payment Schedule") and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without the prior written approval of the School District. The Contractor's total compensation for services performed in accordance with this Agreement, including all reimbursable items, shall not exceed one hundred ninety-eight thousand five hundred seventy six Dollars ($198,576) (the "Contract Sum").

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

(a) To the Contractor:
All Furniture
6601 Shingle Creek Pkwy
Brooklyn Center, MN
Attn: Julio Salazar

(b) To the School District:
Minneapolis Public Schools
1250 W. Broadway Avenue
Minneapolis, MN 55411-2533
Attn: Mauricio Ochoa

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

4. ***Authorized Representatives.***

(a) The School District's authorized representatives with respect to this Agreement are: Mauricio Ochoa [NAME]; 612.559.2574 [TELEPHONE], Mauricio.ochoa@mpls.k12.mn.us [EMAIL].

(b) The Contractor's authorized representatives with respect to this Agreement are: Julio Salazar [NAME]; 612.238.3208 [TELEPHONE], julio@allfurnitureinc.com [EMAIL].

***IN WITNESS WHEREOF***, the parties hereto have executed this Agreement as of the date indicated next to the name of the party who signs below.

**SPECIAL SCHOOL DISTRICT NO. 1**

Dated: January 27, 2025 By: _____
[Authorized Signatory]

_____
[Title]

**CONTRACTOR**

Dated: 1/28, 2025 By: Katherine Pippel
[Authorized Signatory]

# EXHIBIT A

# GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "General Terms and Conditions) form a part of that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL.

1. ***Definitions.*** The terms defined in this Section shall have the following meanings for purposes of these General Terms and Conditions when initially capitalized herein:

(a) "**Agreement**" means that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL.

(b) "**Contract Documents**" means, collectively, (i) the Agreement, (ii) these General Terms and Conditions, (iii) all Exhibits listed or described in the Agreement and (iv) all drawings, specifications, addenda and modifications describing the Work which are issued after the date hereof.

(c) "**Work**" means all labor, materials, equipment, supplies, and/or services required to complete the Project described in the Contract Documents.

2. ***Contract Sum.*** The School District agrees to pay the Contractor for the full and faithful performance of the Work and related costs a stipulated amount equal to the Contract Sum set forth in the Agreement. The Contract Sum shall be subject to additions and deductions for changes in the Work, and the School District may deduct from the Contract Sum the value of any Work done which, in the good faith opinion of the School District, is not in compliance with the Contract Documents. The Contract Sum shall be payable to the Contractor in accordance with the Payment Schedule, subject to the provisions of these General Terms and Conditions.

3. ***Work Schedule.*** Contractor shall perform all of the Work in accordance with the Work Schedule. Time is of the essence in completing the Project. The Contractor agrees to notify the School District in writing of any and all causes of delay of the Work, or any part thereof, within 24 hours after such cause of delay shall arise, and in case of the failure of the Contractor to perform this Agreement and complete the Work at the time specified in the Contract Documents, the School District may immediately, or at any time thereafter, proceed to complete the Work at the cost and expense of the Contractor. Upon receipt of written notice from the Contractor of the existence of causes over which the Contractor has no control and which must delay the completion of the work, the School District may at its discretion, extend the date specified for the completion of the Work.

4. ***Standards of Performance.*** The Contractor agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the Contract Documents and shall be subject to the inspection and approval by the proper authorities of the School District for the supervision of the

Work, and in case any of said material or labor shall be rejected by the School District as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the School District at the cost and expense of the Contractor. The Contractor agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require during the performance of this Agreement. The Contractor further agrees to make good, replace, and renew at the Contractor's own cost and expense any loss or damage to the Work and Project occurring prior to the final delivery to and acceptance thereof by the School District, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the Work and Project in its entirety for the final acceptance by the School District; and any payment or payments made to the Contractor hereunder, shall not be construed as operating to relieve the Contractor from responsibility for the Work and Project as herein provided and agreed. It is agreed and understood by the parties hereto that the use of the Work and Project at any time by the School District for any purposes shall not be construed to be or operate as an acceptance by the School District of the work to be done by the Contractor under this Agreement.

5. ***Change Orders; Limitations***. No claim for extra work done or additional materials, equipment, or supplies furnished by the Contractor will be made by the Contractor or allowed by the School District, nor shall the Contractor do any work or furnish any materials, equipment or supplies not covered by the Scope of Work, unless such work or materials, equipment or supplies is ordered in writing by the School District. Any such work or materials, equipment or supplies which may be done or furnished by the Contractor without such written order first being given, shall be at the Contractor's own risk and expense. When any extra work or materials, equipment or supplies is ordered by the School District to be done or furnished, the Contractor shall furnish such materials and do such work for the price mutually agreed to by the Contractor and the School District, and when any alteration of the Scope of Work is ordered by the School District, the Contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the Contract Sum.

6. ***Labor, Materials, Equipment, Etc.*** The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation and other facilities and/or services necessary for the proper execution of the Work. All costs and expenses for such items shall be included in the Contract Sum.

7. ***Permits, Fees and Compliance with Law***. The Contractor shall secure all permits, licenses and inspections necessary for the execution and completion of the Work as part of the Contract Sum. All permit, license and inspection fees shall be included in the Contract Sum. The Contractor shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to the Work.

8. ***Taxes.*** The Contractor shall pay sales, consumer, use and other similar taxes, except to the extent that such taxes are not payable due to the status of the School District as a tax-exempt entity. The Contractor shall not charge the School District for state sales taxes, uses taxes,

and other taxes that are not payable due to the status of the School District as a tax-exempt entity, and the Contract Sum shall be reduced to the extent that amounts for such taxes were included in the determination thereof.

9. ***Subcontractors; Third Party Claims***. The Contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the Contractor in and about the performance of this Agreement, and for all labor and material by them so performed and furnished, but in case the Contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the School District may apply the monies due and coming to the Contractor under this Agreement toward paying and satisfying such claims and demands, and the School District is herewith given the right to apply monies due and coming to the Contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the School District from the Contractor on any account whatsoever, and the amount of such payments shall be charged against the balance due the Contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the School District or of those to whose benefit the bond herein agreed upon shall insure, to hold the Contractor or surety liable on the bond for any breach of the conditions of the same nor as imposing upon the School District any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the Contractor hereunder. Contractor shall comply with the requirements of Minn. Stat. §471.425, subd. 4a., Prompt Payment to Subcontractors, which is incorporated herein by reference.

10. ***Bonds.*** If required by the Contract Documents, prior to performing any work under this Agreement, the Contractor shall provide the School District with the following bonds covering the Project: (a) a performance bond for the benefit of the School District, ensuring that Contractor will construct and maintain the Project in accordance with the Contract Documents, and saving and holding the School District harmless from all costs and charges which may accrue on account of completing the Project; and (b) a payment bond for the use and benefit of all persons furnishing labor or materials for the Project and making just claims for payment for such labor or materials.

11. ***Background Checks.*** The Contractor shall obtain a background check pursuant to applicable federal and state law and School District policy, including the Minnesota Child Protection Background Check Act, for each employee, volunteer or agent assigned to the Project. If Contractor receives a report that an employee, volunteer or agent so assigned has ever been convicted of a serious offense, or a background check crime, as defined at Minn. Stat. § 299C.61, it shall take immediate steps to notify the School District of the report and remove such employee, volunteer or agent from his/her assignment.

12. ***Equal Opportunity***. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this Agreement or any subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of

work under this Agreement or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this Section shall be a misdemeanor; and that this Agreement may be canceled or terminated by the School District and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this Agreement.

13. ***Independent Contractor***. All work provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the School District for any purpose. Any and all officers, employees, subcontractors, agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement shall not be considered employees of the School District. Any and all actions which arise as a consequence of any act or omission by the Contractor, its officers, employees, subcontractors, agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the School District. The Contractor, and its officers, employees, subcontractors, and agents, shall not be entitled to any of the rights, privileges, or benefits of the School District's employees. This Agreement does not establish a joint powers agreement or joint partnership between the School District and the Contractor.

14. ***Indemnification***. The Contractor hereby agrees to protect, defend and hold the School District and its officers, elected and appointed officials, employees, administrators, agents, and representatives harmless from and indemnified against any and all loss, costs, fines, charges, damage and expenses, including, without limitation, reasonable attorneys' fees, consultants' and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever (including those based on strict liability) arising out of (i) the activities contemplated by this Agreement, (ii) including, without limitation, any claims for any lien imposed by law for services, labor or materials, or (iii) by reason of the execution of this Agreement or the performance of this Agreement. The Contractor, and the Contractor's successors or assigns, agree to protect, defend and save the School District, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees. This indemnity shall be continuing and shall survive the performance or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the School District of any immunities, defenses, or other limitations on liability to which the School District is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466, or otherwise.

15. ***Insurance***. Prior to performing any work under this Agreement, the Contractor shall purchase and maintain such insurance in the amounts specified below as will protect the Contractor from claims which may arise out of, or result from, the Contractor's performance under this Agreement, whether such performance is by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable. Certificates of Insurance shall name the School District as an additional insured. The insurance shall not be canceled by the Contractor until all of the work required by this Agreement has been completed, accepted, and final payment made by the School District. Written notification of the School District by the Contractor shall be required thirty (30) calendar days prior to

cancellation, expiration, or change of insurance. All policies shall be written on an occurrence basis using ISO Form CG 00 01 or its equivalent.

(a) Statutory Workers Compensation and Employer's Liability

(b) Commercial General Liability:

| | |
|---|---|
| Each Occurrence | $1,500,000 |
| Damage to Rented Premises Each Occurrence | $ 100,000 |
| Medical Expense any One Person | $ 5,000 |
| Personal and Advertising Injury | $1,000,000 |
| General Aggregate | $2,000,000 |
| Products – Completed Operations Aggregate | $2,000,000 |

(c) Automobile Liability:

| | |
|---|---|
| Combined Single Limit (Each Accident) | $1,500,000 |

(d) Other forms of insurance as called for in the Contract Documents.

The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary for compliance with this Agreement. Certificates of Insurance must indicate if the policy is issued pursuant to all above requirements. The Contractor shall not commence work on the Project until the Contractor has obtained the required insurance and filed an acceptable Certificate(s) of Insurance with the School District. Copies of insurance policies shall be submitted to School District upon request.

16. ***Termination.*** The School District shall have the right to terminate the Agreement with or without cause by and upon delivering written notice to the Contractor. In the event of such termination by the School District for convenience, the School District shall promptly pay the Contractor any compensation owed for Work completed in compliance with the requirements of the Contract Documents through and including the date of termination, and upon payment of such compensation, the School District shall have no further obligations or liabilities to the Contractor. In the event of such termination by the School District for cause (including, without limitation, if the Contractor defaults, fails to comply with the Contract Documents, provides defective or non-conforming Work, becomes insolvent or becomes the subject of bankruptcy proceedings), the School District shall not be liable to the Contractor for any amounts, but the Contractor shall be liable to the School District for all losses, damages and expenses resulting from such default. The School District may withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the School District is determined. If a determination is made that the School District improperly terminated the Agreement "for cause," then such termination shall be deemed to have been a "without cause" termination for convenience.

17. ***Limitation on Liability.*** In no event shall the School District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the

Agreement. The School District's maximum liability under the Agreement shall not exceed the Contract Sum.

18. ***Additional Requirements for Purchases of Equipment, Goods and Supplies.***

(a) ***Inspection and Testing.*** For a period of up to ten (10) business days following delivery, the School District shall have the right to inspect and/or test any equipment, goods and supplies (collectively, the "Goods") purchased by the School District. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in the Contract Documents, then without prejudice to any other rights or remedies, the School District may reject the Goods.

(b) ***Warranty.*** Contractor warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material and workmanship for the time period specified by a manufacturer's warranty or as agreed to by the Contractor and the School District. Contractor further warrants that the Goods will meet the performance requirements and specifications set forth in the Contract Documents and shall be fit for the purpose intended. Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Contractor agrees to indemnify, defend and hold the School District harmless against any and all third-party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

(c) ***Title and Risk of Loss.*** Title to the Goods shall remain with the Contractor until the School District accepts delivery of the Goods. The risk of loss will be on the Contractor until such time as the School District accepts delivery of the Goods. Contractor will be liable for any loss or damage to the Goods caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Goods at its own cost to the complete satisfaction of the School District.

19. ***Amendments; Binding Agreement; Assignment.*** Any amendment to this Agreement must be in writing and signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties. No assignment or attempted assignment of this Agreement or of any rights hereunder shall be effective without the prior written consent of the School District.

20. ***Authority.*** Each of the undersigned parties warrants it has the full authority to execute and delivery this Agreement.

21. ***Authorized Representatives***. Any consent, approval, authorization or other action required or permitted to be given or taken under the Contract Documents by the School District or the Contractor, as the case may be, shall be given or taken by one or more of the Authorized Representatives of each, except as provided by applicable law or School District policy.

22. ***Applicable Law; Jurisdiction.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the Hennepin County District Court or United States District Court of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

23. ***Compliance with Laws.*** The Contractor warrants that all work performed pursuant to this Agreement shall be in compliance with all federal, state and local laws, ordinances, regulations, rules, and standards, as well as all requirements set forth in the Contract Documents, or any further requirements of the School District. The Contractor and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances and legal requirements pertaining to the Project. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this Agreement may be subject to the prevailing wages as established by the Minnesota Department of Labor and Industry.

24. ***Warranty.*** The Contractor warrants that the Work shall be in accordance with the Contract Documents, applicable law and trade standards and free from material structural defects, improper workmanship or defective materials. Contractor shall replace, correct, or repair any Work not in accordance with the Contract Documents, applicable law and trade standards or any defects caused by faulty materials, equipment or workmanship for a period of two (2) year(s) from the date of completion of the Work. Nothing in this Section shall be construed to place a time limit with respect to any other obligation Contractor may have under this Agreement.

25. ***Entire Agreement.*** The Contract Documents and any addenda or amendments thereto signed by the parties shall constitute the entire Agreement between the School District and Contractor, and supersedes any other written or oral agreements between and School District and Contractor.

26. ***Severability.*** In the event that any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions in any application thereof shall not in any way be affected or impaired thereby.

27. ***No Waiver.*** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of any other covenant, agreement, term, or condition, nor does it imply that such covenant, agreement, term or condition may be waived again.

28. ***Data Practices.*** Any and all data created, collected, received, stored, used, maintained, or disseminated by the Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and the Contractor must comply with these requirements as if it were a government entity. This Section does not create a duty on the part of the Contractor to provide access to public data to the public if the public data are available from the School District,

except as required by the terms of this Agreement. The Contractor will report immediately to the School District any requests from third parties for information related to the Agreement.

29. ***Audit.*** The Contractor must allow the School District, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all work provided under this Agreement for a minimum of six years from the termination of this Agreement.

30. ***No Third-Party Beneficiary***. The Contractor acknowledges that nothing contained in this Agreement nor any act by the School District or the Contractor shall be deemed or construed by the Contractor or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the School District and the Contractor.

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

# EXHIBIT B

## SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

As described in attached exhibit dated 01.28.2025. Moving to be completed no later than June 30, 2025.

# EXHIBIT C

# SCHEDULE OF RATES/PAYMENTS

As described in attached exhibit dated 01.28.2025.

# Estimate

**# EST-003581**

**All Furniture Inc**
6601 Shingle Creek Pkwy
MinneapolisMinnesota55430
612-238-3200

Bill To
**SPECIAL SCHOOL DIST. #1**
1250 W Broadway Ave
Minneapolis Minnesota 55411
Chad Carr
Chad.Carr@mpls.k12.mn.us

Estimate Date : 27 Jan 2025

Project Manager : Julio Salazar

Subject :

Curriculum Moves 2025

| # | Item & Description | Qty | Rate | Amount |
|---|---|---|---|---|
| 1 | State Contract # 244692 M-552(5) | 1.00 | 0.00 | 0.00 |
| 2 | Labor<br>Relocate curriculum from M&O to 415 Royalston warehouse<br><br>-300 skids (including materials on shelving; not yet palletized)<br>-Assumes approximately 40-60 skids per day<br>-Pallets to be pulled and staged on floor level by customer<br>-Assumes dock to dock relocation<br>-Does not include tear down, relocation or reassembly of shelving or racking | 1.00 | 25,000.00 | 25,000.00 |
| 3 | Labor<br>Alternate for M&O<br><br>-Down-stack curriculum and materials from 30 shelving units onto pallets<br>-Does not include materials<br><br>Used pallets<br>48" x 40", 4-way ($15.00/ea)<br><br>Shrink Wrap ($30.00/roll) | 1.00 | 5,670.00 | 5,670.00 |
| 4 | Labor<br>Relocate IT Department from Northstar to Royalston<br><br>-Open Area / Workstations<br>-Storage Rooms<br>-Gated Staging Area<br><br>-Assumes dedicated dock access<br>-Customer to pack contents<br>-Does not factor in any tear down, relocation or reassembly of shelving or racking<br>-Does not include material costs<br>-Does not factor in down stacking pallets.<br>-Pallets to be staged on ground and ready to move<br>-Assumes dock to dock relocation<br>-Assumes increased number of truckloads due to weight of product being moved | 1.00 | 30,818.00 | 30,818.00 |
| 5 | Labor<br>Relocate Science curriculum from Northstar to Royalston<br><br>-Work to be phased<br>-Customer to pack all contents. | 1.00 | 99,068.00 | 99,068.00 |

| # | Item & Description | Qty | Rate | Amount |
|---|---|---|---|---|
| | -Assumes dedicated dock/loading access.<br>-No moving of chemicals or compounds-- equipment, furniture and contents only<br>-No tear down, relocation or reassembly of any shelving or racking | | | |
| 6 | Labor<br>Relocate Gems & Giles from Northstar to Royalston<br><br>-Mobile racks<br>-2-DR Rolling storage cabinets<br>-'Classroom' areas<br>-Staff work area<br>-Large storage room<br><br>-Customer to pack all contents<br>-Does not include relocation of special needs furniture, wheelchairs, etc.<br>-Does not include tear down of entire perimeter of panels, nor reconfiguration<br>-Does not include misc. contents in hallways or additional/unseen storage rooms | 1.00 | 14,726.00 | 14,726.00 |
| 7 | Labor<br>Clear out ice rink at VMIA, relocate to Royalston.<br><br>-P.E. equipment<br>-Classroom furniture<br>-Lockers<br>-Storage/file cabinets<br><br>-Does not include any heavy machinery/equipment staged at VMIA/ice rink, including hitch trailers<br>-Assumes dock to dock relocation | 1.00 | 23,294.00 | 23,294.00 |
| | | | Sub Total | 198,576.00 |
| | | | **Total** | **$198,576.00** |

Authorized Signature _____

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND BILLE BUS TRANSPORTATION**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and **BILLE BUS TRANSPORTATION** dated 2/11/2025 ("Contract") is made and entered into by and between Special School District No.1 ("District") and **BILLE BUS TRANSPORTATION** ("Contractor") (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and **BILLE BUS TRANSPORTATION** ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2022 through 6/30/2027 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: #4400002839 / MAS-13582

1. *Original contract amount:* 15,150,000 ( AMD13905 2,000,000 )
2. *Accumulative contract amount:* 22,150,000

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

**Section 3.1:** District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $22,150,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Adding 5,000,000 to cover additional routing and field trip expenditures thru 6/30/2025.

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: _____

Title: _____

Date: _____

**Billie Bus Transportation:**

Signature: _____

Name: Abdirizak Bille

Title: CEO

Date: 02/03/25

Updated January, 2020

# CONTRACT FOR SERVICES

## ($25,000+)

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Bille Bus Transportation, Inc, "Contractor" (collectively "parties") to provide Provide Bus Service for Minneapolis Public Schools Students 2022-2023 to D-Ops-Transportation.

## 1 *TERM OF CONTRACT*

1.1 This Contract is effective on 07/01/2022 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2023, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

## 2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as Exhibit A ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

## 3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 ***Total Obligation.***
District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed $15,150,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 ***Frequency of Invoicing and Terms of Payment.***

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable Exhibit B. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 ***Taxes.***

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 ***Fund Availability; Federal Funds Contingency.***

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

## 4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

## 5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

## 6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

## 7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

## 8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

## 9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

## 10 INDEPENDENT CONTRATOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except

as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

## 11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

## 12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

## 13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in

providing services to the District, but shall not name the District as an additional insured to the coverage.

13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract, and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

## 14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

## 15 LIMITATION ON LIABILTY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

## 16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

## 17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

## 18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

## 19 RETURN OF DATA

19.1 Within ten (10) days of the completion, termination of this Contract, or upon request of the District, whichever occurs first; Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Or, Contractor, upon the request of the

District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

19.2 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

## 20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

## 21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1
D-Ops-Transportation
Attn: Lisa Beck
1250 W Broadway
Minneapolis, MN 55411
Email: lisa.beck@mpls.k12.mn.us
Fax:

Bille Bus Transportation, Inc

Attn:_____

Address: _____

Email: _____

Fax: _____

## 22 ACKNOWLEDGMENT

22.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

22.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

## 23 NON-WAIVER

23.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

## 24 ASSIGNMENT

24.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment,

shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

## 25 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

25.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

## 26 WARRANTY

26.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

## 27 SEVERABILITY

27.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

## 28 SURVIVABILITY

28.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

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**SPECIAL SCHOOL DISTRICT NO. 1**

By: Karen A. Keller

Name: Sounitda (on behalf of COO) Saymongkhon
(Printed)

Title: Senior Operations Officer

Date: 6.16/2022

**Bille Bus Transportation, Inc**

By: Abdirizak Bille

Name: Abdirizak Bille
(Printed)

Title: CEO

Date: 05/27/2022

## EXHIBIT A: SCOPE OF WORK

### *Description of Services and Service Delivery*

Provide on time and safe Bus service for MPS students throughout the district to various schools for 2022-2023 school year.

Reged, Sped, HHM and Field trips as scheduled.

### *Service Outcome*

Safe and Efficient On Time service

### *Method of Evaluation*

Monthly meetings for evaluations, penalties apply if applicable. vendor will also beheld accountable by the language agreed to in the exhibit sections of the contract.

## EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

The payment terms are as follows:

If there are no exhibits:

This Exhibit and page have been intentionally left blank.

*Description of Services and Service Delivery*

## EXHIBIT A: SCOPE OF WORK

### I. Service provider compliance requirements

A. Successful Contractors must have all drivers travel over assigned routes on a dry run paid for at the contract rate and report to the principal **or designee** of each school on the route, on weekday(s) prior to the first day of school, which day(s) shall be at the District's option. **PAYMENT FOR THE ROUTE WILL BE DETERMINED BY THE SIGN-IN LOG OR GPS LOG AT EACH SCHOOL SERVED BY THE ROUTE.**

B. Buses must be at starting points on time. This is imperative for the correct functioning of programs. Schedules supplied by the District Department of Transportation Services must be followed. Any unauthorized deviation will result in billing adjustments (including liquidated damages).

C. Each bus used for school transportation shall be equipped with a current route schedule and run directions in paper format, electronic tablet format, or both. The District Director of Transportation Services and/or her/his designee may stop a driver to inspect for compliance with Transportation guidelines. Failure to comply will result in billing adjustments (including liquidated damages).

D. Schedules issued by the District Department of Transportation Services shall not be altered and added to other routes except with the concurrence of the Director of Transportation or the Director's designee. Failure to comply will result in billing adjustments (including liquidated damages).

E. The Contractor agrees to comply with all Minnesota Department of Education and Minnesota Department of Public Safety Rules as they exist at all times pertaining to and governing the design, color and operation of school buses operated by contract carriers.

F. Contractor must immediately NOTIFY the Director of Transportation Services or designee of all accidents/incidents involving buses **(personal injury and/or property damage accidents)** operated for the District **AND PROVIDE A COMPLETED ACCIDENT REPORT WITHIN 24 HOURS.** Contractor must follow established procedures for reporting results of accident investigations. Failure to comply may/will result in loss of the route in question.

G. Contractor must immediately NOTIFY the Director of Transportation Services or designee of all complaints and allegations involving bus drivers and/or bus personnel **AND PROVIDE A COMPLETED INCIDENT REPORT WITHIN 24 HOURS.** Failure to comply may/will result in loss of the route in question.

H. MPS Service shall **only be provided** using vehicles that have a District supplied communications radio, GPS device and driver MDT in working order.

I. Shall actively participate in using District specified software applications that are used to manage transportation operations and automated stop notification system. Specifically, these are the District Transportation web site and Synovia's Fleet Tracking, Time and Attendance and "Here Comes the Bus" systems.

Use of these systems include, but not limited to:

- Maintaining an accurate assignment of school session route bus assignments in Synovia Fleet Tracking
- Ensuring that vehicle substitutions or pivot assignments are made before service is provided by either the Driver using the MDT on the bus or using the Synovia Fleet Tracking system
- Provide notice to the District of new drivers prior to the driver providing service.
- The District will then assign and provide a driver identification number to be used with the MDT.

J. Contractor will notify the District of any communication radio, GPS device or MDT that is not operating properly

K. Notification to the District must be provided when Contractor is performing service using a vehicle that is **NOT** equipped with a District supplied radio, GPS device and MDT If the District chooses to not allow service to be provided from the Contractor using the planned vehicle, the District will facilitate a substitution with another Contractor or provide a Board Cover of the service.

L. The contractor agrees to present mid-year performance review demonstrating compliance in all stated expectations of contract, which include, but are not limited to, the following performance areas:

1. Performance
    a. On-time arrival
    b. Customer satisfaction
    c. Customer complaint resolution

2. Contract service requirements
    a. Billing timeliness and accuracy
    b. Accident/Incident reporting
    c. Employee training

M. In the event that the School District closes school and disrupt normal scheduling due to any labor dispute with an employee organization and the Board, then the District reserves the right upon notice to the Contractor to cancel any service contemplated by this agreement. No payment shall be made to the Contractor for days or periods of time that schools are not in session.

N. In the event that the Contractor is unable to perform service for the District due to any labor dispute between the Contractor and its employees, or, if for any reason the Contractor is unable to perform the service, then the School District reserves the right to permanently reassign any or all routes to other Contractors, to itself, or both

## II. OPERATING REQUIREMENTS

**Drivers Must:**

1. Know the exact location of the school assigned and the best route to the agency or institution to be served. Each driver shall carry a current route schedule and route map. Each driver shall be required to wear a photo ID card approved by the District at all times while assigned to a District route.

2. Capability to operate a Mobile Data Terminal (tablet) which includes logging in, selecting route or trip services that they will be providing, checking special education students on/off the bus and logging off.

3. Become familiar with those instructional materials in the **Driver's Handbook** for student management supplied by the District Department of Transportation Services.

4. Become familiar with the route and adhere to the time schedule (drivers shall have in their possession and use an accurate time piece) established by the Department of Transportation Services and make stops designated by the Department only. **No Unscheduled** stops are allowed.

5. Be responsible for maintaining proper order among all passengers being transported. Drivers shall adhere to guidelines for student bus safety rules and discipline procedures as provided by the District.

6. Ensure that only those authorized by the Department of Transportation Services be permitted to ride the bus.

7. Cooperate with the Department of Transportation Services in conducting periodic school bus evacuation drills as set forth by state law.

8. Remain on their assigned school buses or at the entrance door of their assigned bus during all loading and unloading operations.

9. Work cooperatively with aides and school bus safety assistants when assigned to specific special education transportation routes.

10. Have read and carry a Minneapolis School Bus Drivers' Manual (provided by the District).

11. There should be minimal radio contact with the District dispatch unless an inquiry has to be made regarding bus location, estimated time of arrival, or time checks.

12. In the event of bus breakdown, the Contractor's bus driver will first notify District dispatch of breakdown, location, name of school, run number and if students are on board. Then the Contractor's bus driver will next contact their respective Contractor station to apprise their personnel.

13. Contract driver MDT responsibilities, but not limited to:

- Identify themselves as the operator of a vehicle prior to providing service by logging in to the MDT using a District assigned driver identification number (DIN)
- Specify the service they are going to provide by selecting either the default route assigned to the vehicle or select the route or any portion of a route they are assigned to perform. If a Driver is assigned various runs/trips, prior to performing each trip the driver shall initiate service on the MDT for each trip
- On completion of driver's assigned service, the driver shall log out of the MDT
- Report MDT operational issues to service provider dispatch or maintenance for remediation
- ***No driver shall provide service unless they have a District Assigned driver identification number***

## III. Contractor/Dispatch Requirements

14. At the start of each day, all driver information will be forwarded to District Dispatch through Department of Transportation Services website. It will be assumed that drivers who are scheduled to work are on the radio and in route to their first stop unless the District hears otherwise from the Contractor via phone or District Transportation website with last minute changes.

15. At the start of each day, *Contractor* must ensure that scheduled equipment for the day has functioning GPS, tablet, and radio equipment.

16. Assure that *Contractor driver* is trained to log in to and out of GPS system tablet installed in his or her assigned vehicle multiple times per day and at points in time specified by the District (specifically, before and after each shift has been completed, unless otherwise specified by the District

17. In the event of bus breakdown, the Contractor will either have their driver relay to District dispatch who will be responding, or the Contractor will notify District directly.

18. The Contractor's safety staff will respond to its own accidents or student behavior issues unless District safety intervention is requested by the Contractor.

19. If a Contractor driver fails to answer the radio when called, notation will be made into the computer regarding same and the Contractor will be notified. Failure to respond after several attempts may result in a change in personnel for route coverage particularly if the route is running late.

20. Contractor shall have in place and accept all liability for the shredding and disposal of all documents containing student data that includes, but is not limited to,

students' names, addresses, schools, and or assigned bus stop information as soon as the documents are no longer needed.

21. Contractor shall be required to make their vehicle fleet available within 10 business days of request to the District's system installers for installation of GPS and/or Radio equipment as scheduled by the District-specified installations service provider. Additionally, Contractor shall provide and assign a temporary substitute vehicle that contains functioning GPS and/or Radio equipment during this time period.

22. Contractor shall be responsible for the troubleshooting and remediation of malfunctioning GPS and Radio equipment to resolution (i.e., equipment is fixed, or RMA is initiated) within two business days of the date in which the issue was discovered and reported to Contractor. Additionally, and within the same two-day period, Contractor shall be responsible for reporting unfixable GPS and Radio equipment to the District, for facilitating and expediting GPS and Radio equipment related communications between Contractor and the District, and for coordinating and collaborating with the District to resolve each GPS and Radio equipment-related incident and issue.

23. Contractor shall be responsible for GPS and Radio equipment swaps from any current or retiring Contractor vehicle servicing District routes to any newly acquired Contractor vehicle intended for District route service.

## IV. Reporting

A. Contractor shall furnish the Director of Transportation Services with a list of drivers, current addresses and telephone numbers, and drivers' licenses. The list shall include all drivers assigned to regular school transportation routes and special education transportation routes and shall be provided to the Director not later than one week prior to the first day of the school year.

B. Contractor shall provide a vehicle inventory of all vehicles planned to be used to provide service. This includes the vehicle number, vehicle type (i.e., Type A, Type C, Type D or Type III), manufacturer, model year, model, VIN, color, passenger capacity (i.e., regular and wheelchair), license plate number, fuel type and installed District radio serial number (if applicable)

C. The Contractor must obtain a copy of the applicant's driving record prior to hiring.

D. Driving records must be checked and provided to **MPS Transportation** at least **two (2) times** during a school year; **September 15 and January 15.** The cost for record checks shall be the Contractor's responsibility.

E. The Contractor shall contact the District(s) or carrier(s) who previously employed the driver who is applying for a job or is already licensed as a school bus driver.

F. The District or independent operator may request a driver license examination of any of their drivers. This exam will be conducted by the State.

G. The Contractor must have a drug and alcohol testing program as prescribed by the US Department of Transportation 49 CFR Part 382 *et seq.*

**Personnel**

1. Contractor shall provide information about staffing and organization as requested by the District.

2. Contractor shall provide adequate training and supervision of drivers consistent with District policies and practices. Must maintain a State Certified School Bus License examiner or provide provisions for testing at authorized driver testing centers. Contractor shall provide a list of supervisory personnel who are responsible for field supervision of Contractor's drivers assigned in the District.

3. Maintenance Personnel. Contractor shall provide an adequate capability for maintenance of the size of the bus fleet and maintenance program, including capacity for GPS system and Radio equipment maintenance

4. Accident Review Panel. Contractor must participate in a District managed Accident Review Panel and provide the secretary of the Accident Review Panel a copy of all motor vehicle accidents in accordance with the by-laws of the Accident Review Panel.

5. On an annual basis as a part of the Annual Service Plan (Section I.A. above), the Contractor shall provide to the Director of Transportation Services current emergency and after hours contact telephone numbers (office, pages, cellular telephone, and if necessary, home phone) of key personnel (including managers) who would have pertinent information about bus drivers, routing information, scheduling assignments, etc. This information is to be updated with changes, deletions and/or additions throughout the contract.

**DRIVER TRAINING**

1. Each school bus driver assigned to a District route shall be evaluated and certified by the Professional Driver's Academy. Each participant must demonstrate competency and proficiency in those areas as specified by the Academy. Drivers who are deficient in one or more areas will be required to complete coursework, as provided by the Academy, before receiving a certificate of completion through the Academy and Dakota Technical College. The Academy also reserves the right to require a driver attend refinement training for just cause. Any driver's failure to attend or successfully complete any portion thereof may result in suspension or revocation of that driver's privileges to serve the School District. The cost of tuition, evaluations and subsequent coursework performed by the Academy shall be at the expense of the Contractor. The Contractor shall provide vehicles for such purposes. Evaluations and coursework shall include, but are not limited to:
    - Defensive driving
    - Pre-trip inspection
    - Geography skills

- Special education
- Emergency preparedness
- Customer relations
- Behavior management
- Loading and unloading procedures
- Communications radio operations
- Mobile Data Terminal (tablet) operations

2. Each school bus driver assigned to a District route shall be required to view the Smith System video – FIVE KEYS TO SAFETY. The Minnesota School Bus Driver Safe Driving Curriculum, 2001, published by the Department of Public Safety will be used in providing the required classroom training. Copies may be obtained from the District Department of Transportation Services.

3. Pre-service training shall include a minimum of sixteen (16) hours of classroom and Ten (10) hours behind-the-wheel training.

4. Each Contractor shall provide a copy of all school bus driver training programs for District approval and certify in writing that each driver operating in District has successfully completed the prescribed program. District approved material must be Included in the Contractor school bus driver orientation in-service training.

5. District in-service meetings will be conducted in August-September, November and March-April of each school year. Contractor driver and supervisory personnel Attendance shall be mandatory.

6. School bus driver instructors and District Department of Transportation Services management personnel will be allowed to participate in the monthly safety meetings conducted by Contractors.

7. Contractors shall include their school bus driver trainers to attend the Minnesota School Bus Driver Trainer seminar during the first year of the contract.

## V. MPS will Provide

### A. DIRECT DISTRICT SUPERVISION

1. The District Department of Transportation Services will employ on a forty-five (45) week basis two (2) communications specialists and (2) managers will be assigned who will work closely with the Director of Transportation Services (or designee) to communicate with school buses and provide adequate daily communication with drivers from all Contractors.

2. The District shall provide the extra personnel from 6:00 a.m. until the workload is at a level where personnel can be reduced.

3. Contractor will be assessed a rate based upon the number of routes awarded annually

divided into the total salaries for two forty-five week communication specialists and two managers plus **36%** benefits. Salary increases will be added according to the applicable collective bargaining agreement annually.

### B. Training

Contractor personnel shall attend District provided training for:

- Use of the District Transportation web site software application
- Use of the Synovia software application
- GPS device and MDT operation
- GPS device and MDT repair
- District notification processes such as employee hires and terminations, vehicle
- retirement, new vehicles planned for District services, etc.

Training will be offered prior to the start of the contract, annually prior to the fall school session startup and as needed for new Contract personnel

## VI. Technology

A. Contractor must provide a direct ring line between each terminal and the District Department of Transportation Services.

B. Contractors shall access District software applications to receive daily route changes, route copy and GPS information. District software systems will be made available on both the Internet and within the District network via a VPN connection from the Contractor facilities. Access to software applications requires a personal computer or tablet using a web browser (e.g. Chrome, Firefox, and Internet Explorer and Edge web browsers) and a Portable Document Format (PDF) reader (e.g. Adobe Reader). Web browser performance can vary depending on which one is used.

C. Contractor will be required to lease from the District a GPS (Global Positioning System) equipment specified by the District that would be installed in each vehicle that would be providing service to the District

D. All participating Contractors, when applicable, will be assessed a rate based upon the number of GPS and communications radio units required which are equal to the number of routes awarded plus required spares. (Units will be leased at the rate of $67.00 per month for each of the route buses and spare buses awarded to the Contractor, the rate will be adjusted yearly based on the current cell service and licensing costs.)

E. Communications radios, GPS devices and MDT equipment shall be installed or uninstalled by a qualified service provider specified by the District at the rate (listed below) per each route bus AND standby bus specified in Section VII. B; the cost of the installation shall be the responsibility of the Contractor. The cost of the cellular service will be included in the lease rate.

Mpls School Transportation Radio Installation Pricing,

- Installation of radio and radio antenna, $150.00,

- Installation in bus with existing power cord and antenna coax, $100.00,
- Removal of radio only (not coax), $75.00,
- Removal of radio and GPS (not antenna), $95.00,
- Travel charge per visit, $85.00,
- Shop supply, $9.00,

F. The Contractor shall have communications radio equipment specified by the District in each vehicle that is servicing District routes or is planned to service District routes in the future. The Contractor shall ensure that the District has been informed of all vehicles' Radio ID numbers PRIOR to those vehicles being used to provide transportation services to the District.

1. Two-way Radio Equipment

a) Successful Contractors are required to equip 100% of the buses and Type III vans with operable two-way radios that have the approval of the District. CB type radios are not permitted.

b) The District requires the Contractor use the District's radio system. **All radios are the property of Minneapolis Public Schools.** This radio system shall be programmed by the District, and the repeater system is the responsibility of the District. Any mobile radio maintenance and repairs shall be the responsibility of the Contractor. Upon termination of the contract, and radios are returned to the District, the power cords, mounting brackets and screws, and antennas shall be returned as a unit. The coax cables are exempt. All radio repairs shall be performed by a service provider specified by the District.

## X. Digital Video Surveillance

### Rules of operation

A. Minneapolis Public Schools and the companies under contract for transportation services must have digital video and audio equipment in school buses for the purpose of monitoring behavior.

B. The district and contractors will purchase and install a video surveillance system for all buses operating under the transportation contract. The system must be compatible with district defined standards to ensure consistency of operation. The digital video surveillance system will be used to support the drivers report and to enforce the consequences of the district student behavior management plan.

C. The digital recording will be viewed only by the MPS Transportation Director or designee, the principal of the school building or designee, bus company safety director, bus driver (at review of incident), school liaison officer or other appropriate law enforcement agencies. Any digital recording that reveals unlawful actions may be brought to the attention of law enforcement agencies. Whenever a parent or guardian disputes or challenges a report of recorded misbehavior, it will be the responsibility of the school principal to review the recording. The recording will then be used to assist in determining whether or not the incident actually occurred and if so, the severity of the incident. Neither the student nor the parent/guardian of the student that has been recorded will be allowed to view the

recording, in accordance with data privacy laws and district policy., unless the student is the only subject on the recording or the building principal has obtained written permission from the parents/guardians of all other students on the recording in question. Upon written request, the school district will provide a written summary of the recorded incident(s) to a student pictured on a recording or to the students' parents/guardians.

D. Each bus company will be responsible for the security of the digital video equipment and the handling and storage of the recordings, based on the following requirements.

a. All recording are to be treated as confidential student information. All requests for review must be referred to the Director of Transportation Services or designee. Copies of recording may not be provided without review by District Counsel.

b. Separate recording must be maintained and time stamped to identify AM and PM trips. All recordings must be retained for a period of one week and specific dates requested by the Director of Transportation Services or designee for longer periods of time to be determined.

c. No recording may be shown to anyone not directly related proceedings without the permission of the Director of Transportation Services or designee.

d. No recording may be released to any media organization without consent from the Director of Communications or District Counsel.

### Video Equipment

The digital camera systems must at a minimum:

1. Be constructed of durable industrial grade materials
2. Record both video and audio
3. Record a minimum of 12 hours of video
4. Be equipped with at least three (3) cameras inside the school bus mounted in the front, back and over the door covering the drivers are of the bus.
5. Be capable of recording from multiple cameras without reducing the quality or time of recording.
6. Be activated by the school bus ignition switch (not driver operated).
7. Be designed for school bus operation.
8. Be certified for operation in extreme cold conditions.
9. Record in a format that is convertible or exportable to standard media, including DVD or flash drive.
10. Record in a format that is compatible with, or easily convertible to, standard viewing formats including QuickTime, windows media player or AVI.

Video must be converted to DVD or a viewable format before recording is sent to transportation department.

A camcorder mounted inside the bus or in a box does not meet the requirements of this contract section and will not be considered to be a digital camera system for contract compliance and issues of non-performance.

## VII. VEHICLES – BUSES AND TYPE IIIs

### DEFINITIONS (Types of Vehicles)

1. Type C & D School Buses – are buses of more than 10,000 pounds Gross Vehicle Weight Rating (GVWR) having a capacity of more than nineteen (19) pupil passengers. These include the conventional (school bus body attached to a truck chassis), forward control and pusher-type vehicles. All are constructed and equipped to meet the State of Minnesota minimum standards for school buses.

   a. Successful Contractor must be able to provide Type C or D buses designed for carrying not less than 65 passengers, except as noted, where written quotations are requested on a school bus equipped to transport students with disabilities and special needs.

2. Type A or B School Buses – are buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, designed for carrying more than ten (10) persons, shall be painted National School Bus Yellow; identified as a school bus, equipped with eightlamp warning system and stop signal arm, and shall operate as a Type A bus.

   a. Successful Contractor must be able to provide Type A or B buses designed for carrying not less than eighteen (18) persons, except as noted, where written quotations are requested on a school bus equipped to transport students with disabilities and special needs.

3. Type III Vehicles – Type III Vehicles are restricted to vans, and buses having a maximum manufacturer's rated seating capacity of 10 or fewer people, including the driver, and a gross vehicle weight rating of 10,000 pounds or less. "Type III Vehicles" must not be outwardly equipped and identified as a type A, B, C, or D school bus. A van or bus converted to a seating capacity of ten or fewer and placed in service on or after August 1, 1999, must have been originally manufactured to comply with the passenger safety standards.

## B. BUSES AND TYPE III VEHICLE REQUIREMENTS

1. The District requires that contract operators provide school buses that have current school bus certification stickers as required by Minnesota law, and conform to Federal Motor Vehicle Safety Standards (FMVSS) that apply to school buses. During the life of the contract, the following age limitations shall apply:

TYPE "D" TRANSIT TYPE BUSES 15 model years
TYPE "C" CONVENTIONAL BUSES 15 model years
TYPE "A" AND "B" BUSES 12 model years
TYPE III VEHICLES 12 model years

At least fifty (50%) percent of the bus equipment, not including replacement and stand-by buses, operating in the District shall not be older than the average of ten (10) years at the start of each contract year.

2. School buses shall comply with all federal and state laws and regulations at all times under this contract.

3. Successful contract Contractor shall maintain one standby vehicle for each ten (10)

vehicles specified as being available. If less than ten (10) vehicles are specified as available, one standby unit shall be maintained.

4. Successful contract Contractor shall have enough vehicles available to cover for breakdowns, service, and accident repairs.

5. **The District shall determine required bus and Type III capacity based on route requirements.**

6. If Contractor proposed to furnish new equipment, such new equipment will be provided for service on or before commencing performance and that arrangement for the payment of said new equipment has been made to the seller's satisfaction.

7. If the Contractor proposed to furnish used equipment, Contractor shall provide proof of ownership upon request. All vehicles must be maintained in safe operating condition, and Contractor shall provide that exterior and interior cleanliness be maintained. Sufficient heat as determined by the District shall be maintained in all vehicles at the time pupils are being transported.
8. Contractor shall provide the District with a complete list and description of buses Designated as available for all categories of service by **August 1st** and every **August 1** thereafter.

9. All buses must display the following interior signs:
   a. School Bus Rules and Regulations (provided by Minneapolis Public Schools).
   b. "No Smoking Signs" (front and rear of bus).
   c. Safety signs provided by the District.
   d. "Cross ten feet in front of the bus" sign.
   e. Two (2) inch high numerals identifying each row of seat above the right and left side windows from front to rear of each bus. Example: 1-11 on a 65-passenger bus, 1-4 on a Type A school bus.
   f. Cell phone usage sign (provided by Minneapolis Public Schools).

10. All Type "C" and "D" school buses must be equipped with bumper mounted crossing arms. Buses equipped with wheelchair lifts that are scheduled exclusively for curb pickups, are exempt from requiring a crossing arm.

11. Mobile Data Terminal (tablet) operating instruction placard in a conspicuous location for operator reference (placard to be supplied Minneapolis Public Schools)

## OTHER EQUIPMENT REQUIREMENT

Securement Systems (for wheelchair) mobile seating device occupant shall comply with the **2015 (NSTSP)** National Standards for School Buses and Operators and State of Minnesota rules on minimum standards promulgated in Minnesota Rules 7470.1600. The Contractor shall provide approved car seats, supports and/or protective devices for those students who will require such devices to insure their safe transportation, as provided in Minnesota Rules 7470.1600, subparts 6 and 7:

"Subp. 6. **Special equipment.** Specially adapted seats, support, or protective

devices must be provided for all pupils who require the devices to ensure their safe transportation. These devices must be selected by the school district in consultation with the pupil's parents and on the basis of the specific needs of the individual pupil with a disability.

Subp. 7. **Wheelchair securement.** A school bus used to transport pupils in wheelchairs must be equipped with fastening devices that will hold the wheelchairs securely in a fixed position.

When required, the successful Contractor shall provide approved car seat(s) and/or booster seat(s) according to the needs of the awarded route(s). This equipment shall be kept in satisfactory conditions at all times and replaced at the expense of the Contractor. When the contract bus(s) is/are without the required child seat(s) at any time when school is in session, the District will provide the seat and a $15 per day rental fee (per car seat and/or booster seat) will be billed to the contract bus company until such time that the Contractor can provide its own. The total rental costs will be deducted from the balance of the valid claim for compensation. If the rented car seat and/or booster seat is returned damaged or in a non-usable condition, the Contractor will be charged for half or full value of the seat based on its age and time of rental.

## D. CONDITION OF BUSES AND TYPE III VANS

1. Buses shall be maintained in good operating order and all equipment shall function properly as required by state law. Buses shall be painted the color required by law in the State of Minnesota. The interior, exterior, and windows of a bus shall be kept clean. Each bus shall be swept daily, and the floor and rear windows shall be cleaned daily. Contractor shall indicate the facilities available for cleaning buses.

2. Buses used must be equipped with signs, located in the second right side window, indicating the school's name and route number for the convenience of students, parents, and administrators.

## INSPECTION OF BUSES AND TYPE III VANS

Contractor shall have all buses inspected by the Law Compliance Representatives (LCR) of the Minnesota State Patrol annually as is required by state law. Contractor shall furnish the District's Director of Transportation Services with a copy of the summary of all of the annual and all or any periodic motor vehicle inspection reports prepared by the Minnesota State Patrol showing the inspection sticker that has been attached to each bus. Such forms shall be furnished immediately upon the completion of inspection by the Minnesota State Patrol. In addition to the State Patrol inspection, a special inspection of a school bus may be conducted by District personnel. Corrective action shall be taken by the school bus owner as set forth in the inspection report.

## FACILITIES

A. Contractor's facilities should Large enough to secure vehicles when not in service and be located near enough to provide service to any part of the District within thirty (30) minutes; to provide replacement buses in the event of breakdown with less than **thirty (30) minutes**

delay; and to have dispatched a separate bus to keep succeeding trips on time. When a spare bus is dispatched, the driver shall assume responsibility for transferring students to the spare bus and continuing the route.

B. Facilities required:

1. Office with staff available so messages will be received and answered WITHIN 10 MINUTES during any time period when Contractor's buses and vehicles are in use.

2. Bus maintenance facilities must be adequate to carry on an adequate scheduled maintenance program for the size of the bus and Type III fleet, so that repairs can be made immediately, keeping the required spare buses available at all times.

3. Bus maintenance facilities must be of adequate in size to provide secure off-street parking for all vehicles operating bus route serving Minneapolis Public Schools

4. Suitable driver training facilities and equipment shall be provided.

## INVOICING

A. 1. Invoices shall be sent Bi-weekly to dawn.schnickel@mpls.k12.mn.us. Reged, SPED and HHM costs need to be listed separately, either three different lines or three different invoices.

2. Backup information shall be sent at the time of the invoice and shall include daily route information, AM, Midday, PM, CSP's & Miles if applicable. Each day needs to be listed for verification purposes.

3. Returned routes will not be paid for by MPS therefore should not be included on the invoice.

4. Administration costs (per V-A-3) will be applied monthly.

5. Late fees will be accessed quarterly, allowing time to review and respond.

B. 1. An Invoice template will be sent in a separate document with the contract to be used as a guideline.

## COVID-19 COMPLIANCESERVICE PROVIDER COMPLIANCE REQUIREMENTS

A. The Contractor agrees to comply with all State, City and MPS regulations as they pertain to COVID-19 related rules and regulation.

B. The Contractor agrees to comply with the following MPS COVID-19 protocols

1. Conduct pre & post cleaning of buses daily
2. Sanitize each bus between each run daily
3. Utilize MPS approved cleaning solution
4. Conduct verbal employee wellness checks daily

C. Each Contractor shall provide training on COVID related cleaning methods.

D. Contractor must immediately notify the Director of Transportation Services of any employee absences due to illness. Contractor must follow established procedures for reporting results.

## Appendix 4/EXHIBIT B

## Contractor:

**A. PRICE AND RATE SCHEDULE FOR STUDENT TRANSPORTATION SERVICES**

**SCHOOL YEAR(S) 2022-2023**

1. **Regular "To and From" Routes.** The cost for all regular "to and from" A.M. and P.M. routes, including open-enrolled home-to-school transportation and after school runs, for the days of school operation, using the following unit costs:

| Bus Size | QUANTITY | Cost Per Route-Day | Cost Per ½ Route-Day |
|---|---|---|---|
| 71-77 Passenger Bus | 1-50 | $495.00 | $255.00 |
| | 51-90 | | |
| | >90 | | |
| <71 Passenger Bus | 1-50 | | |
| | 51-90 | | |
| | >90 | | |

2. **Rates for Excess Mileage and Time – Regular "To and From" Routes (Item 1 above):** $ 20.00 per one-quarter (1/4) hour for time in excess of the route times, four (4) "live" hours per route-day or two (2) "live" hours per ½ route-day, whichever is greater, computed on a contractor daily and not an individual bus basis.

3. **Special Education and Special Needs Services – In-District.** The cost for all special education and special needs routes, including open-enrolled home-to-school transportation services and after school runs, for the days of school operation using the following unit costs:

| Bus and Van Size | Lift? | | QUANTITY | Cost Per Route-Day | Cost Per ½ Route-Day | Cost Per Hour# |
|---|---|---|---|---|---|---|
| Class C or D Bus | Yes | No | | | | |
| 1-50 RgED/SPED rtes | | | | | | |
| 51-90 rtes | | | | | | |
| >90 rtes | | | | | | |
| Class A or B Bus | Yes | No | 25 | $515.00 | $265.00 | $75.00 |
| 1-50 RgED/SPED rtes | | | | | | |
| 51-90 rtes | | | | | | |
| >90 rtes | | | | | | |
| Van or Type III | Yes | No | 100 | $297.5 | $148.75 | $73.5 |
| 1-50 RgED/SPED rtes | | | | | | |
| 51-90 rtes | | | | | | |
| >90 rtes | | | | | | |
| Bus Assistant/Aide# | | | | | | $22.5 |
| Lift | | | 10 | $515.00 | $265.00 | |

# billed in quarter of an hour after the first hour

4. **Special Education and Special Needs Services (Item 3 above):**
   $ 20.00 per one-quarter (1/4) hour for time in excess of the route times, four (4) "live" hours per route-day or two (2) "live" hours per ½ route-day, whichever is greater, computed on a contractor daily and not an individual bus basis.

5. **Special Education Services – Out-of-District.** The cost for special education and special needs routes, shall be submitted for the days of school operation using the following unit costs:

| Bus and Van Size | Lift? | | QUANTITY | Cost Per Route-Day | Cost Per ½ Route-Day | Cost per Mile** | Cost Per Hour# |
|---|---|---|---|---|---|---|---|
| Class C or D Bus | Yes | No | | | | | |
| 1-50 RgED/SPED rtes | | | 10 | $515.00 | $265.00 | $3.00 | |
| 51-90 rtes | | | | | | | |
| >90 rtes | | | | | | | |
| Class A or B Bus | Yes | No | | | | | |
| 1-50 RgED/SPED rtes | | | 10 | $515.00 | $265.00 | $3.00 | |
| 51-90 rtes | | | | | | | |
| >90 rtes | | | | | | | |
| | | | | | | | |
| 1-50 RgED/SPED rtes | | | | | | | |
| 51-90 rtes | | | | | | | |
| >90 rtes | | | | | | | |
| Bus Assistant/Aide# | | | 20 | | | | $22.5 |
| Lift | | | | | | | |

# billed in quarter of an hour after the first hour

** beyond 8 miles from the District Transportation Center, including downtown St. Paul, State Capitol, Science Museum, Excel Ctr

6. **Special Education and Special Needs Services (Item 5 above):**
   $. 20.00 per one-quarter (1/4) hour for time in excess of the route times, four (4) "live"hours per route-day or two (2) "live" hours per ½ route-day, whichever is greater, computed on a contractor daily and not an individual bus basis.

7. **Midday Special Education Services and Shuttles.** The cost for all midday SPED shuttle bus and van services, using the following unit costs:

| Bus and Van Size | "Stand-alone" Service | |
|---|---|---|

| | Cost Per 1st Hour | Cost Per Add'l Hour# | Continuous Service with AM/PM ## |
|---|---|---|---|
| Class C or D Bus | $98.5 | $82.5 | $75.50 |
| Class A or B Bus | $98.5 | $82.5 | $75.50 |
| Bus Assistant/Aide# | $22.5 | $22.5 | $22.5 |
| Lift | | | |

# billed in quarter of an hour after the first hour ## reference to Items 3 - 6

8. **Midday, Vocational and Other Transportation Services and Shuttles.** The cost for all midday or shuttle services, vocational education services, and ALC routes, using the following unit costs:

| Bus and Van Size | "Stand-alone" Service | | Continuous Service with AM/PM ## |
|---|---|---|---|
| | Cost Per 1st Hour | Cost Per Add'l Hour# | |
| Class C or D Bus | $98.5 | $82.5 | $75.50 |
| Class A or B Bus | $98.5 | $82.5 | $75.50 |

# billed in quarter of an hour after the first hour ## reference to Items 1 & 2

9. **Special Needs Services for Highly Mobile and Students with Special Needs NOT INCLUDING SPED – Out-of-District.** The cost for special needs routes, shall be submitted for the days of school operation using the following unit costs:

| Bus and Van Size | Lift? | | Cost Per Hour# | Cost Per Mile** | Cost Per Day |
|---|---|---|---|---|---|
| Class A or B Bus | Yes | No | $98.5 | $3.5 | $515.00 |
| Bus Assistant/Aide# | | | $22.5 | 0.00 | By hourly |
| Lift | | | $105.25 | $3.50 | $515.00 |

# billed in quarter of an hour after the first hour based on terminal to terminal time
** beyond 8 miles from the District Transportation Center, including downtown St. Paul, State Capitol, Science Museum, Excel Ctr

10. **After School Transportation Services.** The cost for after school regular or SPED bus services, not including charters, separate from or routed with services identified in either Items 1, 3 or 5 above, using the following unit costs:

| Bus and Van Size | "Stand-alone" Service | | Continuous Service with AM/PM ## |
|---|---|---|---|
| | Cost Per1st Hour | Cost Per Add'l Hour# | |
| Class C or D Bus | $98.5 | $82.5 | $75.50 |
| Class A or B Bus | $98.5 | $82.5 | $75.50 |
| | | | |

# billed in quarter of an hour after the first hour ## reference to Items 1 & 2

11. **Summer School Transportation Services.** The cost for all summer school regular, HHM or SPED bus and Type III van services, other than charters, using the following unit costs:

| Bus and Van Size | Cost Per Hour | Cost Per Day | Cost Per ½ Day |
|---|---|---|---|
| Class C or D Bus | $105.00 | $495.00 | $255.00 |
| Class A or B Bus | $105.00 | $495.00 | $255.00 |
| | | | |

**Option:** The rates for other transportation services can be quoted as a % of the rates for regular "to & from" transportation services. _____% of regular and SPED transportation rates in items 1 through 6 above.

12. **Charters: Extra-curricular and Athletic Trips; Activity and Field Trips. Trip charge for extra-curricular and** athletic trips and school activity and field trips, along with waiting time at the destination, using one or more of the following unit costs:

| | Cost per Hour | Cost Per Mile | Cost Per Wait Hour# | |
|---|---|---|---|---|
| a. Trips within an 8 mile radius from the District Transportation Center, including downtown St. Paul, State Capitol, Science Museum, Excel Ctr | | | | |
| i. Class C/D Bus | $75.00 | $3.00 | $75.00 | |
| ii. Class A/B Mini bus | $75.00 | $3.00 | $75.00 | |
| iii. | | | | |
| b. Trips beyond an 8 mile radius from the District Transportation Center as identified in Item 12.a. above | | | | |
| i. Class C/D Bus | $75.00 | $3.00 | $75.00 | |
| ii. Class A/B Mini bus | $75.00 | $3.00 | $75.00 | |
| iii. | | | | |
| iv. Coach bus | | | | |
| c. Trailer | | | | |
| single axle | $45.00 | 0.00 | 0.00 | |
| double axle | $55.00 | 0.00 | 0.00 | |

# billed in quarter of an hour after the first hour

d. Trip charge outside the school district boundaries.

Labor cost for overnight trips $25 per hour; $250 per day max.

Overnight driver expenses $300 per 24 hour day.

e. Non-peak Rate Discount: non-peak (9:30 am - 1:45 pm & after 4:30pm) trip charge discount from regular rates in this item: 5 %

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

# CONTRACT FOR SERVICES – $25,000 above

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and College Nannies & Tutors "Contractor" (collectively "parties") to provide Title I and Title III instructional services to eligible students at Hope Academy, Cristo Rey Jesuit High School, and Minnehaha Academy

## TERM OF CONTRACT

1.1 This Contract is effective on August 1, 2024 or the date of the last signature of the parties, whichever is later, and shall remain in effect until July 31, 2025, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

## 2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

## 3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 ***Total Obligation***

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $1,064,116.50. Contractor

shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 ***Frequency of Invoicing and Terms of Payment***

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 ***Taxes.***

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 ***Fund Availability; Federal Funds Contingency.***

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations

are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

## 4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

## 5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

## 6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

## 7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

7.2 Contractors that provide school-issued devices for student use and directly or indirectly create, receive, or maintain educational data incidental to performing their duties under this Contract shall also sign **Exhibit C** ("Student Data Privacy"). "School-issued devices," as used herein, refers to hardware or software that is provided to an individual student for that student's dedicated personal use, and includes devices issued through a one-to-one program.

## 8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

## 9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

## 10 INDEPENDENT CONTRACTOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding,

worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

## 11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

## 12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

## 13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

## 14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

## 15 LIMITATION ON LIABILTY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

## 16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

## 17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government.

Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

## 18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

## 19 RETURN OF DATA

19.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

## 20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items

available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

## 21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

**Special School District No. 1**

Division: Strategic Initiatives; Accountability Department
Attn: Sarah Hunter
1250 W Broadway
Minneapolis, MN 55411
Email: sarah.hunter@mpls.k12.mn.us

**CONTRACTOR**

College Nannies & Tutors; Laura Davis
Phone: 952-285-7667
Address: 2400 W Lake of the Isles Pkwy, Minneapolis, MN 55405
Email: ldavis@jovie.com

**ACKNOWLEDGMENT**

21.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this

Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

21.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

## 22 NON-WAIVER

22.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

## 23 ASSIGNMENT

23.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

## 24 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

24.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

## 25 WARRANTY

25.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and

representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

## 26 SEVERABILITY

26.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

## 27 SURVIVABILITY

27.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

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**SPECIAL SCHOOL DISTRICT NO. 1**

Signature: _____

Name: Sarah Hunter

(Printed)

Title: Executive Director of Strategic Initiatives

Date: 6/27/24

**CONTRACTOR NAME**

Signature: _____

Name: Laura Davis
(Printed)

Title: Franchise Group Owner

Date: 6.4.2024

**Exhibit A:**

**Deliverables:**

To provide Title I instructional services to Title eligible students in the nonpublic schools for the purpose of accelerating reading and math proficiency for participating students. Services are provided to Title I and Title III eligible students attending Cristo Rey Jesuit High School, Hope Academy and Minnehaha Academy. At each school, services are designed to help students achieve grade level proficiency, based on standardized assessments, in the area of reading and math proficiency.

**Service Outcome:**

ك

A. Instructional Services. PROVIDER shall provide educational services to students which services are reasonably calculated to help students achieve, as a goal, one year's growth as determined by the standardized test that the nonpublic school uses. DISTRICT expects PROVIDER to provide accelerated instruction that assists students in achieving a gain greater than one year's expected growth.

B. Tutor Absences. PROVIDER shall make a good faith effort to provide a substitute teacher/tutor for any absence by the originally scheduled teacher/tutor only for any absence over three days, or as agreed upon by DISTRICT and/or nonpublic school officials.

C. Family Communication. PROVIDER shall ensure families are notified regarding their child's eligibility for service and provided information regarding their child's progress including, but not limited to the following:
    1. PROVIDER shall notify families of their child's Title eligibility in the form of a MPS Title I Parent Notification Letter by October 31st of the current school year.

    2. Families of students who are identified as eligible for and provided Title services after October 31st of the current school year will be notified via letter by PROVIDER no more than two weeks after PROVIDER has received notice of the student's Title I eligibility.

    3. PROVIDER will hold an annual MPS Title Parent/Family Information Meeting with parents of Title students by October 31st of the current school year.

    4. PROVIDER will give written progress reports and results of any testing it administered to that student at quarterly intervals to the student's parent/guardian at a minimum of four (4) times per year.

5. PROVIDER shall attend nonpublic school conferences and other scheduled school/family events whenever practicable. These services shall be billed as instructional services.

6. PROVIDER will send letters of invitation, coordinate outreach, and contact families via phone, meeting or home visit as appropriate to notify eligible families at each of the nonpublic schools listed in Attachment B of their child's eligibility for MPS Title programs. Home visits shall be billed as instructional services.

7. Provider will work with nonpublic administrators and DISTRICT to coordinate and plan the scope of services for Title programs.

D. Cooperation. PROVIDER shall cooperate with DISTRICT, nonpublic officials, and each student's parent/guardian to develop an instructional program for the student. In cases where the instructional program has not been clearly defined, the PROVIDER will work with DISTRICT, in consultation with nonpublic school administrators, to develop a specific program at the nonpublic site within the parameters of the needs of the eligible students and the budget allocated at that site.

E. Identification of Students. PROVIDER shall provide services to all students who have been determined eligible and placed by DISTRICT with PROVIDER. For purposes of this Contract, a student will be deemed active once the student has been determined eligible for services by DISTRICT in collaboration with nonpublic officials.

F. Site Access. PROVIDER shall allow DISTRICT representatives and the student's parents or guardians' reasonable access to the site where PROVIDER provides educational services.

G. Equipment. All equipment purchased with Title funds are the property of the DISTRICT, not the PROVIDER.

H. Neutrality. Classroom space, instruction, and materials and supplies are to be secular, neutral, and non-ideological.

I. Tutor Certification. Title tutors are to be qualified in the content area and grade level for which they are tutoring students.

J. Compliance. PROVIDER will comply with all applicable state and federal laws including Title I statutory and regulatory requirements.

K. Instruction. PROVIDER shall provide both Title I and Title III instructional services to eligible students. Subjects to be covered shall include reading and math proficiency. PROVIDER will ensure instructional group sizes are at appropriate levels to ensure student learning is accelerated and reasonably calculated to help students achieve, as a minimum goal, one year's growth as determined by the standardized tests that the nonpublic school uses.

L. Eligible Student. DISTRICT shall determine each student's eligibility in consultation with the nonpublic school administrators according to the use of multiple, educationally related objective selection criteria.

M. Reports and Documentation. PROVIDER shall provide DISTRICT with the following reports:

1. PROVIDER shall submit to the DISTRICT appropriate documentation of MPS Title I Parent/Family meetings such as MPS Title flyers, sign-in sheets, and parent/student surveys upon request.

2. PROVIDER shall submit to the DISTRICT copies of written progress reports and results of any testing it administered to students upon request.

3. Beginning September 2024, PROVIDER shall submit its invoices by the 30th of each month following services to DISTRICT in the previous month as described in Exhibit A of this contract, including daily attendance records.

4. PROVIDER shall maintain proper and current documentation, including but not limited to: annual background checks; a list of approved tutors, employees, and/or agents providing services to students; schedules for services provided to each nonpublic school site, daily records of student services rendered including the name and address of student; the name of the PROVIDER'S tutor, employee, and/or agents who rendered the service; and the amount of time of such service.

**Method of Evaluation:**

A. Evaluation. PROVIDER is responsible for evaluating the effectiveness of the Title I and Title III Programs. This includes but is not limited to the use of MPS provided benchmark assessments to monitor student progress in reading and math.

B. Site Review. DISTRICT may conduct an on-site review and/or instructional observations of PROVIDER. On-site reviews may be announced or unannounced. DISTRICT may request monthly meetings with PROVIDER, in person or by telephone, on services provided by PROVIDER. PROVIDER shall cooperate with all such reviews and requests.

C. Quality of Services and Contract Renewal. In contemplating renewal of this contract in successive years, DISTRICT shall analyze the number of eligible students who achieve greater than one year's growth, with the target of grade level proficiency.

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## EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Rates shown below are inclusive of materials. Services will be billed based on the type of session offered.

**Site and Service Limits (College Nannies and Tutors 2024-2025)**

| School | Services to be Provided | Number of Title I Instructional Hours | Title I | Estimated # of Family Inv. Hours | Title I Family Involvement | Total |
|---|---|---|---|---|---|---|
| Cristo Rey | Academic Services | 3746 | $ 294,080.00 | 140 | $ 7,000.00 | $ 301,080.00 |
| REA | 10% Admin | | $ 29,408.00 | | | $ 29,408.00 |
| Hope Academy | Academic Services | 6353 | $ 603,535.00 | | | $ 603,535.00 |
| | 10% Admin | | $ 60,353.50 | | | $ 60,353.50 |
| Minnehaha Upper School | Academic Services | 300 | $ 22,954.00 | | | $ 49,900.00 |
| | 10% Admin | | $ 2,295.40 | | | $ 4,990.00 |
| Minnehaha Mid. & Lower School | Academic Services | 355 | $ 26,946.00 | | | |
| | 10% Admin | | $ 2,694.60 | | | |
| Hope Academy | Title III | 270 | $ 13,500.00 | | | $ 13,500.00 |
| | | | $ 1,350.00 | | | $ 1,350.00 |
| | | | | | | |
| **Total** | | | **$ 1,057,116.50** | **0** | **$ 7,000.00** | **$ 1,064,116.50** |
| | | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| | Average Hourly Rate | $88.32 | | | | |
| | One-on-one Tutoring Hourly Rate | $55.00 | | | | |
| | In-home Remote Tutoring Hourly Rate | $75.00 | | | | |
| | 2:1 or 3:1 Small Group Hourly Rate | $85.00 | | | | |
| | Small Group Weekly Session Hourly Rate | $85.00 | | | | |
| | | | | | | |

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## EXHIBIT C: STUDENT DATA PRIVACY

As used in this exhibit, the term "educational data" shall have the meaning ascribed to it under the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. § 13.32 as amended.

1. Contractor acknowledges that all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing the services described in this Contract is subject to the requirements of the MGDPA, Minn. Stat. ch. 13, and Contractor must comply with those requirements as if it were a government entity. Contractor shall be subject to all civil remedies available under the MGDPA, Minn. Stat. § 13.08 as amended, for any violation of these obligations.

2. No educational data created, received, maintained, or disseminated by Contractor pursuant or incidental to this Contract shall become or be considered property of the Contractor. Any such educational data shall remain the property of the District.

3. If educational data maintained by Contractor pursuant or incidental to performance of this Contract are subject to a breach of security of the data, as that term is defined by the MGDPA, Minn. Stat. § 13.055 as amended, Contractor shall, upon discovering such breach, provide the District with all information necessary for the District to fulfill its obligations under the MGDPA.

4. Contractor shall not sell, share, or disseminate educational data, except as permitted under the MGDPA, Minn. Stat. § 13.32 as amended, or as part of a valid delegation or assignment of this Contract, if the terms of the Contract permit delegation or assignment. Any assignee or delegee must separately execute this Exhibit and is bound by the same terms.

5. Contractor shall not use educational data for any commercial purpose, including but not limited to marketing or advertising to a student or parent.

    a. The term "commercial purpose," does not include providing the specific services agreed upon in this Contract.

    b. Contractor may use deidentified aggregate information for the purpose of improving, maintaining, developing, supporting, or diagnosing the Contractor's site, service, or operation, as long as all direct and indirect identifiers have been removed from the data prior to use.

6. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only have access to educational data if authorized.

7. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only be authorized to access educational data if such access is necessary to fulfill their official duties in the performance of this Contract.

8. Unless renewal of the Contract is reasonably anticipated, Contractor shall destroy or return all educational data created, received, or maintained pursuant or incidental to the Contract within 90 days of the expiration of this Contract.

9. Contractor shall abide with all the requirements and restrictions of Minn. Stat. § 13.32, as amended, that pertain to or address technology providers. Contractor shall be considered a "technology provider" for purposes of Section 13.32.

***BY SIGNING BELOW, CONTRACTOR ACKNOWLEDGES AND AGREES THAT IT UNDERSTANDS THE TERMS OF THIS EXHIBIT, THAT THESE TERMS ARE PART OF ITS CONTRACT WITH THE DISTRICT, AND THAT IT AGREES TO BE BOUND BY AND ABIDE BY THESE TERMS.***

**[CONTRACTOR NAME]**

Signature

Laura A. Davis
Name

Owner
Title

6.4.2024
Date

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND College Nannies & Tutors**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and College Nannies & Tutors dated 11/27/2024 ("Contract") is made and entered into by and between Special School District No.1 ("District") and College Nannies & Tutors ("Contractor") (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and College Nannies & Tutors ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 8/1/2024 through 7/31/2025 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400002347

1. *Original contract amount:* $1,064,116.50
2. *Accumulative contract amount:* $1,137,046.50

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

**Section 3.1:** District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $1,137,046.50. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** College Nannies & Tutors will add Iqra School to the nonpublic schools they serve. College Nannies & Tutors will provide title I instructional services to eligible students at Iqra School.

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: Ty Thompson
Ty Thompson (Feb 3, 2025 05:21 CST)

Name: Ty Thompson

Title: Deputy Superintendent

Date: Feb 3, 2025

**College Nannies & Tutors:**

Signature: Laura A Davis

Name: Laura Davis

Title: Franchise Group Owner

Date: 12.2.2024

# CollegeTutors2024.25 Amendment

Final Audit Report 2025-02-03

| | |
|---|---|
| Created: | 2025-01-31 |
| By: | Kayla Engle (Kayla.Engle@mpls.k12.mn.us) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAcUOt5KFVZD4rgyCjMviAk_RuOu9sWJIj |

## "CollegeTutors2024.25 Amendment" History

Document created by Kayla Engle (Kayla.Engle@mpls.k12.mn.us)
2025-01-31 - 10:08:56 PM GMT

Document emailed to Ty Thompson (ty.thompson@mpls.k12.mn.us) for signature
2025-01-31 - 10:10:12 PM GMT

Email viewed by Ty Thompson (ty.thompson@mpls.k12.mn.us)
2025-01-31 - 10:43:36 PM GMT

Document e-signed by Ty Thompson (ty.thompson@mpls.k12.mn.us)
Signature Date: 2025-02-03 - 11:21:27 AM GMT - Time Source: server

Agreement completed.
2025-02-03 - 11:21:27 AM GMT

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND College Nannies & Tutors**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and College Nannies & Tutors dated 2/11/2025 ("Contract") is made and entered into by and between Special School District No.1 ("District") and College Nannies & Tutors ("Contractor") (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and College Nannies & Tutors ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 8/1/2024 through 7/31/2025 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400002347

1. *Original contract amount:* $1,064,116.50
2. *Accumulative contract amount:* $1,177,996.50

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

**Section 3.1:** District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $1,177,996.50. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** At Cristo Rey High School, College Tutors will carry out a variety of Family Engagement activities including:
- Conducting outreach to all eligible parents and family members;
- Providing equitable services to eligible private school students, including services to parents of eligible students;
- Implementing programs, activities, and procedures to involve parents and family members.
- Planning and Implementing programs, activities, and procedures by consulting with parents of participating children as equal partners; and
- Requesting and incorporating parental feedback on programs, activities and procedures.

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: Ty Thompson

Title: Deputy Superintendent

Date: _____

**College Nannies & Tutors:**

Signature: _____

Name: Laura Davis

Title: Franchise Group Owner

Date: 2.3.2025

# FY24 Longfellow High School Window Replacement

## Contract Sum: $1,941,440.00

## Contractor: Construction Result Corporation

## FY24 Longfellow Window Replacement

Longfellow Alternative High School
3017 E 31st Street
Minneapolis, MN. 55406
FY24LONG004 Windows
RFP 25-2507

## Description

Scope includes labor, materials, equipment, and incidentals to complete all work for the Longfellow High School Window Replacement Project, in accordance with Drawings and Specifications prepared by Wold Architects and Engineers.

## Contract Sum Details

| Item | Price | Status |
|---|---|---|
| **Base Bid** | $1,941,440 | Accepted |
| **Alt #1: N/A** | $N/A | N/A |

## Contract Documents

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

# 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 29 day of October in the year 2024
*(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 Highway 169 North
Plymouth, MN. 55442
ConstructionResults.com

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

FY24 Longfellow High School Window Replacement
3017 E 31st Street
Minneapolis, MN. 55406

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

Wold Architects and Engineers
332 Minnesota Street, Suite W2000
St. Paul, MN. 55101
woldae.com

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.

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**User Notes:** (3B9ADA3B)

**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.

[ X ] 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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[ ] 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-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


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*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;


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.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


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.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 mayrequest Binding Dispute Resolution.*

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

**§ 6.2 Binding Dispute Resolution**

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


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

[ X ] 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)*

Kanjana Foster, Project Manager
1250 West Broadway Avenue
Minneapolis, MN 55411

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

Jeff Skoog, Vice President
5465 Highway 169 North
Plymouth, MN. 55442
Jeff.Skoog@constructionresults.com
(763) 559-1100 x122

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


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**§ 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 developement 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


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*(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.

| | |
|---|---|
| | Mike Luurtsema |
| **OWNER** *(Signature)* | **CONTRACTOR** *(Signature)* |
| *(Printed name and title)* | Mike Luurtsema President<br>*(Printed name and title)* |


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# *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 14:43:24 CT on 10/29/2024.

**PAGE 1**

**AGREEMENT** made as of the 29 day of October in the year 2024

...

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

...

Construction Results Corporation
5465 Highway 169 North
Plymouth, MN. 55442
ConstructionResults.com

...

FY24 Longfellow High School Window Replacement
3017 E 31st Street
Minneapolis, MN. 55406

...

Wold Architects and Engineers
332 Minnesota Street, Suite W2000
St. Paul, MN. 55101
woldae.com

**PAGE 2**

[ X ] 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**

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

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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-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**~~

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...

**§ 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 liquidateddamages, 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.

...

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**§ 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 asprovided 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

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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.

**PAGE 6**

**.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.

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...

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 mayrequest Binding Dispute Resolution.*

...

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

**PAGE 7**

**[ X ]** Litigation in a court of competent jurisdiction

...

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

...

Kanjana Foster, Project Manager
1250 West Broadway Avenue

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Minneapolis, MN 55411

...

Jeff Skoog, Vice President
5465 Highway 169 North
Plymouth, MN. 55442
Jeff.Skoog@constructionresults.com
(763) 559-1100 x122

**PAGE 8**

**§ 8.6** Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with ~~a building information modeling exhibit,~~ 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 ~~a building information modeling exhibit,~~ 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.)*

...

Owner prohibits Contractor from using the Work in any marketing material or business developement 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.

...

**.4** ~~Building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

...

*(Insert the date of the ~~building information modeling exhibit~~ E203-2013 incorporated into this Agreement.)*

...

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:~~

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...

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~~ |
|---|---|---|

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# *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 14:43:24 CT on 10/29/2024 under Order No. 4104251278 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, other than those additions and deletions shown in the associated Additions and Deletions Report.

*(Signed)*

Curtis Hartog, Executive Director

*(Title)*

10/29/2024

*(Dated)*

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# 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 29 day of October in the year 2024
*(In words, indicate day, month and year.)*

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

FY24 Longfellow High School Window Replacement
3017 E 31st St. Minneapolis, MN. 55406

**THE OWNER:**
*(Name, legal status and address)*

Minneapolis Public Schools SSD#1
1250 West Broadway Ave. Minneapolis, MN. 55411

**THE CONTRACTOR:**
*(Name, legal status and address)*

Construction Results Corporation
5465 Highway 169 North, Plymouth, MN. 55442

**TABLE OF ARTICLES**


**A.1 GENERAL**

**A.2 OWNER'S INSURANCE**

**A.3 CONTRACTOR'S INSURANCE AND BONDS**

**A.4 SPECIAL TERMS AND CONDITIONS**


**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.

### 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.



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**§ 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 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.

**§ 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.


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*(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,


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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 following types and limits of 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 is ECH-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.


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**§ 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

**§ 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.)*


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If Professional Liability Insurance is required as part of this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after 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 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 | Full contract value |
| Performance Bond | Full contract value |

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:

None


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# *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.

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**PAGE 1**

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 29 day of October in the year 2024

...

FY24 Longfellow High School Window Replacement
3017 E 31st St. Minneapolis, MN. 55406

...

Minneapolis Public Schools SSD#1
1250 West Broadway Ave. Minneapolis, MN. 55411

...

Construction Results Corporation
5465 Highway 169 North, Plymouth, MN. 55442

**PAGE 4**

**§ 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 is ECH-C Owner Insurance, providing coverage for claims including

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**§ 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 .

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~~**§ 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 this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after 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.)*~~A.3.3.1 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.~~

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[ – ] ~~**§ 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**

...

| | |
|---|---|
| Payment Bond | Full contract value |
| Performance Bond | Full contract value |

...

None

# AIA® Document A201® – 2017

## *General Conditions of the Contract for Construction*

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

FY24 Longfellow High School Window Replacement3017 E 31st St. Minneapolis, MN. 55406

**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)*

Wold Architects and Engineers332 Minnesota Street, Suite W2000. St. Paul, MN. 55101

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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.

#### § 1.1.2 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 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.

### § 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 indicated 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.

**§ 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.

### § 1.5 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.

**§ 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.

### § 1.6 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 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.

### § 1.8 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


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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.

## 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 fifteen 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 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, 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.


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**§ 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** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a 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.

**§ 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 ten-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 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. 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.

**§ 3.1.3** 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** 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.


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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 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 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.

**§ 3.2.3** 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.

**§ 3.2.4** 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 Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor 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.

### § 3.3 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.

### § 3.4 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 and whether or not incorporated or to be incorporated in the Work.

**§ 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.


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**§ 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.

### § 3.5 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.

### § 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.

**§ 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 it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 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 14 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.


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### § 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;
- **.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. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the 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 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.

### § 3.10 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, 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 the Owner and Architect.

### § 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the 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, and


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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

**§ 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 approved by the Architect.

**§ 3.12.8** The Work shall be in accordance with approved 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 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 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 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 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


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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 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 free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, 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.


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### § 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 that would otherwise exist as to a party or person described in this Section 3.18.

**§ 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.

## 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.

### § 4.2 Administration of the Contract

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 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, 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. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the 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. The Architect will not be responsible for the Contractor's failure to perform 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.

### § 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. The Contract Documents may specify other communication protocols.


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**§ 4.2.5** Based on the Architect's evaluations 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 authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require 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 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 while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals 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 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 review shall not constitute approval of safety precautions or of any 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.

**§ 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, and 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.

**§ 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 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.



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## 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 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 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.

**§ 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.

**§ 5.2.3** 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 shall be increased or decreased by the difference, if any, 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.

**§ 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.

### § 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 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 similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

### § 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.


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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.

**§ 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 apparent.

**§ 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.

**§ 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.


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**§ 6.2.5** The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 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, the Owner may clean up and the Architect will allocate the cost among those responsible.

## 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. An order for a minor change in the Work may be issued by the Architect alone.

**§ 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.

### § 7.2 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.

### § 7.3 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:


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.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;

.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 and shall be recorded as a Change Order.

**§ 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. 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. 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.

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


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**§ 8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

**§ 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.

**§ 8.3 Delays and Extensions of Time**

**§ 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) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

**§ 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.

## 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**

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 prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This 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.

**§ 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 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, 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 retainage if provided for in the Contract Documents.

**§ 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.


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**§ 9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

**§ 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.

### § 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 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;


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.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 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.

**§ 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 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.


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### § 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 seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven 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.

### § 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.

**§ 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. 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.

**§ 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. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

### § 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.


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**§ 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 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, (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, 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.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 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.

### § 10.2 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 damage to person or property because of an act or omission of the other party, 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. The notice shall provide sufficient detail to enable the other party to investigate the matter.

**§ 10.3 Hazardous Materials and Substances**

**§ 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.

**§ 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


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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 written agreement of the Owner and Contractor. By Change Order, the Contract Time 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.

**§ 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 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.

**§ 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.

**§ 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.

**§ 10.3.6** 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 the Contractor for all cost and expense thereby incurred.

### § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, 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 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. 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.

**§ 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 an act


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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.

**§ 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.

**§ 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.

**§ 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 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.

## 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.

**§ 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. 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.

**§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, 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 after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner 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.


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**§ 12.2.2.2** The one-year period for correction of Work 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 completion of that portion of the Work.

**§ 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.

**§ 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** The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

**§ 12.2.5** 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 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 proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### § 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. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and


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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. 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 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 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.

**§ 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 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

## 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.


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**§ 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 in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include 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.


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**§ 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.

## 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 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

**§ 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 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.

**§ 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 an 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.


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**§ 15.1.7 Waiver of Claims for Consequential Damages**

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

**.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

**.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.

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.

**§ 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. 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 Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) 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.

**§ 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.

**§ 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.

**§ 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 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.

**§ 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.

**§ 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.


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**§ 15.2.7** 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.

**§ 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.

**§ 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.

**§ 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.


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**§ 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.


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

...

Wold Architects and Engineers332 Minnesota Street, Suite W2000. St. Paul, MN. 55101

**PAGE 10**

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ 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.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ 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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*(Signed)*

Curtis Hartog, Executive Director

*(Title)*

10/29/2024

*(Dated)*

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**User Notes:** (877486920)

# Exhibit B – Project Charter

## FY24 Longfellow High School Window Replacement

## Description

Scope includes labor, materials, equipment, and incidentals to complete all work for the Longfellow High School Window Replacement Project, in accordance with Drawings and Specifications prepared by Wold Architects and Engineers.

## Contract Sum

The Contract Sum shall be $1,941,440.00

### Alternates

| Item | Price | Status |
|---|---|---|
| N/A | | |

### Conditions

| Item | Price | Conditions for Acceptance |
|---|---|---|
| N/A | | |

### Allowances

| Item | Price |
|---|---|
| N/A | |

### Unit Prices

| Item | Units and Limitations | Price per Unit ($0.00) |
|---|---|---|
| N/A | | |

# 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



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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 additional 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

MPS Project Number: FY24LONG004 Windows

Project Name: FY24 Longfellow High School Window Replacement

School: Longfellow Alternative High School

Address: 3017 E 31st St. Minneapolis, MN. 55406

OP#: 25-2507

## Description

Longfellow School ("The Property") is located at 3017 East 31st Street, Minneapolis, Minnesota 55406. The building consists of a single-story structure with partial basement that has a total approximate gross square footage of 42,733 square feet. The building is understood to have originally been constructed in 1917. The site also contains two small wood structures at the south side of the site that are presumed to be used as additional classroom space. They are presumed to have been constructed circa 1970.

## Schedule

Last Day of School: June 6, 2024

Last Day for Staff: June 13, 2024

Juneteenth Holiday: June 19, 2024 (All MPS Buildings Closed)

Furniture Movers:  Week of June 16, 2024

Construction Commences: June 24, 2024

Substantial Completion: August 16, 2024

MPS Staff back in Building:  August 19, 2024

MPS Furniture Movers:  Week of August 11, 2024

Final Completion: Within sixty (60) calendar days of Substantial Completion.

1-year Warranty Inspection: One year after Substantial Completion.

Close-out Documents no later than 45 days past date of Substantial Completion

### Substantial Completion

The Work will be substantially complete on or before _August 16, 2024_.



Document Ref: KNY3A-4CG8D-DFXK3-XGXGC

# Signature Certificate

Reference number: KNY3A-4CG8D-DFXK3-XGXGC

| Signer | Timestamp | Signature |
| --- | --- | --- |
| **Mike Luurtsema**<br>Email: mike.luurtsema@constructionresults.com | | |
| Sent: | 05 Nov 2024 19:31:42 UTC | |
| Viewed: | 05 Nov 2024 19:33:52 UTC | |
| Signed: | 05 Nov 2024 19:34:10 UTC | |
| **Recipient Verification:** | | IP address: 96.78.81.138 |
| ✔Email verified | 05 Nov 2024 19:33:52 UTC | Location: Minneapolis, United States |

Document completed by all parties on:
05 Nov 2024 19:34:10 UTC



**Signed with PandaDoc**

PandaDoc is a document workflow and certified eSignature solution trusted by 50,000+ companies worldwide.

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND David Hoy and Associates**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and David Hoy and Associates dated 2/11/2025 ("Contract") is made and entered into by and between Special School District No.1 ("District") and David Hoy and Associates ("Contractor") (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and David Hoy and Associates ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 8/12/2024 through 6/30/2025 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400002488

1. *Original contract amount:* $632,369.00
2. *Accumulative contract amount:* $677,717.48

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

**Section 3.1:** District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $677,717.48. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** to provide additional Title I instructional and counseling services to eligible students at Ascension Catholic School.

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**

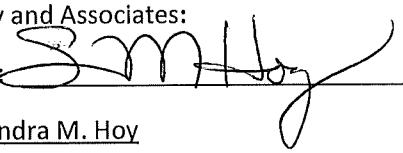
Signature: _____

Name: Ty Thompson

Title: Deputy Superintendent

Date: _____

David Hoy and Associates:

Signature: 

Name: Sandra M. Hoy

Title: Chief Financial Officer

Date: 01/31/2025

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

# CONTRACT FOR SERVICES – $25,000 above

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and David Hoy and Associates "Contractor" (collectively "parties") to provide provide Title I instructional and counseling services to eligible students at Ascension Catholic School, DeLaSalle High School, Cristo Rey Jesuit High School, and Risen Christ Catholic School to D-AO-Funded Programs and School Improvement.

## TERM OF CONTRACT

1.1 This Contract is effective on 08/12/2024 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2025, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

## 2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

## 3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 ***Total Obligation***

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed **$632,369.00**. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 ***Frequency of Invoicing and Terms of Payment***

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 ***Taxes.***

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 ***Fund Availability; Federal Funds Contingency.***

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

## 4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

## 5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

## 6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable

state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

## 7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

## 8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

## 9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

## 10 INDEPENDENT CONTRACTOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District

to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

## 11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

## 12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

## 13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its

members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

## 14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

## 15 LIMITATION ON LIABILTY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

## 16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

## 17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination

or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

## 18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

## 19 RETURN OF DATA

19.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

## 20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or

the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

## 21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

**Special School District No. 1**

Division: Office of the Deputy Superintendent
Attn: Ty Thompson
Address: 1250 W Broadway, Minneapolis, MN 55411
Email: ty.thompson@mpls.k12.mn.us

**CONTRACTOR**

David Hoy & Associates; Sandy Hoy
Phone: 763-370-0940
Address: 8401 Wayzata Blvd., Suite #150, Golden Valley, MN 55426
Email: sandy@davidhoy.com

**ACKNOWLEDGMENT**

21.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding

because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

21.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

## 22 NON-WAIVER

22.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

## 23 ASSIGNMENT

23.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

## 24 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

24.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

## 25 WARRANTY

25.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations

(including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

## 26 SEVERABILITY

26.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

## 27 SURVIVABILITY

27.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

**SPECIAL SCHOOL DISTRICT NO. 1**

Signature:

Name: **Ty Thompson**

(Printed)

Title: **Deputy Superintendent**

Date: **8.21.2024**

**CONTRACTOR NAME**

Signature:

Name: Sandra M. Hoy (Printed)

Title: Chief Financial Officer

Date: Sandra M Hoy

**Exhibit A:**

**Deliverables:**

To provide Title I instructional services to Title eligible students in the nonpublic schools for the purpose of accelerating reading, math, and English language proficiency for participating students. Services are provided to Title I eligible students attending Ascension Catholic School, Cristo Rey Jesuit High School, DeLaSalle High School, and Risen Christ Catholic School Nonpublic schools in grades K-12 and designed to help students achieve grade level proficiency, based on standardized assessments, in the areas of reading, math, and English proficiency.

**Service Outcome:**

A. Community Partner. PROVIDER shall apply and become certified as a Minneapolis Public Schools Community Partner prior to providing any services under this contract and provide evidence of certification.

B. Instructional Services. PROVIDER shall provide educational services to students which services are reasonably calculated to help students achieve, as a minimum goal, one year's growth as determined by the standardized test that the nonpublic school uses. DISTRICT expects PROVIDER to provide accelerated instruction that assists students in achieving a gain greater than one year's expected growth.

C. Tutor Absences. PROVIDER shall make a good faith effort to provide a substitute teacher/tutor for any absence by the originally scheduled teacher/tutor only for any absence over three days, or as agreed upon by DISTRICT and/or nonpublic school officials.

D. Family Communication. PROVIDER shall ensure families are notified regarding their child's eligibility for service and provided information regarding their child's progress including, but not limited to the following:

1. PROVIDER shall notify families of their child's Title I eligibility in the form of a MPS Title I Parent Notification Letter by October 18th, 2024.

2. Families of students who are identified as eligible for and provided Title I services after October 18th, 2024 will be notified via letter by PROVIDER no more than two weeks after PROVIDER has received notice of the student's Title I eligibility.

3. PROVIDER will hold an annual MPS Title I Parent/Family Information Meeting with parents of Title I students by October 18th, 2024.

4. PROVIDER will give written progress reports and results of any testing it administered to that student at quarterly intervals to the student's parent/guardian at a minimum of four (4) times per year.

5. PROVIDER shall attend nonpublic school conferences and other scheduled school/family events whenever practicable. These services shall be billed as instructional services.

6. PROVIDER will send letters of invitation, coordinate outreach, and contact families via phone, meeting or home visit as appropriate to notify eligible families at each of the nonpublic schools listed in Attachment B of their child's eligibility for MPS Title I programs.

7. Provider will work with nonpublic administrators and DISTRICT to coordinate and plan the scope of services for Title I programs.

E. Cooperation. PROVIDER shall cooperate with DISTRICT, nonpublic officials, and each student's parent/guardian to develop an instructional program for the student. In cases where the instructional program has not been clearly defined, the PROVIDER will work with DISTRICT, in consultation with nonpublic school administrators, to develop a specific program at the nonpublic site within the parameters of the needs of the eligible students and the budget allocated at that site.

F. Identification of Students. PROVIDER shall provide services to all students who have been determined eligible and placed by DISTRICT with PROVIDER. For purposes of this Contract, a student will be deemed active once the student has been determined eligible for services by DISTRICT in collaboration with nonpublic officials.

G. Site Access. PROVIDER shall allow DISTRICT representatives and the student's parents or guardians' reasonable access to the site where PROVIDER provides educational services.

H. Equipment. All equipment purchased with Title I funds are the property of the DISTRICT, not the PROVIDER.

I. Neutrality. Classroom space, instruction, and materials and supplies are to be secular, neutral, and non-ideological.

J. Tutor Certification. Title I tutors are to be qualified in the content area and grade level for which they are tutoring students.

K. Compliance. PROVIDER will comply with all applicable state and federal laws including Title I statutory and regulatory requirements.

L. Instruction. PROVIDER shall provide both Title I instructional services to eligible students which are secular in nature. Subjects to be covered shall include reading and math proficiency. PROVIDER will ensure instructional group sizes are at appropriate levels to ensure student learning is accelerated and reasonably calculated to help students achieve, as a minimum goal, one year's growth as determined by the standardized tests that the nonpublic school uses.

M. Eligible Student. DISTRICT shall determine each student's eligibility in consultation with the nonpublic school administrators according to the use of multiple, educationally related objective selection criteria.

N. Reports and Documentation. PROVIDER shall provide DISTRICT with the following reports:

1. PROVIDER shall submit to the DISTRICT appropriate documentation of MPS Title I Parent/Family meetings such as MPS Title I flyers, sign-in sheets, and parent/student surveys upon request.

2. PROVIDER shall submit to the DISTRICT copies of written progress reports and results of any testing it administered to students upon request.

3. Beginning September 2024, PROVIDER shall submit its invoices by the 15th of each month following services to DISTRICT in the previous month as described in Exhibit A of this contract, including daily attendance records.

4. PROVIDER shall maintain proper and current documentation, including but not limited to: annual background checks; a list of approved tutors, employees, and/or agents providing services to students; schedules for services provided to each nonpublic school site, daily records of student services rendered including the name and address of student; the name of the PROVIDER'S tutor, employee, and/or agents who rendered the service; and the amount of time of such service.

**Method of Evaluation:**

A. Evaluation. PROVIDER is responsible for evaluating the effectiveness of the Title I Programs. This includes but is not limited to the use of MPS provided benchmark assessments to monitor student progress in reading and math.

B. Site Review. DISTRICT may conduct an on-site review and/or instructional observations of PROVIDER. On-site reviews may be announced or unannounced. DISTRICT may request monthly meetings with PROVIDER, in person or by telephone, on services provided by PROVIDER. PROVIDER shall cooperate with all such reviews and requests.

C. Quality of Services and Contract Renewal. In contemplating renewal of this contract in successive years, DISTRICT shall analyze the number of eligible students who achieve greater than one year's growth, with the target of grade level proficiency.

**Fees:**

DISTRICT and PROVIDER have agreed that the PROVIDER's hourly rate for Title I services is $157.46 per hour.

A. Administrative Costs: In all cases described in Exhibit A, the DISTRICT shall pay PROVIDER administrative costs in an amount not exceeding 10% of the total for Title I instructional services.

B. Family Involvement Costs. DISTRICT shall pay PROVIDER $150.00 per hour for services related to family involvement and family involvement activities. The provision of services related to family involvement is subject to the expectations set forth in Exhibit A.

C. Invoices. PROVIDER shall submit an invoice on its organizational letterhead for each month of service. From September 15, 2024 to June 15, 2025 PROVIDER shall submit invoices by the 15th of the month following the previous month of service for which it is billing DISTRICT based on the hourly rates listed above and listed in Exhibit B. Invoices must delineate services provided and fees billed for instructional services, family involvement services, professional development services, and administration services for each nonpublic school. PROVIDER shall submit its final invoice for fiscal year 2024-25 so that it is received by DISTRICT no later than July 9, 2025. PROVIDER understands that DISTRICT will make no payment on any invoice for the 2024-25 fiscal year if it receives after invoices July 10, 2025. DISTRICT reserves the right to request additional information from PROVIDER.

Invoices and related attached attendance sheets must include the following information:

1. Names of the school(s) where the service was provided;
2. Name of student(s) served;
3. Date(s) of service;
4. A detailed summary of the services provided;
5. Number of students served per week;
6. Number of minutes of service per student per session;
7. Subject area of service provided to student (e.g., math, reading, etc.);
8. Monthly expenses per school category (Instructional Services, Professional Development, and/or Administration);
9. Total expenditures for each school for the year.

D. Payment. DISTRICT shall pay PROVIDER within thirty (30) days of receipt of each complete invoice submitted in compliance with this Contract. DISTRICT does not pay in advance for services.

E. Allowable Costs: For the purposes of this Contract, costs are defined by the DISTRICT as:
   1. Instructional: PROVIDER costs for teacher and instructional aide salaries, including fringe benefits; instructional materials, including items such as books, computers and software for student use, workbooks, and supplies.
   2. Administrative: PROVIDER costs incurred to administer the program, including but not limited to: salaries and fringe benefits of the Director, computer assistants, area supervisors, and support staff; office rent and utilities; office equipment and supplies; postage and mailings; telephone; travel; special capital expenses; professional development for Title I teachers and supervisors who are employees of the PROVIDER; and the PROVIDER'S fee.
   3. Professional Development: PROVIDER costs incurred to provide professional development activities to the private school teachers of active students.

F. Site and Service Limits. The sites to be serviced by PROVIDER are listed in Exhibit B and incorporated herein. DISTRICT shall not pay an amount greater than what is listed in Exhibit B per school and shall not pay an amount greater than what is delineated by each particular budget line for services at each listed school.

[The remainder of this page intentionally left blank.]

| School | Services to be Provided | Number of Title I Instructional Hours | Title I | Estimated # of Family Inv. Hours | Title I Family Involvement | Total |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |
| Ascension | Academic Services | 519.61 | $81,818 | | | |
| Cristo Rey | Academic Services | 1766.35 | $ 278,130 | | | |
| DeLaSalle | Academic Services | 706.54 | $111,253 | | | |
| Risen Christ | Academic Services | 658.26 | $103,650 | | | |
| REA | 10% Admin | | $57,518 | | | |
| **Total** | | | **$632,369** | | | |
| | | | | | | |
| | Hourly Rate | $ 157.46 | | Fam Inv. Rate | $ 150.00 | |

[The remainder of this page intentionally left blank.]

## EXHIBIT C: STUDENT DATA PRIVACY

As used in this exhibit, the term "educational data" shall have the meaning ascribed to it under the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. § 13.32 as amended.

1. Contractor acknowledges that all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing the services described in this Contract is subject to the requirements of the MGDPA, Minn. Stat. ch. 13, and Contractor must comply with those requirements as if it were a government entity. Contractor shall be subject to all civil remedies available under the MGDPA, Minn. Stat. § 13.08 as amended, for any violation of these obligations.

2. No educational data created, received, maintained, or disseminated by Contractor pursuant or incidental to this Contract shall become or be considered property of the Contractor. Any such educational data shall remain the property of the District.

3. If educational data maintained by Contractor pursuant or incidental to performance of this Contract are subject to a breach of security of the data, as that term is defined by the MGDPA, Minn. Stat. § 13.055 as amended, Contractor shall, upon discovering such breach, provide the District with all information necessary for the District to fulfill its obligations under the MGDPA.

4. Contractor shall not sell, share, or disseminate educational data, except as permitted under the MGDPA, Minn. Stat. § 13.32 as amended, or as part of a valid delegation or assignment of this Contract, if the terms of the Contract permit delegation or assignment. Any assignee or delegee must separately execute this Exhibit and is bound by the same terms.

5. Contractor shall not use educational data for any commercial purpose, including but not limited to marketing or advertising to a student or parent.

    a. The term "commercial purpose," does not include providing the specific services agreed upon in this Contract.

    b. Contractor may use deidentified aggregate information for the purpose of improving, maintaining, developing, supporting, or diagnosing the Contractor's site, service, or operation, as long as all direct and indirect identifiers have been removed from the data prior to use.

6. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only have access to educational data if authorized.

7. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only be authorized to access educational data if such access is necessary to fulfill their official duties in the performance of this Contract.

8. Unless renewal of the Contract is reasonably anticipated, Contractor shall destroy or return all educational data created, received, or maintained pursuant or incidental to the Contract within 90 days of the expiration of this Contract.

9. Contractor shall abide with all the requirements and restrictions of Minn. Stat. § 13.32, as amended, that pertain to or address technology providers. Contractor shall be considered a "technology provider" for purposes of Section 13.32.

***BY SIGNING BELOW, CONTRACTOR ACKNOWLEDGES AND AGREES THAT IT UNDERSTANDS THE TERMS OF THIS EXHIBIT, THAT THESE TERMS ARE PART OF ITS CONTRACT WITH THE DISTRICT, AND THAT IT AGREES TO BE BOUND BY AND ABIDE BY THESE TERMS.***

**[CONTRACTOR NAME]**

S M Hoy
Signature

Sandra M. Hoy
Name

CFO
Title

8/26/24
Date

**MINNEAPOLIS PUBLIC SCHOOLS**

**AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIALS**

**PROJECT:**

This Agreement (the "Agreement") is made this 03 day of February 2025 (the "Effective Date") by and between Special School District No. 1, a Minnesota public school corporation (the "School District"), and H21 Group_ (the "Contractor").

**RECITALS:**

A. The School District owns and operates school buildings, administrative offices, and related sites and facilities that are generally located throughout the City of Minneapolis, Minnesota (collectively, the "Sites and Facilities").

B. The Sites and Facilities require maintenance, repair, and updating from time-to-time, necessitating the provision of services by a third-party contractor.

C. The School District also must periodically engage a third-party contractor to facilitate the purchase of equipment, materials and supplies to support its school operations.

D. The School District desires to retain a contractor to perform the services described below (the "Project") in accordance with and subject to the terms and conditions in this Agreement.

E. The Contractor has examined the location of all proposed work if applicable, carefully reviewed and evaluated the specifications set forth by the School District for the Project, is familiar with all conditions relevant to the performance of the services and is committed to perform all work required for the price specified in this Agreement.

In consideration of the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. ***General Terms and Conditions.*** Reference is hereby made to the General Terms and Conditions of this Agreement attached hereto as **Exhibit A** and made a part hereof (the "General Terms and Conditions"). The General Terms and Conditions are incorporated herein by

reference as if set forth in full herein. Without limiting the generality of the foregoing, (a) all capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in the General Terms and Conditions and (b) all capitalized terms used in the General Terms and Conditions without definition shall have the meanings ascribed to them in this Agreement.

2. ***Project Information.***

(a) ***Scope of Work.*** The Project generally consists of Lockers to renew the life-cycled out and replace failing lockers_. A detailed Scope of Work is set forth in **Exhibit B**, attached hereto and made a part hereof. Where applicable, drawings, specifications, lists of equipment, supplies, materials, and/or other existing documents describing or connected to the Project are listed or described on **Exhibit B.**

(b) ***Time of Performance.*** The Project shall be commenced on the Effective Date and completed in accordance with the schedule set forth in the Scope of Work, **Exhibit B** hereto (the "Work Schedule"). Time is of the essence in the performance of services under this Agreement.

(c) ***Compensation.*** The School District shall pay the Contractor for the services in accordance with this Agreement and the Schedule of Rates/Payments attached hereto as **Exhibit C** (the "Payment Schedule") and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without the prior written approval of the School District. The Contractor's total compensation for services performed in accordance with this Agreement, including all reimbursable items, shall not exceed Two hundred sixty-one thousand four hundred ninety-five Dollars ($261,495.00)(the "Contract Sum").

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

(a) To the Contractor: _____
430 Industrial Blvd, Minneapolis, MN 55413
Attn: H21 Group

(b) To the School District: Minneapolis Public Schools
1250 W. Broadway Avenue
Minneapolis, MN 55411-2533
Attn: _____

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

4. ***Authorized Representatives.***

(a) The School District's authorized representatives with respect to this Agreement are: Grant Lindberg; 612-668-0281; grant.lindberg@mpls.k12.mn.us

(b) The Contractor's authorized representatives with respect to this Agreement are: Mike Ludwig; 612-500-3336; MLudwig@H2igroup.com

***IN WITNESS WHEREOF***, the parties hereto have executed this Agreement as of the date indicated next to the name of the party who signs below.

**SPECIAL SCHOOL DISTRICT NO. 1**

Dated: _____, 20__ By: _____
Authorized Signatory

_____
Title

**CONTRACTOR**

Dated: _____, 20__ By: _____
[Authorized Signatory]

# EXHIBIT A

# GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "General Terms and Conditions) form a part of that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

1. ***Definitions.*** The terms defined in this Section shall have the following meanings for purposes of these General Terms and Conditions when initially capitalized herein:

(a) "**Agreement"** means that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

(b) "**Contract Documents"** means, collectively, (i) the Agreement, (ii) these General Terms and Conditions, (iii) all Exhibits listed or described in the Agreement and (iv) all drawings, specifications, addenda and modifications describing the Work which are issued after the date hereof.

(c) "**Work**" means all labor, materials, equipment, supplies, and/or services required to complete the Project described in the Contract Documents.

2. ***Contract Sum.*** The School District agrees to pay the Contractor for the full and faithful performance of the Work and related costs a stipulated amount equal to the Contract Sum set forth in the Agreement. The Contract Sum shall be subject to additions and deductions for changes in the Work, and the School District may deduct from the Contract Sum the value of any Work done which, in the good faith opinion of the School District, is not in compliance with the Contract Documents. The Contract Sum shall be payable to the Contractor in accordance with the Payment Schedule, subject to the provisions of these General Terms and Conditions.

3. ***Work Schedule.*** Contractor shall perform all of the Work in accordance with the Work Schedule. Time is of the essence in completing the Project. The Contractor agrees to notify the School District in writing of any and all causes of delay of the Work, or any part thereof, within 24 hours after such cause of delay shall arise, and in case of the failure of the Contractor to perform this Agreement and complete the Work at the time specified in the Contract Documents, the School District may immediately, or at any time thereafter, proceed to complete the Work at the cost and expense of the Contractor. Upon receipt of written notice from the Contractor of the existence of causes over which the Contractor has no control and which must delay the completion of the work, the School District may at its discretion, extend the date specified for the completion of the Work.

4. ***Standards of Performance.*** The Contractor agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the Contract Documents and shall be subject to the inspection and approval by the proper authorities of the School District for the supervision of the

Work, and in case any of said material or labor shall be rejected by the School District as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the School District at the cost and expense of the Contractor. The Contractor agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require during the performance of this Agreement. The Contractor further agrees to make good, replace, and renew at the Contractor's own cost and expense any loss or damage to the Work and Project occurring prior to the final delivery to and acceptance thereof by the School District, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the Work and Project in its entirety for the final acceptance by the School District; and any payment or payments made to the Contractor hereunder, shall not be construed as operating to relieve the Contractor from responsibility for the Work and Project as herein provided and agreed. It is agreed and understood by the parties hereto that the use of the Work and Project at any time by the School District for any purposes shall not be construed to be or operate as an acceptance by the School District of the work to be done by the Contractor under this Agreement.

5. ***Change Orders; Limitations***. No claim for extra work done or additional materials, equipment, or supplies furnished by the Contractor will be made by the Contractor or allowed by the School District, nor shall the Contractor do any work or furnish any materials, equipment or supplies not covered by the Scope of Work, unless such work or materials, equipment or supplies is ordered in writing by the School District. Any such work or materials, equipment or supplies which may be done or furnished by the Contractor without such written order first being given, shall be at the Contractor's own risk and expense. When any extra work or materials, equipment or supplies is ordered by the School District to be done or furnished, the Contractor shall furnish such materials and do such work for the price mutually agreed to by the Contractor and the School District, and when any alteration of the Scope of Work is ordered by the School District, the Contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the Contract Sum.

6. ***Labor, Materials, Equipment, Etc.*** The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation and other facilities and/or services necessary for the proper execution of the Work. All costs and expenses for such items shall be included in the Contract Sum.

7. ***Permits, Fees and Compliance with Law***. The Contractor shall secure all permits, licenses and inspections necessary for the execution and completion of the Work as part of the Contract Sum. All permit, license and inspection fees shall be included in the Contract Sum. The Contractor shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to the Work.

8. ***Taxes.*** The Contractor shall pay sales, consumer, use and other similar taxes, except to the extent that such taxes are not payable due to the status of the School District as a tax-exempt entity. The Contractor shall not charge the School District for state sales taxes, uses taxes,

and other taxes that are not payable due to the status of the School District as a tax-exempt entity, and the Contract Sum shall be reduced to the extent that amounts for such taxes were included in the determination thereof.

9. ***Subcontractors; Third Party Claims***. The Contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the Contractor in and about the performance of this Agreement, and for all labor and material by them so performed and furnished, but in case the Contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the School District may apply the monies due and coming to the Contractor under this Agreement toward paying and satisfying such claims and demands, and the School District is herewith given the right to apply monies due and coming to the Contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the School District from the Contractor on any account whatsoever, and the amount of such payments shall be charged against the balance due the Contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the School District or of those to whose benefit the bond herein agreed upon shall insure, to hold the Contractor or surety liable on the bond for any breach of the conditions of the same nor as imposing upon the School District any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the Contractor hereunder. Contractor shall comply with the requirements of Minn. Stat. §471.425, subd. 4a., Prompt Payment to Subcontractors, which is incorporated herein by reference.

10. ***Bonds.*** If required by the Contract Documents, prior to performing any work under this Agreement, the Contractor shall provide the School District with the following bonds covering the Project: (a) a performance bond for the benefit of the School District, ensuring that Contractor will construct and maintain the Project in accordance with the Contract Documents, and saving and holding the School District harmless from all costs and charges which may accrue on account of completing the Project; and (b) a payment bond for the use and benefit of all persons furnishing labor or materials for the Project and making just claims for payment for such labor or materials.

11. ***Background Checks.*** The Contractor shall obtain a background check pursuant to applicable federal and state law and School District policy, including the Minnesota Child Protection Background Check Act, for each employee, volunteer or agent assigned to the Project. If Contractor receives a report that an employee, volunteer or agent so assigned has ever been convicted of a serious offense, or a background check crime, as defined at Minn. Stat. § 299C.61, it shall take immediate steps to notify the School District of the report and remove such employee, volunteer or agent from his/her assignment.

12. ***Equal Opportunity***. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this Agreement or any subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of

work under this Agreement or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this Section shall be a misdemeanor; and that this Agreement may be canceled or terminated by the School District and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this Agreement.

13. ***Independent Contractor***. All work provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the School District for any purpose. Any and all officers, employees, subcontractors, agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement shall not be considered employees of the School District. Any and all actions which arise as a consequence of any act or omission by the Contractor, its officers, employees, subcontractors, agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the School District. The Contractor, and its officers, employees, subcontractors, and agents, shall not be entitled to any of the rights, privileges, or benefits of the School District's employees. This Agreement does not establish a joint powers agreement or joint partnership between the School District and the Contractor.

14. ***Indemnification***. The Contractor hereby agrees to protect, defend and hold the School District and its officers, elected and appointed officials, employees, administrators, agents, and representatives harmless from and indemnified against any and all loss, costs, fines, charges, damage and expenses, including, without limitation, reasonable attorneys' fees, consultants' and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever (including those based on strict liability) arising out of (i) the activities contemplated by this Agreement, (ii) including, without limitation, any claims for any lien imposed by law for services, labor or materials, or (iii) by reason of the execution of this Agreement or the performance of this Agreement. The Contractor, and the Contractor's successors or assigns, agree to protect, defend and save the School District, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees. This indemnity shall be continuing and shall survive the performance or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the School District of any immunities, defenses, or other limitations on liability to which the School District is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466, or otherwise.

15. ***Insurance***. Prior to performing any work under this Agreement, the Contractor shall purchase and maintain such insurance in the amounts specified below as will protect the Contractor from claims which may arise out of, or result from, the Contractor's performance under this Agreement, whether such performance is by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable. Certificates of Insurance shall name the School District as an additional insured. The insurance shall not be canceled by the Contractor until all of the work required by this Agreement has been completed, accepted, and final payment made by the School District. Written notification of the School District by the Contractor shall be required thirty (30) calendar days prior to

cancellation, expiration, or change of insurance. All policies shall be written on an occurrence basis using ISO Form CG 00 01 or its equivalent.

(a) Statutory Workers Compensation and Employer's Liability

(b) Commercial General Liability:

| | |
|---|---|
| Each Occurrence | $1,500,000 |
| Damage to Rented Premises Each Occurrence | $ 100,000 |
| Medical Expense any One Person | $ 5,000 |
| Personal and Advertising Injury | $1,000,000 |
| General Aggregate | $2,000,000 |
| Products – Completed Operations Aggregate | $2,000,000 |

(c) Automobile Liability:

| | |
|---|---|
| Combined Single Limit (Each Accident) | $1,500,000 |

(d) Other forms of insurance as called for in the Contract Documents.

The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary for compliance with this Agreement. Certificates of Insurance must indicate if the policy is issued pursuant to all above requirements. The Contractor shall not commence work on the Project until the Contractor has obtained the required insurance and filed an acceptable Certificate(s) of Insurance with the School District. Copies of insurance policies shall be submitted to School District upon request.

16. ***Termination.*** The School District shall have the right to terminate the Agreement with or without cause by and upon delivering written notice to the Contractor. In the event of such termination by the School District for convenience, the School District shall promptly pay the Contractor any compensation owed for Work completed in compliance with the requirements of the Contract Documents through and including the date of termination, and upon payment of such compensation, the School District shall have no further obligations or liabilities to the Contractor. In the event of such termination by the School District for cause (including, without limitation, if the Contractor defaults, fails to comply with the Contract Documents, provides defective or non-conforming Work, becomes insolvent or becomes the subject of bankruptcy proceedings), the School District shall not be liable to the Contractor for any amounts, but the Contractor shall be liable to the School District for all losses, damages and expenses resulting from such default. The School District may withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the School District is determined. If a determination is made that the School District improperly terminated the Agreement "for cause," then such termination shall be deemed to have been a "without cause" termination for convenience.

17. ***Limitation on Liability.*** In no event shall the School District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the

Agreement. The School District's maximum liability under the Agreement shall not exceed the Contract Sum.

18. ***Additional Requirements for Purchases of Equipment, Goods and Supplies.***

(a) ***Inspection and Testing.*** For a period of up to ten (10) business days following delivery, the School District shall have the right to inspect and/or test any equipment, goods and supplies (collectively, the "Goods") purchased by the School District. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in the Contract Documents, then without prejudice to any other rights or remedies, the School District may reject the Goods.

(b) ***Warranty.*** Contractor warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material and workmanship for the time period specified by a manufacturer's warranty or as agreed to by the Contractor and the School District. Contractor further warrants that the Goods will meet the performance requirements and specifications set forth in the Contract Documents and shall be fit for the purpose intended. Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Contractor agrees to indemnify, defend and hold the School District harmless against any and all third-party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

(c) ***Title and Risk of Loss.*** Title to the Goods shall remain with the Contractor until the School District accepts delivery of the Goods. The risk of loss will be on the Contractor until such time as the School District accepts delivery of the Goods. Contractor will be liable for any loss or damage to the Goods caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Goods at its own cost to the complete satisfaction of the School District.

19. ***Amendments; Binding Agreement; Assignment.*** Any amendment to this Agreement must be in writing and signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties. No assignment or attempted assignment of this Agreement or of any rights hereunder shall be effective without the prior written consent of the School District.

20. ***Authority.*** Each of the undersigned parties warrants it has the full authority to execute and delivery this Agreement.

21. ***Authorized Representatives***. Any consent, approval, authorization or other action required or permitted to be given or taken under the Contract Documents by the School District or the Contractor, as the case may be, shall be given or taken by one or more of the Authorized Representatives of each, except as provided by applicable law or School District policy.

22. ***Applicable Law; Jurisdiction.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the Hennepin County District Court or United States District Court of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

23. ***Compliance with Laws.*** The Contractor warrants that all work performed pursuant to this Agreement shall be in compliance with all federal, state and local laws, ordinances, regulations, rules, and standards, as well as all requirements set forth in the Contract Documents, or any further requirements of the School District. The Contractor and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances and legal requirements pertaining to the Project. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this Agreement may be subject to the prevailing wages as established by the Minnesota Department of Labor and Industry.

24. ***Warranty.*** The Contractor warrants that the Work shall be in accordance with the Contract Documents, applicable law and trade standards and free from material structural defects, improper workmanship or defective materials. Contractor shall replace, correct, or repair any Work not in accordance with the Contract Documents, applicable law and trade standards or any defects caused by faulty materials, equipment or workmanship for a period of two (2) year(s) from the date of completion of the Work. Nothing in this Section shall be construed to place a time limit with respect to any other obligation Contractor may have under this Agreement.

25. ***Entire Agreement.*** The Contract Documents and any addenda or amendments thereto signed by the parties shall constitute the entire Agreement between the School District and Contractor, and supersedes any other written or oral agreements between and School District and Contractor.

26. ***Severability.*** In the event that any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions in any application thereof shall not in any way be affected or impaired thereby.

27. ***No Waiver.*** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of any other covenant, agreement, term, or condition, nor does it imply that such covenant, agreement, term or condition may be waived again.

28. ***Data Practices.*** Any and all data created, collected, received, stored, used, maintained, or disseminated by the Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and the Contractor must comply with these requirements as if it were a government entity. This Section does not create a duty on the part of the Contractor to provide access to public data to the public if the public data are available from the School District,

except as required by the terms of this Agreement. The Contractor will report immediately to the School District any requests from third parties for information related to the Agreement.

29. ***Audit.*** The Contractor must allow the School District, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all work provided under this Agreement for a minimum of six years from the termination of this Agreement.

30. ***No Third-Party Beneficiary***. The Contractor acknowledges that nothing contained in this Agreement nor any act by the School District or the Contractor shall be deemed or construed by the Contractor or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the School District and the Contractor.

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

# EXHIBIT B

## SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

Please see attach

"Payments are to be made to vendor during the fiscal year
through invoices, with this contract expiring on 12/31/2025"

# EXHIBIT C

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND Lorenz Bus Company**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Lorenz Bus Service dated 2/4/2025 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Lorenz Bus Service ("Contractor") (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Lorenz Bus Service ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2022 through 6/30/2027 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: #4400002850 / MAS-13616

Amendment Number/Change Order number: Amendment #2

1. *Original contract amount:* 1,100,000 (AMD-13846 200,000)
2. *Amendment amount:* 1,200,000
3. *Accumulative contract amount:* 2,500,000

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

**Section 3.1:** District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed 2,500,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Contractor has 15 routes in FY25 vs 5 routes in FY24. Additional funds are needed to cover the 10 extra routes.

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:

Title:

Date: _____

**Lorenz Bus Company:**

Signature: _____

Name:

Title:

Date: _____

# CONTRACT FOR SERVICES

## ($25,000+)

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Lorenz Bus Service Inc, "Contractor" (collectively "parties") to provide Provide on time and safe Bus service for MPS students throughout the district to various schools for 2022-2023 School Year to D-Ops-Transportation.

## 1 *TERM OF CONTRACT*

1.1 This Contract is effective on 07/01/2022 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2023, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

## 2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as Exhibit A ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

## 3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 ***Total Obligation.***
District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed $1,100,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 ***Frequency of Invoicing and Terms of Payment.***

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable Exhibit B. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 ***Taxes.***

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 ***Fund Availability; Federal Funds Contingency.***

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

## 4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

## 5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

## 6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

## 7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

## 8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

## 9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

## 10 INDEPENDENT CONTRATOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding, worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except

as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

## 11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

## 12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

## 13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in

providing services to the District, but shall not name the District as an additional insured to the coverage.

13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract, and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

## 14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

## 15 LIMITATION ON LIABILTY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

## 16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

## 17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

## 18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

## 19 RETURN OF DATA

19.1 Within ten (10) days of the completion, termination of this Contract, or upon request of the District, whichever occurs first; Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Or, Contractor, upon the request of the

District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

19.2 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

## 20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

## 21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

Special School District No. 1
D-Ops-Transportation
Attn: Lisa Beck
1250 W Broadway
Minneapolis, MN 55411
Email: lisa.beck@mpls.k12.mn.us
Fax:

Lorenz Bus Service Inc

Attn:_____

Address: _____

Email: _____

Fax: _____

## 22 ACKNOWLEDGMENT

22.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

22.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

## 23 NON-WAIVER

23.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

## 24 ASSIGNMENT

24.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment,

shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

## 25 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

25.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

## 26 WARRANTY

26.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

## 27 SEVERABILITY

27.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

## 28 SURVIVABILITY

28.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

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**SPECIAL SCHOOL DISTRICT NO. 1**

By: Karen A. Dekker

Name: Sounitda (on behalf of COO) Saymongkhon
(Printed)

Title: Senior Operations Officer

Date: 6/16/2022

**Lorenz Bus Service Inc**

By: [signature]

Name: Benjamin Canine
(Printed)

Title: COO

Date: 5/27/22

## EXHIBIT A: SCOPE OF WORK

### *Description of Services and Service Delivery*

Provide on time and safe Bus service for MPS students throughout the district to various schools for 2022-2023 School Year.

### *Service Outcome*

Provide on time bus service for MPS students to various schools within the district.

### *Method of Evaluation*

Monthly meetings for evaluations, penalties apply if applicable. Vendor will also be accountable by language agreed in the exhibit sections of the contract.

## EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

The payment terms are as follows:

If there are no exhibits:

This Exhibit and page have been intentionally left blank.

*Description of Services and Service Delivery*

## EXHIBIT A: SCOPE OF WORK

### I. Service provider compliance requirements

A. Successful Contractors must have all drivers travel over assigned routes on a dry run paid for at the contract rate and report to the principal **or designee** of each school on the route, on weekday(s) prior to the first day of school, which day(s) shall be at the District's option. **PAYMENT FOR THE ROUTE WILL BE DETERMINED BY THE SIGN-IN LOG OR GPS LOG AT EACH SCHOOL SERVED BY THE ROUTE.**

B. Buses must be at starting points on time. This is imperative for the correct functioning of programs. Schedules supplied by the District Department of Transportation Services must be followed. Any unauthorized deviation will result in billing adjustments (including liquidated damages).

C. Each bus used for school transportation shall be equipped with a current route schedule and run directions in paper format, electronic tablet format, or both. The District Director of Transportation Services and/or her/his designee may stop a driver to inspect for compliance with Transportation guidelines. Failure to comply will result in billing adjustments (including liquidated damages).

D. Schedules issued by the District Department of Transportation Services shall not be altered and added to other routes except with the concurrence of the Director of Transportation or the Director's designee. Failure to comply will result in billing adjustments (including liquidated damages).

E. The Contractor agrees to comply with all Minnesota Department of Education and Minnesota Department of Public Safety Rules as they exist at all times pertaining to and governing the design, color and operation of school buses operated by contract carriers.

F. Contractor must immediately NOTIFY the Director of Transportation Services or designee of all accidents/incidents involving buses **(personal injury and/or property damage accidents)** operated for the District **AND PROVIDE A COMPLETED ACCIDENT REPORT WITHIN 24 HOURS.** Contractor must follow established procedures for reporting results of accident investigations. Failure to comply may/will result in loss of the route in question.

G. Contractor must immediately NOTIFY the Director of Transportation Services or designee of all complaints and allegations involving bus drivers and/or bus personnel **AND PROVIDE A COMPLETED INCIDENT REPORT WITHIN 24 HOURS.** Failure to comply may/will result in loss of the route in question.

H. MPS Service shall **only be provided** using vehicles that have a District supplied communications radio, GPS device and driver MDT in working order.

I. Shall actively participate in using District specified software applications that are used to manage transportation operations and automated stop notification system. Specifically, these are the District Transportation web site and Synovia's Fleet Tracking, Time and Attendance and "Here Comes the Bus" systems.

Use of these systems include, but not limited to:

- Maintaining an accurate assignment of school session route bus assignments in Synovia Fleet Tracking
- Ensuring that vehicle substitutions or pivot assignments are made before service is provided by either the Driver using the MDT on the bus or using the Synovia Fleet Tracking system
- Provide notice to the District of new drivers prior to the driver providing service.
- The District will then assign and provide a driver identification number to be used with the MDT.

J. Contractor will notify the District of any communication radio, GPS device or MDT that is not operating properly

K. Notification to the District must be provided when Contractor is performing service using a vehicle that is **NOT** equipped with a District supplied radio, GPS device and MDT If the District chooses to not allow service to be provided from the Contractor using the planned vehicle, the District will facilitate a substitution with another Contractor or provide a Board Cover of the service.

L. The contractor agrees to present mid-year performance review demonstrating compliance in all stated expectations of contract, which include, but are not limited to, the following performance areas:

1. Performance
   a. On-time arrival
   b. Customer satisfaction
   c. Customer complaint resolution

2. Contract service requirements
   a. Billing timeliness and accuracy
   b. Accident/Incident reporting
   c. Employee training

M. In the event that the School District closes school and disrupt normal scheduling due to any labor dispute with an employee organization and the Board, then the District reserves the right upon notice to the Contractor to cancel any service contemplated by this agreement. No payment shall be made to the Contractor for days or periods of time that schools are not in session.

N. In the event that the Contractor is unable to perform service for the District due to any labor dispute between the Contractor and its employees, or, if for any reason the Contractor is unable to perform the service, then the School District reserves the right to permanently reassign any or all routes to other Contractors, to itself, or both

## II. OPERATING REQUIREMENTS

**Drivers Must:**

1. Know the exact location of the school assigned and the best route to the agency or institution to be served. Each driver shall carry a current route schedule and route map. Each driver shall be required to wear a photo ID card approved by the District at all times while assigned to a District route.

2. Capability to operate a Mobile Data Terminal (tablet) which includes logging in, selecting route or trip services that they will be providing, checking special education students on/off the bus and logging off.

3. Become familiar with those instructional materials in the **Driver's Handbook** for student management supplied by the District Department of Transportation Services.

4. Become familiar with the route and adhere to the time schedule (drivers shall have in their possession and use an accurate time piece) established by the Department of Transportation Services and make stops designated by the Department only. **No Unscheduled** stops are allowed.

5. Be responsible for maintaining proper order among all passengers being transported. Drivers shall adhere to guidelines for student bus safety rules and discipline procedures as provided by the District.

6. Ensure that only those authorized by the Department of Transportation Services be permitted to ride the bus.

7. Cooperate with the Department of Transportation Services in conducting periodic school bus evacuation drills as set forth by state law.

8. Remain on their assigned school buses or at the entrance door of their assigned bus during all loading and unloading operations.

9. Work cooperatively with aides and school bus safety assistants when assigned to specific special education transportation routes.

10. Have read and carry a Minneapolis School Bus Drivers' Manual (provided by the District).

11. There should be minimal radio contact with the District dispatch unless an inquiry has to be made regarding bus location, estimated time of arrival, or time checks.

12. In the event of bus breakdown, the Contractor's bus driver will first notify District dispatch of breakdown, location, name of school, run number and if students are on board. Then the Contractor's bus driver will next contact their respective Contractor station to apprise their personnel.

13. Contract driver MDT responsibilities, but not limited to:

- Identify themselves as the operator of a vehicle prior to providing service by logging in to the MDT using a District assigned driver identification number (DIN)
- Specify the service they are going to provide by selecting either the default route assigned to the vehicle or select the route or any portion of a route they are assigned to perform. If a Driver is assigned various runs/trips, prior to performing each trip the driver shall initiate service on the MDT for each trip
- On completion of driver's assigned service, the driver shall log out of the MDT
- Report MDT operational issues to service provider dispatch or maintenance for remediation
- ***No driver shall provide service unless they have a District Assigned driver identification number***

## III. Contractor/Dispatch Requirements

14. At the start of each day, all driver information will be forwarded to District Dispatch through Department of Transportation Services website. It will be assumed that drivers who are scheduled to work are on the radio and in route to their first stop unless the District hears otherwise from the Contractor via phone or District Transportation website with last minute changes.

15. At the start of each day, *Contractor* must ensure that scheduled equipment for the day has functioning GPS, tablet, and radio equipment.

16. Assure that *Contractor driver* is trained to log in to and out of GPS system tablet installed in his or her assigned vehicle multiple times per day and at points in time specified by the District (specifically, before and after each shift has been completed, unless otherwise specified by the District

17. In the event of bus breakdown, the Contractor will either have their driver relay to District dispatch who will be responding, or the Contractor will notify District directly.

18. The Contractor's safety staff will respond to its own accidents or student behavior issues unless District safety intervention is requested by the Contractor.

19. If a Contractor driver fails to answer the radio when called, notation will be made into the computer regarding same and the Contractor will be notified. Failure to respond after several attempts may result in a change in personnel for route coverage particularly if the route is running late.

20. Contractor shall have in place and accept all liability for the shredding and disposal of all documents containing student data that includes, but is not limited to,

students' names, addresses, schools, and or assigned bus stop information as soon as the documents are no longer needed.

21. Contractor shall be required to make their vehicle fleet available within 10 business days of request to the District's system installers for installation of GPS and/or Radio equipment as scheduled by the District-specified installations service provider. Additionally, Contractor shall provide and assign a temporary substitute vehicle that contains functioning GPS and/or Radio equipment during this time period.

22. Contractor shall be responsible for the troubleshooting and remediation of malfunctioning GPS and Radio equipment to resolution (i.e., equipment is fixed, or RMA is initiated) within two business days of the date in which the issue was discovered and reported to Contractor. Additionally, and within the same two-day period, Contractor shall be responsible for reporting unfixable GPS and Radio equipment to the District, for facilitating and expediting GPS and Radio equipment related communications between Contractor and the District, and for coordinating and collaborating with the District to resolve each GPS and Radio equipment-related incident and issue.

23. Contractor shall be responsible for GPS and Radio equipment swaps from any current or retiring Contractor vehicle servicing District routes to any newly acquired Contractor vehicle intended for District route service.

## IV. Reporting

A. Contractor shall furnish the Director of Transportation Services with a list of drivers, current addresses and telephone numbers, and drivers' licenses. The list shall include all drivers assigned to regular school transportation routes and special education transportation routes and shall be provided to the Director not later than one week prior to the first day of the school year.

B. Contractor shall provide a vehicle inventory of all vehicles planned to be used to provide service. This includes the vehicle number, vehicle type (i.e., Type A, Type C, Type D or Type III), manufacturer, model year, model, VIN, color, passenger capacity (i.e., regular and wheelchair), license plate number, fuel type and installed District radio serial number (if applicable)

C. The Contractor must obtain a copy of the applicant's driving record prior to hiring.

D. Driving records must be checked and provided to **MPS Transportation** at least **two (2) times** during a school year; **September 15 and January 15.** The cost for record checks shall be the Contractor's responsibility.

E. The Contractor shall contact the District(s) or carrier(s) who previously employed the driver who is applying for a job or is already licensed as a school bus driver.

F. The District or independent operator may request a driver license examination of any of their drivers. This exam will be conducted by the State.

G. The Contractor must have a drug and alcohol testing program as prescribed by the US Department of Transportation 49 CFR Part 382 *et seq.*

**Personnel**

1. Contractor shall provide information about staffing and organization as requested by the District.

2. Contractor shall provide adequate training and supervision of drivers consistent with District policies and practices. Must maintain a State Certified School Bus License examiner or provide provisions for testing at authorized driver testing centers. Contractor shall provide a list of supervisory personnel who are responsible for field supervision of Contractor's drivers assigned in the District.

3. Maintenance Personnel. Contractor shall provide an adequate capability for maintenance of the size of the bus fleet and maintenance program, including capacity for GPS system and Radio equipment maintenance

4. Accident Review Panel. Contractor must participate in a District managed Accident Review Panel and provide the secretary of the Accident Review Panel a copy of all motor vehicle accidents in accordance with the by-laws of the Accident Review Panel.

5. On an annual basis as a part of the Annual Service Plan (Section I.A. above), the Contractor shall provide to the Director of Transportation Services current emergency and after hours contact telephone numbers (office, pages, cellular telephone, and if necessary, home phone) of key personnel (including managers) who would have pertinent information about bus drivers, routing information, scheduling assignments, etc. This information is to be updated with changes, deletions and/or additions throughout the contract.

**DRIVER TRAINING**

1. Each school bus driver assigned to a District route shall be evaluated and certified by the Professional Driver's Academy. Each participant must demonstrate competency and proficiency in those areas as specified by the Academy. Drivers who are deficient in one or more areas will be required to complete coursework, as provided by the Academy, before receiving a certificate of completion through the Academy and Dakota Technical College. The Academy also reserves the right to require a driver attend refinement training for just cause. Any driver's failure to attend or successfully complete any portion thereof may result in suspension or revocation of that driver's privileges to serve the School District. The cost of tuition, evaluations and subsequent coursework performed by the Academy shall be at the expense of the Contractor. The Contractor shall provide vehicles for such purposes. Evaluations and coursework shall include, but are not limited to:
    - Defensive driving
    - Pre-trip inspection
    - Geography skills

- Special education
- Emergency preparedness
- Customer relations
- Behavior management
- Loading and unloading procedures
- Communications radio operations
- Mobile Data Terminal (tablet) operations

2. Each school bus driver assigned to a District route shall be required to view the Smith System video – FIVE KEYS TO SAFETY. The Minnesota School Bus Driver Safe Driving Curriculum, 2001, published by the Department of Public Safety will be used in providing the required classroom training. Copies may be obtained from the District Department of Transportation Services.

3. Pre-service training shall include a minimum of sixteen (16) hours of classroom and Ten (10) hours behind-the-wheel training.

4. Each Contractor shall provide a copy of all school bus driver training programs for District approval and certify in writing that each driver operating in District has successfully completed the prescribed program. District approved material must be included in the Contractor school bus driver orientation in-service training.

5. District in-service meetings will be conducted in August-September, November and March-April of each school year. Contractor driver and supervisory personnel Attendance shall be mandatory.

6. School bus driver instructors and District Department of Transportation Services management personnel will be allowed to participate in the monthly safety meetings conducted by Contractors.

7. Contractors shall include their school bus driver trainers to attend the Minnesota School Bus Driver Trainer seminar during the first year of the contract.

## V. MPS will Provide

### A. DIRECT DISTRICT SUPERVISION

1. The District Department of Transportation Services will employ on a forty-five (45) week basis two (2) communications specialists and (2) managers will be assigned who will work closely with the Director of Transportation Services (or designee) to communicate with school buses and provide adequate daily communication with drivers from all Contractors.

2. The District shall provide the extra personnel from 6:00 a.m. until the workload is at a level where personnel can be reduced.

3. Contractor will be assessed a rate based upon the number of routes awarded annually

divided into the total salaries for two forty-five week communication specialists and two managers plus **36%** benefits. Salary increases will be added according to the applicable collective bargaining agreement annually.

### B. Training

Contractor personnel shall attend District provided training for:

- Use of the District Transportation web site software application
- Use of the Synovia software application
- GPS device and MDT operation
- GPS device and MDT repair
- District notification processes such as employee hires and terminations, vehicle
- retirement, new vehicles planned for District services, etc.

Training will be offered prior to the start of the contract, annually prior to the fall school session startup and as needed for new Contract personnel

## VI. Technology

A. Contractor must provide a direct ring line between each terminal and the District Department of Transportation Services.

B. Contractors shall access District software applications to receive daily route changes, route copy and GPS information. District software systems will be made available on both the Internet and within the District network via a VPN connection from the Contractor facilities. Access to software applications requires a personal computer or tablet using a web browser (e.g. Chrome, Firefox, and Internet Explorer and Edge web browsers) and a Portable Document Format (PDF) reader (e.g. Adobe Reader). Web browser performance can vary depending on which one is used.

C. Contractor will be required to lease from the District a GPS (Global Positioning System) equipment specified by the District that would be installed in each vehicle that would be providing service to the District

D. All participating Contractors, when applicable, will be assessed a rate based upon the number of GPS and communications radio units required which are equal to the number of routes awarded plus required spares. (Units will be leased at the rate of $67.00 per month for each of the route buses and spare buses awarded to the Contractor, the rate will be adjusted yearly based on the current cell service and licensing costs.)

E. Communications radios, GPS devices and MDT equipment shall be installed or uninstalled by a qualified service provider specified by the District at the rate (listed below) per each route bus AND standby bus specified in Section VII. B; the cost of the installation shall be the responsibility of the Contractor. The cost of the cellular service will be included in the lease rate.

Mpls School Transportation Radio Installation Pricing,

- Installation of radio and radio antenna, $150.00,

- Installation in bus with existing power cord and antenna coax, $100.00,
- Removal of radio only (not coax), $75.00,
- Removal of radio and GPS (not antenna), $95.00,
- Travel charge per visit, $85.00,
- Shop supply, $9.00,

F. The Contractor shall have communications radio equipment specified by the District in each vehicle that is servicing District routes or is planned to service District routes in the future. The Contractor shall ensure that the District has been informed of all vehicles' Radio ID numbers PRIOR to those vehicles being used to provide transportation services to the District.

1. Two-way Radio Equipment

a) Successful Contractors are required to equip 100% of the buses and Type III vans with operable two-way radios that have the approval of the District. CB type radios are not permitted.

b) The District requires the Contractor use the District's radio system. **All radios are the property of Minneapolis Public Schools.** This radio system shall be programmed by the District, and the repeater system is the responsibility of the District. Any mobile radio maintenance and repairs shall be the responsibility of the Contractor. Upon termination of the contract, and radios are returned to the District, the power cords, mounting brackets and screws, and antennas shall be returned as a unit. The coax cables are exempt. All radio repairs shall be performed by a service provider specified by the District.

## X. Digital Video Surveillance

### Rules of operation

A. Minneapolis Public Schools and the companies under contract for transportation services must have digital video and audio equipment in school buses for the purpose of monitoring behavior.

B. The district and contractors will purchase and install a video surveillance system for all buses operating under the transportation contract. The system must be compatible with district defined standards to ensure consistency of operation. The digital video surveillance system will be used to support the drivers report and to enforce the consequences of the district student behavior management plan.

C. The digital recording will be viewed only by the MPS Transportation Director or designee, the principal of the school building or designee, bus company safety director, bus driver (at review of incident), school liaison officer or other appropriate law enforcement agencies. Any digital recording that reveals unlawful actions may be brought to the attention of law enforcement agencies. Whenever a parent or guardian disputes or challenges a report of recorded misbehavior, it will be the responsibility of the school principal to review the recording. The recording will then be used to assist in determining whether or not the incident actually occurred and if so, the severity of the incident. Neither the student nor the parent/guardian of the student that has been recorded will be allowed to view the

recording, in accordance with data privacy laws and district policy., unless the student is the only subject on the recording or the building principal has obtained written permission from the parents/guardians of all other students on the recording in question. Upon written request, the school district will provide a written summary of the recorded incident(s) to a student pictured on a recording or to the students' parents/guardians.

D. Each bus company will be responsible for the security of the digital video equipment and the handling and storage of the recordings, based on the following requirements.

a. All recording are to be treated as confidential student information. All requests for review must be referred to the Director of Transportation Services or designee. Copies of recording may not be provided without review by District Counsel.

b. Separate recording must be maintained and time stamped to identify AM and PM trips. All recordings must be retained for a period of one week and specific dates requested by the Director of Transportation Services or designee for longer periods of time to be determined.

c. No recording may be shown to anyone not directly related proceedings without the permission of the Director of Transportation Services or designee.

d. No recording may be released to any media organization without consent from the Director of Communications or District Counsel.

### Video Equipment

The digital camera systems must at a minimum:

1. Be constructed of durable industrial grade materials
2. Record both video and audio
3. Record a minimum of 12 hours of video
4. Be equipped with at least three (3) cameras inside the school bus mounted in the front, back and over the door covering the drivers are of the bus.
5. Be capable of recording from multiple cameras without reducing the quality or time of recording.
6. Be activated by the school bus ignition switch (not driver operated).
7. Be designed for school bus operation.
8. Be certified for operation in extreme cold conditions.
9. Record in a format that is convertible or exportable to standard media, including DVD or flash drive.
10. Record in a format that is compatible with, or easily convertible to, standard viewing formats including QuickTime, windows media player or AVI.

Video must be converted to DVD or a viewable format before recording is sent to transportation department.

A camcorder mounted inside the bus or in a box does not meet the requirements of this contract section and will not be considered to be a digital camera system for contract compliance and issues of non-performance.

## VII. VEHICLES – BUSES AND TYPE IIIs

### DEFINITIONS (Types of Vehicles)

1. Type C & D School Buses – are buses of more than 10,000 pounds Gross Vehicle Weight Rating (GVWR) having a capacity of more than nineteen (19) pupil passengers. These include the conventional (school bus body attached to a truck chassis), forward control and pusher-type vehicles. All are constructed and equipped to meet the State of Minnesota minimum standards for school buses.

   a. Successful Contractor must be able to provide Type C or D buses designed for carrying not less than 65 passengers, except as noted, where written quotations are requested on a school bus equipped to transport students with disabilities and special needs.

2. Type A or B School Buses – are buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, designed for carrying more than ten (10) persons, shall be painted National School Bus Yellow; identified as a school bus, equipped with eightlamp warning system and stop signal arm, and shall operate as a Type A bus.

   a. Successful Contractor must be able to provide Type A or B buses designed for carrying not less than eighteen (18) persons, except as noted, where written quotations are requested on a school bus equipped to transport students with disabilities and special needs.

3. Type III Vehicles – Type III Vehicles are restricted to vans, and buses having a maximum manufacturer's rated seating capacity of 10 or fewer people, including the driver, and a gross vehicle weight rating of 10,000 pounds or less. "Type III Vehicles" must not be outwardly equipped and identified as a type A, B, C, or D school bus. A van or bus converted to a seating capacity of ten or fewer and placed in service on or after August 1, 1999, must have been originally manufactured to comply with the passenger safety standards.

## B. BUSES AND TYPE III VEHICLE REQUIREMENTS

1. The District requires that contract operators provide school buses that have current school bus certification stickers as required by Minnesota law, and conform to Federal Motor Vehicle Safety Standards (FMVSS) that apply to school buses. During the life of the contract, the following age limitations shall apply:

TYPE "D" TRANSIT TYPE BUSES 15 model years
TYPE "C" CONVENTIONAL BUSES 15 model years
TYPE "A" AND "B" BUSES 12 model years
TYPE III VEHICLES 12 model years

At least fifty (50%) percent of the bus equipment, not including replacement and stand-by buses, operating in the District shall not be older than the average of ten (10) years at the start of each contract year.

2. School buses shall comply with all federal and state laws and regulations at all times under this contract.

3. Successful contract Contractor shall maintain one standby vehicle for each ten (10)

vehicles specified as being available. If less than ten (10) vehicles are specified as available, one standby unit shall be maintained.

4. Successful contract Contractor shall have enough vehicles available to cover for breakdowns, service, and accident repairs.

5. **The District shall determine required bus and Type III capacity based on route requirements.**

6. If Contractor proposed to furnish new equipment, such new equipment will be provided for service on or before commencing performance and that arrangement for the payment of said new equipment has been made to the seller's satisfaction.

7. If the Contractor proposed to furnish used equipment, Contractor shall provide proof of ownership upon request. All vehicles must be maintained in safe operating condition, and Contractor shall provide that exterior and interior cleanliness be maintained. Sufficient heat as determined by the District shall be maintained in all vehicles at the time pupils are being transported.

8. Contractor shall provide the District with a complete list and description of buses Designated as available for all categories of service by **August 1st** and every **August 1** thereafter.

9. All buses must display the following interior signs:
   a. School Bus Rules and Regulations (provided by Minneapolis Public Schools).
   b. "No Smoking Signs" (front and rear of bus).
   c. Safety signs provided by the District.
   d. "Cross ten feet in front of the bus" sign.
   e. Two (2) inch high numerals identifying each row of seat above the right and left side windows from front to rear of each bus. Example: 1-11 on a 65-passenger bus, 1-4 on a Type A school bus.
   f. Cell phone usage sign (provided by Minneapolis Public Schools).

10. All Type "C" and "D" school buses must be equipped with bumper mounted crossing arms. Buses equipped with wheelchair lifts that are scheduled exclusively for curb pickups, are exempt from requiring a crossing arm.

11. Mobile Data Terminal (tablet) operating instruction placard in a conspicuous location for operator reference (placard to be supplied Minneapolis Public Schools)

## OTHER EQUIPMENT REQUIREMENT

Securement Systems (for wheelchair) mobile seating device occupant shall comply with the **2015 (NSTSP)** National Standards for School Buses and Operators and State of Minnesota rules on minimum standards promulgated in Minnesota Rules 7470.1600. The Contractor shall provide approved car seats, supports and/or protective devices for those students who will require such devices to insure their safe transportation, as provided in Minnesota Rules 7470.1600, subparts 6 and 7:

"Subp. 6. **Special equipment.** Specially adapted seats, support, or protective

devices must be provided for all pupils who require the devices to ensure their safe transportation. These devices must be selected by the school district in consultation with the pupil's parents and on the basis of the specific needs of the individual pupil with a disability.

Subp. 7. **Wheelchair securement.** A school bus used to transport pupils in wheelchairs must be equipped with fastening devices that will hold the wheelchairs securely in a fixed position.

When required, the successful Contractor shall provide approved car seat(s) and/or booster seat(s) according to the needs of the awarded route(s). This equipment shall be kept in satisfactory conditions at all times and replaced at the expense of the Contractor. When the contract bus(s) is/are without the required child seat(s) at any time when school is in session, the District will provide the seat and a $15 per day rental fee (per car seat and/or booster seat) will be billed to the contract bus company until such time that the Contractor can provide its own. The total rental costs will be deducted from the balance of the valid claim for compensation. If the rented car seat and/or booster seat is returned damaged or in a non-usable condition, the Contractor will be charged for half or full value of the seat based on its age and time of rental.

## D. CONDITION OF BUSES AND TYPE III VANS

1. Buses shall be maintained in good operating order and all equipment shall function properly as required by state law. Buses shall be painted the color required by law in the State of Minnesota. The interior, exterior, and windows of a bus shall be kept clean. Each bus shall be swept daily, and the floor and rear windows shall be cleaned daily. Contractor shall indicate the facilities available for cleaning buses.

2. Buses used must be equipped with signs, located in the second right side window, indicating the school's name and route number for the convenience of students, parents, and administrators.

## INSPECTION OF BUSES AND TYPE III VANS

Contractor shall have all buses inspected by the Law Compliance Representatives (LCR) of the Minnesota State Patrol annually as is required by state law. Contractor shall furnish the District's Director of Transportation Services with a copy of the summary of all of the annual and all or any periodic motor vehicle inspection reports prepared by the Minnesota State Patrol showing the inspection sticker that has been attached to each bus. Such forms shall be furnished immediately upon the completion of inspection by the Minnesota State Patrol. In addition to the State Patrol inspection, a special inspection of a school bus may be conducted by District personnel. Corrective action shall be taken by the school bus owner as set forth in the inspection report.

## FACILITIES

A. Contractor's facilities should Large enough to secure vehicles when not in service and be located near enough to provide service to any part of the District within thirty (30) minutes; to provide replacement buses in the event of breakdown with less than **thirty (30) minutes**

delay; and to have dispatched a separate bus to keep succeeding trips on time. When a spare bus is dispatched, the driver shall assume responsibility for transferring students to the spare bus and continuing the route.

B. Facilities required:

1. Office with staff available so messages will be received and answered WITHIN 10 MINUTES during any time period when Contractor's buses and vehicles are in use.

2. Bus maintenance facilities must be adequate to carry on an adequate scheduled maintenance program for the size of the bus and Type III fleet, so that repairs can be made immediately, keeping the required spare buses available at all times.

3. Bus maintenance facilities must be of adequate in size to provide secure off-street parking for all vehicles operating bus route serving Minneapolis Public Schools

4. Suitable driver training facilities and equipment shall be provided.

## INVOICING

A. 1. Invoices shall be sent Bi-weekly to dawn.schnickel@mpls.k12.mn.us. Reged, SPED and HHM costs need to be listed separately, either three different lines or three different invoices.

2. Backup information shall be sent at the time of the invoice and shall include daily route information, AM, Midday, PM, CSP's & Miles if applicable. Each day needs to be listed for verification purposes.

3. Returned routes will not be paid for by MPS therefore should not be included on the invoice.

4. Administration costs (per V-A-3) will be applied monthly.

5. Late fees will be accessed quarterly, allowing time to review and respond.

B. 1. An Invoice template will be sent in a separate document with the contract to be used as a guideline.

**COVID-19 COMPLIANCESERVICE PROVIDER COMPLIANCE REQUIREMENTS**

A. The Contractor agrees to comply with all State, City and MPS regulations as they pertain to COVID-19 related rules and regulation.

B. The Contractor agrees to comply with the following MPS COVID-19 protocols

1. Conduct pre & post cleaning of buses daily
2. Sanitize each bus between each run daily
3. Utilize MPS approved cleaning solution
4. Conduct verbal employee wellness checks daily

C. Each Contractor shall provide training on COVID related cleaning methods.

D. Contractor must immediately notify the Director of Transportation Services of any employee absences due to illness. Contractor must follow established procedures for reporting results.

## COST QUOTES FOR STUDENT TRANSPORTATION SERVICES

The cost quotes for each year of the term shall be submitted based on a maximum of 175 days of school operation.

1. **Regular "To and From" Routes.** The cost for all regular "to and from" A.M. and P.M. routes, including open-enrolled home-to-school transportation and after school runs, for the days of school operation, using the following unit costs:

| Bus Size | Cost Per Route-Day | Cost Per ½ Route-Day | QUANTITY QUOTED |
|---|---|---|---|
| 71-77 Passenger Bus | $ 498.22 | $ 348.75 | tbd |
| >71 Passenger Bus | $ 498.22 | $ 348.75 | tbd |

2. **Rates for Excess Mileage and Time – Regular "To and From" Routes (Item 1 above):**

   $ 19.75 per one-quarter (1/4) hour for time in excess of the route times, four (4) "live" hours per day or two (2) "live" hours per ½ day, whichever is greater, computed on an individual bus basis.

3. **Special Education and Special Needs Services – In-District.** The cost for all special education and special needs routes, including open-enrolled home-to-school transportation services and after school runs, shall be submitted for the days of school operation using one or more of the following unit costs:

| Bus and Van Size | Lift? | | Cost Per Hour | Cost Per Route-Day | Cost Per ½ Route-Day | QUANTITY QUOTED |
|---|---|---|---|---|---|---|
| Class C or D Bus | Yes | No | NB | $ 498.22 | $ 348.75 | tbd |
| Class A or B Bus | Yes | No | NB | $ 498.22 | $ 348.75 | tbd |
| Van or Type III | Yes | No | NB | $ 433.21 | $ 303.24 | tbd |
| Bus Assistant/Aide | | | $ 49.61 | XXXX | XXXX | tbd |
| Lift | | | XXXX | $ 26.02 | $ 18.21 | tbd |

4. **Rates for Excess Mileage and Time – Special Needs Services (Item 3 above and item 5 below):**

$ 19.75 per one-quarter (1/4) hour for time in excess of the route times, four (4) "live" hours per day or two (2) "live" hours per ½ day, whichever is greater, computed on an individual bus basis.

5. **Special Education Services – Out-of-District.** The cost for special education and special needs routes, shall be submitted for the days of school operation using one or more of the following unit costs:

| Bus and Van Size | Lift? | | Cost Per Hour | Cost Per Mile | Cost Per Route-Day | Cost Per ½ Route-Day | QUANTITY QUOTED |
|---|---|---|---|---|---|---|---|
| Class C or D Bus | Yes | No | NB | XXXX | $ 498.22 | $ 348.75 | tbd |
| Class A or B Bus | Yes | No | NB | XXXX | $ 498.22 | $ 348.75 | tbd |
| Van or Type III | Yes | No | NB | XXXX | $ 433.21 | $ 303.24 | tbd |
| Bus Assistant/Aide | | | $ 49.61 | XXXX | XXXX | XXXX | tbd |
| Lift | | | XXXX | XXXX | $ 26.02 | $ 18.21 | tbd |

6. **Midday Special Education Services and Shuttles**. The cost for all midday SPED shuttle bus and van services, using one or more of the following unit costs:

| Bus and Van Size | Stand Alone Cost per 1st Hour | Cost per Add'l Hour# | Continuous Service with AM/PM## |
|---|---|---|---|
| Class C or D Bus | $ 85.13 | $ 59.59 | $ 59.59 |
| Class A or B Bus | $ 85.13 | $ 59.59 | $ 59.59 |
| Van or Type III | $ 71.71 | $ 59.59 | $ 59.59 |
| Bus Assistant/Aide | $ 49.61 | XXXX | XXXX |
| Lift | XXXX | XXXX | XXXX |

# billed in quarter of an hour after the first hour

## reference to items 1, 3 & 5

7. **Midday, Vocational and Other Transportation Services and Shuttles**. The cost for all midday or shuttle services, vocational education services, and ALC routes, using one or more of the following unit costs:

| Bus and Van Size | Stand Alone Cost per 1st Hour | Cost per Add'l Hour# | Continuous Service with AM/PM## |
|---|---|---|---|
| Class C or D Bus | $ 85.13 | $ 59.59 | $ 59.59 |
| Class A or B Bus | $ 85.13 | $ 59.59 | $ 59.59 |
| Van or Type III | $ 71.71 | $ 59.59 | $ 59.59 |
| Bus Assistant/Aide | $ 49.61 | XXXX | XXXX |
| Lift | XXXX | XXXX | XXXX |

# billed in quarter of an hour after the first hour

## reference to items 1, 3 & 5

8. **Special Needs Services for Highly Mobile and Students with Special Needs Not INCLUDING SPED – Out-of-District.** The cost for special needs routes, shall be submitted for the days of school operation using one or more of the following unit costs:

| Bus & Van Size | Cost per hour# | Cost per Add'l Hour | Cost per Mile ** | Cost per Day |
|---|---|---|---|---|
| Class A or B | $ 81.78 | XXXX | XXXX | XXXX |
| Van or Type III | $ 72.82 | XXXX | XXXX | XXXX |
| Lift | XXXX | XXXX | XXXX | $ 26.02 |
| Bus Assistant/Aide# | $ 49.61 | XXXX | XXXX | XXXX |

# billed in quarter of an hour after the first hour based on terminal to terminal time

** beyond 8 miles from the Transportation Center

9. **After School Transportation Services**. The cost for after school regular or SPED bus services, not including charters, and separate from and not routed with after school services identified in either Item 1 or 2 above, using one or more of the following unit costs:

"Stand-alone" Service

| Bus and Van Size | Cost Per 1st Hour | Cost Per Add'l Hour# | Continuous Service with AM/PM## |
|---|---|---|---|
| Class C or D Bus | $ 85.13 | $ 59.59 | $ 59.59 |
| Class A or B Bus | $ 85.13 | $ 59.59 | $ 59.59 |
| Van or Type III | $ 71.71 | $ 59.59 | $ 59.59 |

10. **Summer School Transportation Services**. The cost for all summer school regular or SPED bus and Type III van services, other than charters, using one or more of the following unit costs:

| Bus and Van Size | Cost Per Hour | Cost Per Day | Cost Per ½ Day |
|---|---|---|---|
| Class C or D Bus | | | |
| Class A or B Bus | | | |
| Van or Type III | | | |

**Option:** The rates for other transportation services can be quoted as a % of the rates for regular "to & from" transportation services. 100% of regular and SPED transportation rates in items 1, 3 and 5 above.

[continued on next page]

11. **Charters: Extra-curricular and Athletic Trips; Activity and Field Trips. Trip charge for extra-curricular and** athletic trips and school activity and field trips, along with waiting time at the destination, using one or more of the following unit costs: Trip charge outside the school district boundaries.

| | Cost per Trip (min) | Cost per Mile | Cost per Hour# | Cost per Wait Hour |
|---|---|---|---|---|
| a. Trips within an 8 mile radius from the Transportation Center | 2 hour base | | | |
| i. Class C/D Bus | $171.94 | XXXX | $85.97 | XXXX |
| ii. Class A/B Mini bus | $171.94 | XXXX | $85.97 | XXXX |
| iii. Type III van | XXXX | XXXX | XXXX | XXXX |
| iv. Drop & Go with Return | Same trip / same as above in section 12 a. | | | |
| v. Drop & Go; no Return | Same as above in section 12.a; trip min @ 70% | | | |
| b. Trips beyond an 8 mile radius from the Transportation Center | 3 hour base | Miles > 16 rd trip | | |
| i. Class C/D Bus | $ 257.91 | XXXX | $85.97 | $ 33.53 |
| ii. Class A/B Mini bus | $ 257.91 | XXXX | $85.97 | $ 33.53 |
| iii. Type III van | XXXX | XXXX | XXXX | XXXX |
| iv. Coach bus | negotiate | | | |
| c. Trailer | XXXX | XXXX | XXXX | $90.00 |

# billed in quarters of an hour after the first hour

Labor cost for overnight trips $ 31.28 per hour; $ 249.99 per day max.

Overnight driver expenses $ tbd per 24 hour day.

d. Non-peak Rate Discount: non-peak (8:30 am - 2:15pm & after 4:30pm) trip charge discount from regular rates in this item: 0%

**12. Fuel Escalation Clause**

The parties acknowledge that the District is working on a fuel-surcharge provision that will include in all contracts with its Contractors. The above prices contemplate the cost of fuel at $ 3.25 per gallon. If the District's fuel-surcharge provision changes that assumption, then the parties agree the price may change as well.

**13. Mileage surcharge**

A surcharge of $ 3.97 per mile will be added to the invoice each month. For each to-and-from route assigned to Lorenz, the mileage will be measured from the first and last stop to Lorenz and from the first and last school to Lorenz in both the AM and PM.

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MINNESOTA STATE

Contract Number: MCTC-2025-047870

# INCOME CONTRACT

This contract is by and between MINNEAPOLIS PUBLIC SCHOOLS 1250 W BROADWAY AVE, MINNEAPOLIS, MINNESOTA 55411-2533 (hereinafter "Purchaser") and the State of Minnesota acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of MINNEAPOLIS COMMUNITY & TECHNICAL COLLEGE (hereinafter " Minnesota State ").

WHEREAS, the Purchaser has a need for a specific service; and

WHEREAS, Minnesota State, is empowered to enter into income contracts pursuant to Minnesota Statutes, Chapter 136F;

NOW, THEREFORE, it is agreed:

1. **DUTIES OF MINNESOTA STATE**.
   The Minnesota State agrees to provide the following: food, staff coordination for summer camps and career exploration for Gear Up/PSEO students, faculty stipends, supplies, student employees salary for mentorship, bus transportation to industry site visits related to the camps, etc.

2. **DUTIES OF PURCHASER**.
   The Purchaser agrees to provide the following: funding for the duties performed by Minnesota State.

3. **CONSIDERATION AND TERMS OF PAYMENT**.
   a. Consideration for all services performed and goods or materials supplied by Minnesota State pursuant to this contract shall be paid by the Purchaser as follows: three hundred thousand and 00/100 dollars ($300,000) for work completed over four years (seventy-five thousand and 00/100 dollars ($75,000) per year).

   b. Terms of Payment. Payment shall be made by the Purchaser within 20 days of the date of the invoice presented.

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4. **TERM OF CONTRACT.**

This contract shall be effective on Upon Execution, or upon the date that the final required signature is obtained by Minnesota State**,** whichever occurs later, and shall remain in effect until Friday, June 30, 2028 or until all obligations set forth in this contract have been satisfactorily fulfilled, whichever occurs first.

5. **CANCELLATION.**

This contract may be canceled by the Purchaser or Minnesota State at any time, with or without cause, upon thirty (30) days written notice to the other party. In the event of such a cancellation, the Minnesota State shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed

6. **AUTHORIZED REPRESENTATIVES**.

a. The Purchaser's Authorized Representative for the purposes of administration of this contract is:

Name: Jeremy Miller, or their successor
Title: Director Counseling Services and GEAR UP
Address: 1250 W BROADWAY AVE, MINNEAPOLIS, Minnesota 55411-2533
E-Mail: Jeremy.miller@mpls.k12.mn.us

b. An authorized representative of Minnesota State for the purposes of administration of this contract is:

Name: Becky Nordin, or their successor
Title: Dean of Student Affairs
Address: 1501 Hennepin Avenue Minneapolis, Minnesota 55403
Telephone: [[ Contact Phone Number (* Minneapolis Community and Technical College) ]]
E-Mail: becky.nordin@minneapolis.edu

Each authorized representative shall have final authority for acceptance of services of the other party and shall have responsibility to ensure that all payments due to the other party are paid pursuant to the terms of this contract.

7. **ASSIGNMENT**.

Neither the Purchaser Minnesota State shall assign or transfer any rights or obligations under this contract without the prior written approval of the other party.

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8. **LIABILITY.**

The Purchaser shall indemnify, save, and hold Minnesota State, its agents and employees harmless from any and all claims or causes of action arising from the performance of this contract by the Purchaser or Purchaser's agents or employees. This clause shall not be construed to bar any legal remedies the Purchaser may have for failure of Minnesota State to fulfill the obligations pursuant to this contract.

9. **AMERICANS WITH DISABILITIES ACT COMPLIANCE (hereinafter "ADA")**.

The Purchaser is responsible for complying with the Americans with Disabilities Act, 42 U. S. C. 12101, et. seq. and regulations promulgated pursuant to it. Minnesota State IS NOT responsible for issues or challenges related to compliance with the ADA beyond its own routine use of facilities, services, or other areas covered by the ADA.

10. **AMENDMENTS**.

Any amendments to this contract shall be in writing and shall be executed by the same parties who executed the original contract or their successors in office.

11. **GOVERNMENT DATA PRACTICES ACT**.

The requirements of Minnesota Statutes § 13.05, subd. 11 apply to this contract. The PURCHASER and MINNESOTA STATE must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by MINNESOTA STATE in accordance with this contract, and as it applies to all data, created, collected, received, stored, used, maintained, or disseminated by the Purchaser in accordance with this contract. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the Purchaser or Minnesota State.

In the event the Purchaser receives a request to release the data referred to in this clause, the Purchaser must immediately notify Minnesota State. Minnesota State will give the Purchaser instructions concerning the release of the data to the requesting party before the data is released.

12. **JURISDICTION AND VENUE**.

This contract shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this contract, or the breach thereof, shall be located only in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

13. **STATE AUDITS.**

The books, records, documents, and accounting procedures and practices of the Purchaser relevant to this contract shall be subject to examination by the contracting department and the Legislative Auditor.

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14. **ENTIRE AGREEMENT.**

This contract represents the entire agreement between the parties and with regard to the stated subject matter and supersedes any previous discussions or agreements, either verbal or written that occurred between the parties with respect to this subject matter. This contract may not be amended except by written agreement signed by the parties hereto. In the event of any conflict or inconsistency between this contract and any riders, exhibits, addenda, or other document incorporated herein, this contract shall govern

15. **CLERICAL ERROR.**

Notwithstanding Clauses "ASSIGNMENT, AMENDMENTS, and ENTIRE AGREEMENT" of this contract, Minnesota State reserves the right to unilaterally fix clerical errors, defined as misspellings, minor grammatical or typographical mistakes or omissions, that do not have a substantive impact on the terms of this contract without executing an amendment. Minnesota State must inform Purchaser of clerical errors that have been fixed pursuant to this paragraph within a reasonable period of time.

*16.* **OTHER PROVISIONS**. None

The rest of this page intentionally left blank. Signature page to follow.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

**APPROVED:**

1. **MINNESOTA STATE COLLEGES AND UNIVERSITIES**
   **MINNEAPOLIS COMMUNITY & TECHNICAL COLLEGE**

| By (authorized signature and printed name) DocuSigned by: Patrick Troup 89205522AC4C44D... |
|---|
| Title Vice President of Student Affairs |
| Date 1/15/2025 \| 7:58:28 AM CST |

2. **PURCHASER: MINNEAPOLIS PUBLIC SCHOOLS**
   Purchaser certifies that the appropriate person(s) have executed the contract on behalf of Purchaser as required by applicable articles, by-laws, resolutions, or ordinances.

| By (authorized signature and printed name) |
|---|
| Title |
| Date |

| By (authorized signature and printed name) |
|---|
| Title |
| Date |

3. **AS TO FORM AND EXECUTION:**

| By (authorized college/university/system office initiating agreement and printed name) DocuSigned by: Marsha Helfman 65CC71F565974DB... |
|---|
| Title Director of Finance |
| Date 1/15/2025 \| 7:59:51 AM CST |

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MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

# CONTRACT FOR SERVICES – $25,000 above

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Minneapolis Community & Technical College "Contractor" (collectively "parties") to provide camps and career exploration to Minneapolis Public Schools GEAR UP Students.

## TERM OF CONTRACT

1.1 This Contract is effective on January 08, 2025 or the date of the last signature of the parties, whichever is later, and shall remain in effect until June 30, 2028, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

## 2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as **Exhibit A** ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

## 3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 ***Total Obligation***

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $75,000 per school year.

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Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 ***Frequency of Invoicing and Terms of Payment***

Subject to the conditions herein, payment shall be made by District within thirty (30) days upon receipt of Contractor's invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. In the case of a dispute about satisfactory performance of services, the parties agree to work in good faith to resolve any disputes. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

As applicable, for all agreed upon work performed by Contractor or Contractor's personnel in the provision of goods and/or services stipulated herein, District shall pay Contractor at the hourly or per diem rates as set forth in the applicable **Exhibit B**. Payment shall be made to Contractor based on the hours recorded provided such hours are in accordance with the terms of this Contract. Notwithstanding anything to the contrary, and without limitation, District has not promised or guaranteed any minimum amount of work, and Contractor understands and acknowledges same. District has no obligation to pay for overtime or holiday work, nor will it pay premiums for overtime and holidays.

3.3 ***Taxes.***

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

District may be obligated by state and federal law to withhold state and federal taxes from the consideration stated herein. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding.

3.4 ***Fund Availability; Federal Funds Contingency.***

Financial obligations of District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Contract is funded in whole or in part with federal funds, District's payment obligations

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are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

## 4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

## 5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

## 6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

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## 7 DATA PRIVACY

7.1 Contractor agrees that any information it creates, collects, receives, stores, uses, or disseminates during the course of its performance, which concerns the personal, financial, or other affairs of the District, its Board, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13. Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. The Contractor will report immediately to the District any requests from third parties for information related to this Contract. The District will respond to such data requests. All subcontracts, if allowed, shall contain the same or similar data practices compliance requirements.

7.2 Contractors that provide school-issued devices for student use and directly or indirectly create, receive, or maintain educational data incidental to performing their duties under this Contract shall also sign **Exhibit C** ("Student Data Privacy"). "School-issued devices," as used herein, refers to hardware or software that is provided to an individual student for that student's dedicated personal use, and includes devices issued through a one-to-one program.

## 8 OWNERSHIP OF MATERIAL

8.1 The Contractor expressly waives to the District any claim to copyright pertaining to all new materials, publications, and documents produced as a result of this Contract and agrees that the District shall have exclusive right to and responsibility for their distribution, publication, copyrighting (when applicable) and all other matters relating to dissemination of the materials. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without prior written consent of the District.

## 9 USE OF DISTRICT NAME OR LOGO

9.1 Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

## 10 INDEPENDENT CONTRACTOR

10.1 Contractor shall perform its duties hereunder as an independent contractor and not as an employee of the District. Neither Contractor nor any agent or employee of Contractor shall be or shall be deemed to be an agent or employee of the District. Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on any monies paid pursuant to this Contract. Contractor acknowledges that Contractor and its employees are not entitled to tax withholding,

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worker's compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Contractor shall have no authorization, express or implied, to bind District to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

## 11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

## 12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

## 13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District, but shall not name the District as an additional insured to the coverage.

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13.3 Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

13.4 Contractor shall provide all such certificates to District. Contractor shall not cancel or revise any insurance coverage required by this section during the term of this Contract and shall require its insurer to mail the District a notice if the coverage is cancelled or revised.

## 14 INDEMNIFICATION

14.1 Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been named a party and for which Contractor must indemnify the District without a signed agreement approved by the District.

## 15 LIMITATION ON LIABILTY

15.1 In no event shall the District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the Contract. District's maximum obligation under this Contract shall not exceed the amount set forth herein.

## 16 CONFLICT OF INTEREST/CODE OF ETHICS

16.1 Contractor agrees that it will not represent any other party or client which may create a conflict of interest in its representation with the District. Contractor agrees to be bound by the District's Code of Ethics. In particular, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any District employee for the purpose of obtaining this or any other District Contract; (ii) agrees to cooperate fully with any investigation involving a possible violation; and (iii) agrees to report any suspected violations to the District. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation any applicable laws or District policies.

## 17 COMPLIANCE WITH LAWS AND DEBARMENT

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government.

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Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

## 18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

## 19 RETURN OF DATA

19.1 Within fifteen (15) days of the completion or earlier termination of this Contract, or upon earlier request of the District, Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Additionally, Contractor, upon the request of the District, shall destroy all copies of such District provided data, documents, or information in Contractor's possession or control, and provide District with proof of such destruction.

## 20 RECORDS MANAGEMENT AND MAINTENANCE

20.1 District shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Contract. Contractor shall make such items

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available for inspection during normal business hours at Contractor's place of business. Such records may be subject to copy, review and/or audit by District, State Auditor and/or the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. All such items shall be retained by Contractor during the term of this Contract and for a period of six (6) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

## 21 NOTICES/ADMINISTRATION

Except as otherwise provided in this Contract, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other parties at the address set forth below or to such other address as such party may designate by notice given pursuant to this section.

**Special School District No. 1**

Division: GEAR UP MPS
Attn: Jeremy Miller
1250 W Broadway
Minneapolis, MN 55411
Email: jeremy.miller@mpls.k12.mn.us

**CONTRACTOR**

Minneapolis Community & Technical College (MCTC)
Phone: 612-659-6873
Address: 1501 Hennepin Avenue, Minneapolis, MN 55403
Email: marsha.helfman@minneapolis.edu

**ACKNOWLEDGMENT**

21.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this

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Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

21.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

## 22 NON-WAIVER

22.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

## 23 ASSIGNMENT

23.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

## 24 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

24.1 This Contract shall be construed under Minnesota law (without regard for choice of law considerations). Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

## 25 WARRANTY

25.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and

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representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

## 26 SEVERABILITY

26.1 If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

## 27 SURVIVABILITY

27.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

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**SPECIAL SCHOOL DISTRICT NO. 1**

Signature: _____

Name: Ty Thompson

(Printed)

Title:

Date: _____

**CONTRACTOR NAME**

Signature: Marsha Helfman
Marsha Helfman (Jan 27, 2025 06:31 MST)

Name: Marsha Helfman
(Printed) Marsha Helfman

Title: Director of Finance | Business Services

Date: 01/27/2025

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**Exhibit A:**

**Deliverables:**

MCTC will provide food, staff coordination for summer camps and career exploration for Gear Up/PSEO students, faculty stipends, supplies, student employees salary for mentorship, bus transportation to industry site visits related to the camps, etc.

**Service Outcome:**

Gear Up students attending summer camps and career exploration field trips.

**Method of Evaluation:**

Number of students participating and their feedback will be evaluated at the end of the school year.

[The remainder of this page intentionally left blank.]

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## EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Payment of $75,000 will be made by GEAR UP MPS within 20 days of the date of the invoice presented.

[The remainder of this page intentionally left blank.]

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# EXHIBIT C: STUDENT DATA PRIVACY

As used in this exhibit, the term "educational data" shall have the meaning ascribed to it under the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. § 13.32 as amended.

1. Contractor acknowledges that all of the data created, collected, received, stored, used, maintained, or disseminated by Contractor in performing the services described in this Contract is subject to the requirements of the MGDPA, Minn. Stat. ch. 13, and Contractor must comply with those requirements as if it were a government entity. Contractor shall be subject to all civil remedies available under the MGDPA, Minn. Stat. § 13.08 as amended, for any violation of these obligations.

2. No educational data created, received, maintained, or disseminated by Contractor pursuant or incidental to this Contract shall become or be considered property of the Contractor. Any such educational data shall remain the property of the District.

3. If educational data maintained by Contractor pursuant or incidental to performance of this Contract are subject to a breach of security of the data, as that term is defined by the MGDPA, Minn. Stat. § 13.055 as amended, Contractor shall, upon discovering such breach, provide the District with all information necessary for the District to fulfill its obligations under the MGDPA.

4. Contractor shall not sell, share, or disseminate educational data, except as permitted under the MGDPA, Minn. Stat. § 13.32 as amended, or as part of a valid delegation or assignment of this Contract, if the terms of the Contract permit delegation or assignment. Any assignee or delegee must separately execute this Exhibit and is bound by the same terms.

5. Contractor shall not use educational data for any commercial purpose, including but not limited to marketing or advertising to a student or parent.

    a. The term "commercial purpose," does not include providing the specific services agreed upon in this Contract.

    b. Contractor may use deidentified aggregate information for the purpose of improving, maintaining, developing, supporting, or diagnosing the Contractor's site, service, or operation, as long as all direct and indirect identifiers have been removed from the data prior to use.

6. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only have access to educational data if authorized.

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7. Contractor's employees, officers, agents, and sub-contractors, if applicable, shall only be authorized to access educational data if such access is necessary to fulfill their official duties in the performance of this Contract.

8. Unless renewal of the Contract is reasonably anticipated, Contractor shall destroy or return all educational data created, received, or maintained pursuant or incidental to the Contract within 90 days of the expiration of this Contract.

9. Contractor shall abide with all the requirements and restrictions of Minn. Stat. § 13.32, as amended, that pertain to or address technology providers. Contractor shall be considered a "technology provider" for purposes of Section 13.32.

***BY SIGNING BELOW, CONTRACTOR ACKNOWLEDGES AND AGREES THAT IT UNDERSTANDS THE TERMS OF THIS EXHIBIT, THAT THESE TERMS ARE PART OF ITS CONTRACT WITH THE DISTRICT, AND THAT IT AGREES TO BE BOUND BY AND ABIDE BY THESE TERMS***.

**[CONTRACTOR NAME]**

| | |
|---|---|
| Signature | Name |
| Title | Date |

## Certificate Of Completion

Envelope Id: B60802C1-885A-4DE9-9DF9-D2C5F79193EE
Status: Completed
Subject: Complete with Docusign: Gear_Up_Funds_for_Minneapolis_College_FY25-FY28 (1).pdf
Source Envelope:
Document Pages: 20
Signatures: 2
Certificate Pages: 5
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Marsha Helfman
30 7th St E Ste 350
Saint Paul, MN 55101
marsha.helfman@minneapolis.edu
IP Address: 134.29.246.195

## Record Tracking

Status: Original
1/14/2025 1:51:51 PM
Holder: Marsha Helfman
marsha.helfman@minneapolis.edu
Location: DocuSign

| Signer Events | Signature | Timestamp |
|---|---|---|
| Patrick Troup<br>patrick.troup@minneapolis.edu<br>Vice President of Student Affairs<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br>Patrick Troup<br>89205522AC4C44D...<br>Signature Adoption: Pre-selected Style<br>Using IP Address: 134.29.246.195 | Sent: 1/14/2025 1:53:37 PM<br>Resent: 1/15/2025 7:56:25 AM<br>Viewed: 1/15/2025 7:58:25 AM<br>Signed: 1/15/2025 7:58:28 AM |
| **Electronic Record and Signature Disclosure:**<br>Accepted: 1/14/2025 2:00:14 PM<br>ID: 8bafb5ae-bed2-4ab2-a96a-21db48445606 | | |
| Marsha Helfman<br>marsha.helfman@minneapolis.edu<br>Director of Finance<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br>Marsha Helfman<br>65CC71F565974DB...<br>Signature Adoption: Pre-selected Style<br>Using IP Address: 134.29.246.195 | Sent: 1/15/2025 7:58:30 AM<br>Viewed: 1/15/2025 7:59:45 AM<br>Signed: 1/15/2025 7:59:51 AM |
| **Electronic Record and Signature Disclosure:**<br>Not Offered via DocuSign | | |

| In Person Signer Events | Signature | Timestamp |
|---|---|---|

| Editor Delivery Events | Status | Timestamp |
|---|---|---|

| Agent Delivery Events | Status | Timestamp |
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| Intermediary Delivery Events | Status | Timestamp |
|---|---|---|

| Certified Delivery Events | Status | Timestamp |
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| Carbon Copy Events | Status | Timestamp |
|---|---|---|

| Witness Events | Signature | Timestamp |
|---|---|---|

| Notary Events | Signature | Timestamp |
|---|---|---|

| Envelope Summary Events | Status | Timestamps |
|---|---|---|
| Envelope Sent | Hashed/Encrypted | 1/14/2025 1:53:37 PM |
| Certified Delivered | Security Checked | 1/15/2025 7:59:45 AM |
| Signing Complete | Security Checked | 1/15/2025 7:59:51 AM |

| Envelope Summary Events | Status | Timestamps |
| --- | --- | --- |
| Completed | Security Checked | 1/15/2025 7:59:51 AM |

| Payment Events | Status | Timestamps |
| --- | --- | --- |

| Electronic Record and Signature Disclosure |
| --- |

## ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Minnesota State Colleges and Universities (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

**How to contact Minnesota State Colleges and Universities:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: michael.noble-olson@minnstate.edu

**To advise Minnesota State Colleges and Universities of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at michael.noble-olson@minnstate.edu and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

**To request paper copies from Minnesota State Colleges and Universities**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to michael.noble-olson@minnstate.edu and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with Minnesota State Colleges and Universities**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to michael.noble-olson@minnstate.edu and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

**Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Minnesota State Colleges and Universities as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Minnesota State Colleges and Universities during the course of your relationship with Minnesota State Colleges and Universities.

# Gear_Up_Funds_for_Min

Final Audit Report 2025-01-27

| | |
|---|---|
| Created: | 2025-01-23 |
| By: | Emma Holly (Emma.Holly@mpls.k12.mn.us) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAHzOs2kxhMdKaZrcWSWnbDdEcFBZ-J5kJ |

## "Gear_Up_Funds_for_Min" History

Document digitally presigned by DocuSign\, Inc. (enterprisesupport@docusign.com)
2025-01-15 - 2:03:25 PM GMT

Document created by Emma Holly (Emma.Holly@mpls.k12.mn.us)
2025-01-23 - 7:10:19 PM GMT

Document emailed to marsha.helfman@minneapolis.edu for signature
2025-01-23 - 7:11:22 PM GMT

Email viewed by marsha.helfman@minneapolis.edu
2025-01-27 - 1:30:34 PM GMT

Signer marsha.helfman@minneapolis.edu entered name at signing as Marsha Helfman
2025-01-27 - 1:31:22 PM GMT

Document e-signed by Marsha Helfman (marsha.helfman@minneapolis.edu)
Signature Date: 2025-01-27 - 1:31:24 PM GMT - Time Source: server

Agreement completed.
2025-01-27 - 1:31:24 PM GMT

# FY25 Edison High School Resurfacing Project

## Contract Sum: $175,057.00

## Contractor: Upper Midwest Athletic Construction, Inc.

## Project Name and Number

Edison High School
700 22nd Avenue NE
Minneapolis, MN 55418
MPS Project Number 25EDIS001
OP#25-2515

## Description

Field event repairs and track restriping at Edison High School.

## Contract Sum details

| Item | Price | Status |
|---|---|---|
| **Base Bid** | $175,057.00 | accepted |

## Contract Documents

AIA Document A101-2017
AIA Document A101 Exhibit A-2017
Exhibit B – Project Charter
Exhibit C – Insurance
Exhibit D – Project Schedule
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 eleventh day of February in the year 2025
*(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)*

Upper Midwest Athletic Construction, Inc.
3017 161st Avenue NW
Andover, MN 55304

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

Edison High School Track Resurfacing
700 22nd Avenue NE
Minneapolis, MN 55418

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

Bolton & Menk, Inc.
3300 Fernbrook Lane North Suite 300
Plymouth, MN 55447

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.


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**TABLE OF ARTICLES**

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**3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

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**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.

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

[ ] Established as follows:
*(Insert a date or a means to determine the date of commencement of the Work.)*

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

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

**§ 3.3 Substantial Completion**

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


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

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

**§ 3.3.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates 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.

*(Table Deleted)*

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

## ARTICLE 4 CONTRACT SUM

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

### § 4.2 Alternates

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

*(Table Deleted)*

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

*(Paragraph Deleted)*

*(Table Deleted)*

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

*(Table Deleted)*

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

*(Paragraph Deleted)*

*(Table Deleted)*

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

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*expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated*
damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the
Owner.

*(Paragraph Deleted)*

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

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

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

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

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

*(Paragraph Deleted)*

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

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

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

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

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

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

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


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.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and

.5 Retainage withheld pursuant to Section 5.1.7.

**§ 5.1.7 Retainage**

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

*(Paragraph Deleted)*

5% (five percent)

**§ 5.1.7.1.1** The following items are not subject to retainage:
*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

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

**§ 5.1.7.2** Reduction or limitation of retainage, if any, shall be as follows:
*Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as*
determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

*(Paragraph Deleted)*

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

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

**§ 5.2 Final Payment**

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

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

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


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

**§ 5.3 Interest**

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

[ **X** ] Litigation in a court of competent jurisdiction


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[ ] 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)*

Diedra Geye
1250 West Broadway Avenue
Minneapolis, MN 55411

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

Jay Pomeroy
Bolton & Menk, Inc.
3300 Fernbrook Lane North Suite 300
Plymouth, MN 55447

**§ 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.


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**§ 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 developement 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


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*(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)* | **CONTRACTOR** *(Signature)* |
| *(Printed name and title)* | Eric Hicks President<br>*(Printed name and title)* |


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# *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 15:28:39 CT on 01/23/2025.

**PAGE 1**

**AGREEMENT** made as of the eleventh day of February in the year 2025

...

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

...

Upper Midwest Athletic Construction, Inc.
3017 161st Avenue NW
Andover, MN 55304

...

Edison High School Track Resurfacing
700 22nd Avenue NE
Minneapolis, MN 55418

...

Bolton & Menk, Inc.
3300 Fernbrook Lane North Suite 300
Plymouth, MN 55447

**PAGE 2**

[ X ] 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**

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

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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-D Project Schedule. Such portions of the work not completed as defined in EXH-D Project Schedule shall be subject to liquidated damages as set forth in Article 4.5.

...

~~**Portion of Work** **Substantial Completion Date**~~

...

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

...

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

...

~~**Item** **Price**~~

...

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

...

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

...

~~**Item** **Price** **Conditions for Acceptance**~~

...

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

...

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

...

~~**Item** **Price**~~

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...

**§ 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 liquidateddamages, 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.

...

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**§ 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 asprovided 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

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and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

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

...

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

...

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

**PAGE 6**

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

...

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

...

~~*(Insert rate*~~

...

**§ 5.4 Prompt Payment to Subcontractors**

...

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of 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.

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...

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 mayrequest 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.

...

Diedra Geye
1250 West Broadway Avenue

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Minneapolis, MN 55411

...

Jay Pomeroy
Bolton & Menk, Inc.
3300 Fernbrook Lane North Suite 300
Plymouth, MN 55447

**PAGE 8**

**§ 8.6** Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with ~~a building information modeling exhibit,~~ 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 ~~a building information modeling exhibit,~~ 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.)*

...

Owner prohibits Contractor from using the Work in any marketing material or business developement 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.

...

**.4** ~~Building information modeling exhibit,~~ AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

...

*(Insert the date of the ~~building information modeling exhibit~~ E203-2013 incorporated into this Agreement.)*

...

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:~~

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...

EXH-B Project Charter

...

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

...

EXH-C Owner Insurance

...

EXH-D Project Schedule

**PAGE 9**

~~[ ] The Sustainability Plan:~~

...

| ~~Title~~ | ~~Date~~ | ~~Pages~~ |
|---|---|---|

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# *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 15:28:39 CT on 01/23/2025 under Order No. 4104251278 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, other than those additions and deletions shown in the associated Additions and Deletions Report.

*(Signed)*

Curtis Hartog, Executive Director

*(Title)*

1/23/2025

*(Dated)*

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# 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 February in the year 2025
*(In words, indicate day, month and year.)*

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

Edison High School Track Resurfacing
700 22nd Avenue 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)*

Upper Midwest Athletic Construction, Inc.
3017 161st Avenue NW
Andover, MN 55304

**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.




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**§ 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 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.

**§ 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.


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**§ 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.


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*(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 following types and limits of 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 is ECH-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;


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.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

**§ 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


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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 this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after 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 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 | Full contract value |
| Performance Bond | Full contract value |

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:

None


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# *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 15:29:46 CT on 01/23/2025.

**PAGE 1**

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the eleventh day of February in the year 2025

...

Edison High School Track Resurfacing
700 22nd Avenue NE
Minneapolis, MN 55418

...

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

...

*(Name, legal status and address)*

Upper Midwest Athletic Construction, Inc.
3017 161st Avenue NW
Andover, MN 55304

**PAGE 4**

**§ 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 is ECH-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.

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**§ 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 this contract or becomes required during the course of the project coverage shall be in accordance with A.3.2.8, the insurance coverage shall be maintained for one calendar year after 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.)*~~A.3.3.1 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.~~

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[ – ] **§ 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**

...

| | |
|---|---|
| Payment Bond | Full contract value |
| Performance Bond | Full contract value |

...

None

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# Exhibit B – Project Charter

## FY25 Edison High School Resurfacing Project

## Description

Field event repairs and track restriping at Edison High School.

## Contract Sum

The Contract Sum shall be $175,057.00

### Alternates

| Item | Price | Status |
|---|---|---|
| N/A | | |

### Conditions

| Item | Price | Conditions for Acceptance |
|---|---|---|
| N/A | | |

### Allowances

| Item | Price |
|---|---|
| N/A | |

### Unit Prices

| Item | Units and Limitations | Price per Unit ($0.00) |
|---|---|---|
| **#1 Poly Surfacing Crack Filling** | per linear foot | $12.00 |
| **#2 Poly Surfacing Repair (full depth)** | per square foot | $90.00 |

# 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

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 additional 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

Edison High School
700 22nd Avenue NE
Minneapolis, MN 55418
MPS Project Number 25EDIS001
OP#25-2515

## Description

Field event repairs and track restriping at Edison High School.

## Schedule

Last Day of School: June 6, 2025
Construction Commences: June 16, 2025
Substantial Completion: August 8, 2025
Final Completion: August 30, 2025
Close-out Documents no later than 45 days past date of Substantial Completion

### Substantial Completion

The Work will be substantially complete on or before August 8, 2025.

# AIA® Document A201® – 2017

## *General Conditions of the Contract for Construction*

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

Edison High School Track Resurfacing
700 22nd Avenue 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 ARCHITECT:**
*(Name, legal status and address)*

Bolton & Menk, Inc.
3300 Fernbrook Lane North Suite 300
Plymouth, MN 55447

**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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**14 TERMINATION OR SUSPENSION OF THE CONTRACT**

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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.

#### § 1.1.2 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 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.

### § 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 indicated 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.

**§ 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.

### § 1.5 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.

**§ 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.

### § 1.6 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 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.

### § 1.8 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


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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.

## 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 fifteen 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 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, 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.


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**§ 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** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a 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.

**§ 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 ten-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 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. 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.

**§ 3.1.3** 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** 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.


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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 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 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.

**§ 3.2.3** 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.

**§ 3.2.4** 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 Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor 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.

### § 3.3 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.

### § 3.4 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 and whether or not incorporated or to be incorporated in the Work.

**§ 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.


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**§ 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.

### § 3.5 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.

### § 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.

**§ 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 it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 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 14 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.


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### § 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;
- **.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. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the 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 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.

### § 3.10 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, 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 the Owner and Architect.

### § 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the 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, and


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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

**§ 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 approved by the Architect.

**§ 3.12.8** The Work shall be in accordance with approved 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 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 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 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 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


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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 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 free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, 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.


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### § 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 that would otherwise exist as to a party or person described in this Section 3.18.

**§ 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.

## 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.

### § 4.2 Administration of the Contract

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 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, 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. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the 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. The Architect will not be responsible for the Contractor's failure to perform 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.

### § 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. The Contract Documents may specify other communication protocols.


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**§ 4.2.5** Based on the Architect's evaluations 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 authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require 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 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 while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals 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 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 review shall not constitute approval of safety precautions or of any 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.

**§ 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, and 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.

**§ 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 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.


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## 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 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 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.

**§ 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.

**§ 5.2.3** 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 shall be increased or decreased by the difference, if any, 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.

**§ 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.

### § 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 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 similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

### § 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.


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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.

**§ 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 apparent.

**§ 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.

**§ 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.


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**§ 6.2.5** The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 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, the Owner may clean up and the Architect will allocate the cost among those responsible.

## 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. An order for a minor change in the Work may be issued by the Architect alone.

**§ 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.

### § 7.2 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.

### § 7.3 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:


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.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;
.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 and shall be recorded as a Change Order.

**§ 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. 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. 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.

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


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**§ 8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

### § 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.

### § 8.3 Delays and Extensions of Time

**§ 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) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

**§ 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.

## 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

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 prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This 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.

### § 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 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, 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 retainage if provided for in the Contract Documents.

**§ 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.


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**§ 9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

**§ 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.

### § 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 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;


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.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 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.

**§ 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 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.


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### § 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 seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven 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.

### § 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.

**§ 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. 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.

**§ 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. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

### § 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.


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**§ 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 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, (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, 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.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 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.

### § 10.2 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 damage to person or property because of an act or omission of the other party, 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. The notice shall provide sufficient detail to enable the other party to investigate the matter.

**§ 10.3 Hazardous Materials and Substances**
**§ 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.

**§ 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


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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 written agreement of the Owner and Contractor. By Change Order, the Contract Time 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.

**§ 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 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.

**§ 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.

**§ 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.

**§ 10.3.6** 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 the Contractor for all cost and expense thereby incurred.

### § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, 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 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. 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.

**§ 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 an act


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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.

**§ 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.

**§ 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.

**§ 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 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.

## 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.

**§ 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. 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.

**§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, 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 after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner 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.


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**§ 12.2.2.2** The one-year period for correction of Work 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 completion of that portion of the Work.

**§ 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.

**§ 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** The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

**§ 12.2.5** 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 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 proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### § 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. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and


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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. 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 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 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.

**§ 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 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

## 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.


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**§ 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 in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include 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.


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**§ 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.

## 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 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

**§ 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 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.

**§ 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 an 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.


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**§ 15.1.7 Waiver of Claims for Consequential Damages**

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

**.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

**.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.

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.

**§ 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. 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 Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) 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.

**§ 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.

**§ 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.

**§ 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 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.

**§ 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.

**§ 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.


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**§ 15.2.7** 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.

**§ 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.

**§ 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.

**§ 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.


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**§ 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.


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# *Additions and Deletions Report for*
## *AIA® Document A201® – 2017*

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

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**PAGE 1**

Edison High School Track Resurfacing
700 22nd Avenue NE
Minneapolis, MN 55418

...

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

...

Bolton & Menk, Inc.
3300 Fernbrook Lane North Suite 300
Plymouth, MN 55447

**PAGE 11**

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ 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.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to ~~written~~ 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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# *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 15:30:33 CT on 01/23/2025 under Order No. 4104251278 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, other than those additions and deletions shown in the associated Additions and Deletions Report.

*(Signed)*

Curtis Hartog, Executive Director

*(Title)*

1/23/2025

*(Dated)*

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**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND MTN TRANSPORTATION**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and **MTN TRANSPORTATION** dated 2/11/2025 ("Contract") is made and entered into by and between Special School District No.1 ("District") and **MTN TRANSPORTATION** ("Contractor") (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and **MTN TRANSPORTATION** ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2022 through 6/30/2027 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: #4400002849 / original MAS-13618

1. *Original contract amount:* 7,500,000 (AMD-13880 3,000,000 & AMD-14272 2,500,000)
2. *Accumulative contract amount:* 13,500,000

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

**Section 3.1:** District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed 13,500,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Adding 500,000 to cover additional routing and field trip expenditures thru 6/30/2025.

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: _____

Title: _____

Date: _____

**MTN Transportation:**

Signature: Tashtaa T. Tufaa

Name: TASHITAA TUFAA

Title: President & CEO

Date: 02-04-25

Updated January, 2020

# CONTRACT FOR SERVICES

## ($25,000+)

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Metropolitan Transportation Network, "Contractor" (collectively "parties") to provide Provide Bus service for MPS students for 2022-2023 School Year to D-Ops-Transportation.

## 1 *TERM OF CONTRACT*

1.1 This Contract is effective on 07/01/2022 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2023, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

1.2 Contractor understands that NO WORK SHOULD BEGIN UNDER THIS CONTRACT until all required signatures on this Contract have been obtained and the Contract has been authorized and/or approved by the District's Board. Any work performed by Contractor prior to such time shall be considered as having been performed at Contractor's OWN RISK and as a volunteer.

## 2 SCOPE OF WORK

2.1 Contractor shall perform all of the services set forth herein and any exhibits attached hereto as Exhibit A ("Scope of Work"). Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

## 3 CONSIDERATION AND TERMS OF PAYMENT

The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as described below.

3.1 ***Total Obligation.***
District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed $7,500,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

## 4 GENERAL TERMS AND CONDITIONS

4.1 The terms and conditions contained in this Contract shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Contract. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by all parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Contract and its Exhibits, (2) District's RFP or RFI, and (3) Contractor's Response to District's RFP or RFI.

## 5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

5.1 The District is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, national origin, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. As applicable, Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

## 6 BACKGROUND CHECKS

6.1 Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws, including but not limited to Minn. Stat. Sections 299C.61-.64; Minn. Stat. Section 123B.03; 42 U.S.C.Section 5119a and 42 U.S.C. Section 14501-05.

6.2 Contractor is responsible for ensuring that all paid and volunteer employees and agents who will be in contact with District staff and students are appropriate persons to conduct such work.

as expressly set forth herein. Contractor shall be solely responsible for the acts of Contractor, its employees and agents.

10.2 Contractor shall hold District completely harmless from and against any such contributions, premiums and taxes described above and from all claims and liability pertaining to those or any other item for which Contractor is responsible under this Contract, and from all attorney's fees and other costs incurred by District in contesting or defending against any responsibility therefore which is asserted against District.

## 11 WORKER HEALTH, SAFETY AND TRAINING

11.1 Contractor shall be solely responsible for the health and safety of its employees and/or self in connection with the work performed under this Contract. Contractor shall make arrangements to ensure the health and safety of all subagents and other persons who may perform work in connection to this Contract. Contractor shall ensure all personnel, subagents and/or self are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks performed under this Contract. Contractor shall comply with federal, state and local occupational safety and health standards, regulations, and rules promulgated pursuant to the Occupational Health and Safety Act that are applicable to the work performed by Contractor. Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

## 12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

12.1 Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

## 13 INSURANCE

13.1 At all times during its performance under this Contract, Contractor shall obtain and keep in force comprehensive general liability insurance, including coverage for death, bodily or personal injury, property damage, liability and automobile coverages, with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in providing services to the District or at limits established for a municipal corporation by Minnesota Statute Section 466.04. All such certificates evidencing such insurance shall name District as additional insured. Contractor may meet the limits above $1,000,000 per occurrence through umbrella or excess coverage.

13.2 Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor also represents that it has professional liability insurance with limits of not less than $1,500,000 each claim and $1,500,000 each occurrence covering claims that arise out of its acts and operations in

17.1 Contractor certifies that all goods or services furnished under this Contract shall comply with all applicable federal, state, and local laws and regulations, as well as District policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Contract. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal or state government. Contractor shall notify District if it becomes debarred or suspended during the term of this Contract. District may immediately terminate this Contract in the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

## 18 TERMINATION

18.1 The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

18.2 District may terminate this Contract in whole or in part for cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

18.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

## 19 RETURN OF DATA

19.1 Within ten (10) days of the completion, termination of this Contract, or upon request of the District, whichever occurs first; Contractor shall return all documents, data and other information provided by the District to Contractor, or Contractor's employees or agents in connection with this Contract. Or, Contractor, upon the request of the

Attn:_____

Address: _____

Email: _____

Fax: _____

## 22 ACKNOWLEDGMENT

22.1 In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to District is correct; (2) it is not subject to back up withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Contract and perform its obligation under this Contract. Contractor must cross out and initial item (2) and notify District in writing, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S person for tax purposes or U.S. resident alien.

22.2 Notwithstanding this certification, Contractor hereby acknowledges that District has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this Contract is executed.

## 23 NON-WAIVER

23.1 No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

## 24 ASSIGNMENT

24.1 Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment,

28.1 The terms, provisions, representations, and warranties contained in this Contract that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Contract, including the making of any and all payments hereunder.

[The remainder of this page intentionally left blank.]

**SPECIAL SCHOOL DISTRICT NO. 1**

By: Karen A. Keller

Name: Sounitda (on behalf of COO) Saymongkhon
(Printed)

Title: Senior Operations Officer

Date: 6/16/2022

**Metropolitan Transportation Network**

By: Tashitaa T Tufaa

Name: TASHITAA TUFAA
(Printed)

Title: President and CEO

Date: 5-31-22

## EXHIBIT A: SCOPE OF WORK

### *Description of Services and Service Delivery*

Provide on time and safe Bus service for MPS students throughout the district to various schools for 2022-2023 school year.

### *Service Outcome*

Provide ontime bus service for MPS students to various schools within the district.

### *Method of Evaluation*

Monthly meetings for evaluations, penalties apply if applicable. Vendor will also be held accountable by language agreed to in the Exhibit sections of the contract.

*Description of Services and Service Delivery*

## EXHIBIT A: SCOPE OF WORK

### I. Service provider compliance requirements

A. Successful Contractors must have all drivers travel over assigned routes on a dry run paid for at the contract rate and report to the principal **or designee** of each school on the route, on weekday(s) prior to the first day of school, which day(s) shall be at the District's option. **PAYMENT FOR THE ROUTE WILL BE DETERMINED BY THE SIGN-IN LOG OR GPS LOG AT EACH SCHOOL SERVED BY THE ROUTE.**

B. Buses must be at starting points on time. This is imperative for the correct functioning of programs. Schedules supplied by the District Department of Transportation Services must be followed. Any unauthorized deviation will result in billing adjustments (including liquidated damages).

C. Each bus used for school transportation shall be equipped with a current route schedule and run directions in paper format, electronic tablet format, or both. The District Director of Transportation Services and/or her/his designee may stop a driver to inspect for compliance with Transportation guidelines. Failure to comply will result in billing adjustments (including liquidated damages).

D. Schedules issued by the District Department of Transportation Services shall not be altered and added to other routes except with the concurrence of the Director of Transportation or the Director's designee. Failure to comply will result in billing adjustments (including liquidated damages).

E. The Contractor agrees to comply with all Minnesota Department of Education and Minnesota Department of Public Safety Rules as they exist at all times pertaining to and governing the design, color and operation of school buses operated by contract carriers.

F. Contractor must immediately NOTIFY the Director of Transportation Services or designee of all accidents/incidents involving buses **(personal injury and/or property damage accidents)** operated for the District **AND PROVIDE A COMPLETED ACCIDENT REPORT WITHIN 24 HOURS.** Contractor must follow established procedures for reporting results of accident investigations. Failure to comply may/will result in loss of the route in question.

G. Contractor must immediately NOTIFY the Director of Transportation Services or designee of all complaints and allegations involving bus drivers and/or bus personnel **AND PROVIDE A COMPLETED INCIDENT REPORT WITHIN 24 HOURS.** Failure to comply may/will result in loss of the route in question.

H. MPS Service shall **only be provided** using vehicles that have a District supplied communications radio, GPS device and driver MDT in working order.

## II. OPERATING REQUIREMENTS

**Drivers Must:**

1. Know the exact location of the school assigned and the best route to the agency or institution to be served. Each driver shall carry a current route schedule and route map. Each driver shall be required to wear a photo ID card approved by the District at all times while assigned to a District route.

2. Capability to operate a Mobile Data Terminal (tablet) which includes logging in, selecting route or trip services that they will be providing, checking special education students on/off the bus and logging off.

3. Become familiar with those instructional materials in the **Driver's Handbook** for student management supplied by the District Department of Transportation Services.

4. Become familiar with the route and adhere to the time schedule (drivers shall have in their possession and use an accurate time piece) established by the Department of Transportation Services and make stops designated by the Department only. **No Unscheduled** stops are allowed.

5. Be responsible for maintaining proper order among all passengers being transported. Drivers shall adhere to guidelines for student bus safety rules and discipline procedures as provided by the District.

6. Ensure that only those authorized by the Department of Transportation Services be permitted to ride the bus.

7. Cooperate with the Department of Transportation Services in conducting periodic school bus evacuation drills as set forth by state law.

8. Remain on their assigned school buses or at the entrance door of their assigned bus during all loading and unloading operations.

9. Work cooperatively with aides and school bus safety assistants when assigned to specific special education transportation routes.

10. Have read and carry a Minneapolis School Bus Drivers' Manual (provided by the District).

11. There should be minimal radio contact with the District dispatch unless an inquiry has to be made regarding bus location, estimated time of arrival, or time checks.

12. In the event of bus breakdown, the Contractor's bus driver will first notify District dispatch of breakdown, location, name of school, run number and if students are on board. Then the Contractor's bus driver will next contact their respective Contractor station to apprise their personnel.

13. Contract driver MDT responsibilities, but not limited to:

students' names, addresses, schools, and or assigned bus stop information as soon as the documents are no longer needed.

21. Contractor shall be required to make their vehicle fleet available within 10 business days of request to the District's system installers for installation of GPS and/or Radio equipment as scheduled by the District-specified installations service provider. Additionally, Contractor shall provide and assign a temporary substitute vehicle that contains functioning GPS and/or Radio equipment during this time period.

22. Contractor shall be responsible for the troubleshooting and remediation of malfunctioning GPS and Radio equipment to resolution (i.e., equipment is fixed, or RMA is initiated) within two business days of the date in which the issue was discovered and reported to Contractor. Additionally, and within the same two-day period, Contractor shall be responsible for reporting unfixable GPS and Radio equipment to the District, for facilitating and expediting GPS and Radio equipment related communications between Contractor and the District, and for coordinating and collaborating with the District to resolve each GPS and Radio equipment-related incident and issue.

23. Contractor shall be responsible for GPS and Radio equipment swaps from any current or retiring Contractor vehicle servicing District routes to any newly acquired Contractor vehicle intended for District route service.

## IV. Reporting

A. Contractor shall furnish the Director of Transportation Services with a list of drivers, current addresses and telephone numbers, and drivers' licenses. The list shall include all drivers assigned to regular school transportation routes and special education transportation routes and shall be provided to the Director not later than one week prior to the first day of the school year.

B. Contractor shall provide a vehicle inventory of all vehicles planned to be used to provide service. This includes the vehicle number, vehicle type (i.e., Type A, Type C, Type D or Type III), manufacturer, model year, model, VIN, color, passenger capacity (i.e., regular and wheel chair), license plate number, fuel type and installed District radio serial number (if applicable)

C. The Contractor must obtain a copy of the applicant's driving record prior to hiring.

D. Driving records must be checked and provided to **MPS Transportation** at least **two (2) times** during a school year; **September 15 and January 15.** The cost for record checks shall be the Contractor's responsibility.

E. The Contractor shall contact the District(s) or carrier(s) who previously employed the driver who is applying for a job or is already licensed as a school bus driver.

F. The District or independent operator may request a driver license examination of any of their drivers. This exam will be conducted by the State.

- Special education
- Emergency preparedness
- Customer relations
- Behavior management
- Loading and unloading procedures
- Communications radio operations
- Mobile Data Terminal (tablet) operations

2. Each school bus driver assigned to a District route shall be required to view the Smith System video – FIVE KEYS TO SAFETY. The Minnesota School Bus Driver Safe Driving Curriculum, 2001, published by the Department of Public Safety will be used in providing the required classroom training. Copies may be obtained from the District Department of Transportation Services.

3. Pre-service training shall include a minimum of sixteen (16) hours of classroom and Ten (10) hours behind-the-wheel training.

4. Each Contractor shall provide a copy of all school bus driver training programs for District approval and certify in writing that each driver operating in District has successfully completed the prescribed program. District approved material must be Included in the Contractor school bus driver orientation in-service training.

5. District in-service meetings will be conducted in August-September, November and March-April of each school year. Contractor driver and supervisory personnel Attendance shall be mandatory.

6. School bus driver instructors and District Department of Transportation Services management personnel will be allowed to participate in the monthly safety meetings conducted by Contractors.

7. Contractors shall include their school bus driver trainers to attend the Minnesota School Bus Driver Trainer seminar during the first year of the contract.

## V. MPS will Provide

### A. DIRECT DISTRICT SUPERVISION

1. The District Department of Transportation Services will employ on a forty-five (45) week basis two (2) communications specialists and (2) managers will be assigned who will work closely with the Director of Transportation Services (or designee) to communicate with school buses and provide adequate daily communication with drivers from all Contractors.

2. The District shall provide the extra personnel from 6:00 a.m. until the workload is at a level where personnel can be reduced.

3. Contractor will be assessed a rate based upon the number of routes awarded annually

- Installation in bus with existing power cord and antenna coax, $100.00,
- Removal of radio only (not coax), $75.00,
- Removal of radio and GPS (not antenna), $95.00,
- Travel charge per visit, $85.00,
- Shop supply, $9.00,

F. The Contractor shall have communications radio equipment specified by the District in each vehicle that is servicing District routes or is planned to service District routes in the future. The Contractor shall ensure that the District has been informed of all vehicles' Radio ID numbers PRIOR to those vehicles being used to provide transportation services to the District.

1. Two-way Radio Equipment

a) Successful Contractors are required to equip 100% of the buses and Type III vans with operable two-way radios that have the approval of the District. CB type radios are not permitted.

b) The District requires the Contractor use the District's radio system. **All radios are the property of Minneapolis Public Schools.** This radio system shall be programmed by the District, and the repeater system is the responsibility of the District. Any mobile radio maintenance and repairs shall be the responsibility of the Contractor. Upon termination of the contract, and radios are returned to the District, the power cords, mounting brackets and screws, and antennas shall be returned as a unit. The coax cables are exempt. All radio repairs shall be performed by a service provider specified by the District.

## X. Digital Video Surveillance

### Rules of operation

A. Minneapolis Public Schools and the companies under contract for transportation services must have digital video and audio equipment in school buses for the purpose of monitoring behavior.

B. The district and contractors will purchase and install a video surveillance system for all buses operating under the transportation contract. The system must be compatible with district defined standards to ensure consistency of operation. The digital video surveillance system will be used to support the drivers report and to enforce the consequences of the district student behavior management plan.

C. The digital recording will be viewed only by the MPS Transportation Director or designee, the principal of the school building or designee, bus company safety director, bus driver (at review of incident), school liaison officer or other appropriate law enforcement agencies. Any digital recording that reveals unlawful actions may be brought to the attention of law enforcement agencies. Whenever a parent or guardian disputes or challenges a report of recorded misbehavior, it will be the responsibility of the school principal to review the recording. The recording will then be used to assist in determining whether or not the incident actually occurred and if so, the severity of the incident. Neither the student nor the parent/guardian of the student that has been recorded will be allowed to view the

1. Type C & D School Buses – are buses of more than 10,000 pounds Gross Vehicle Weight Rating (GVWR) having a capacity of more than nineteen (19) pupil passengers. These include the conventional (school bus body attached to a truck chassis), forward control and pusher-type vehicles. All are constructed and equipped to meet the State of Minnesota minimum standards for school buses.

    a. Successful Contractor must be able to provide Type C or D buses designed for carrying not less than 65 passengers, except as noted, where written quotations are requested on a school bus equipped to transport students with disabilities and special needs.

2. Type A or B School Buses – are buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, designed for carrying more than ten (10) persons, shall be painted National School Bus Yellow; identified as a school bus, equipped with eightlamp warning system and stop signal arm, and shall operate as a Type A bus.

    a. Successful Contractor must be able to provide Type A or B buses designed for carrying not less than eighteen (18) persons, except as noted, where written quotations are requested on a school bus equipped to transport students with disabilities and special needs.

3. Type III Vehicles – Type III Vehicles are restricted to vans, and buses having a maximum manufacturer's rated seating capacity of 10 or fewer people, including the driver, and a gross vehicle weight rating of 10,000 pounds or less. "Type III Vehicles" must not be outwardly equipped and identified as a type A, B, C, or D school bus. A van or bus converted to a seating capacity of ten or fewer and placed in service on or after August 1, 1999, must have been originally manufactured to comply with the passenger safety standards.

## B. BUSES AND TYPE III VEHICLE REQUIREMENTS

1. The District requires that contract operators provide school buses that have current school bus certification stickers as required by Minnesota law, and conform to Federal Motor Vehicle Safety Standards (FMVSS) that apply to school buses. During the life of the contract, the following age limitations shall apply:

TYPE "D" TRANSIT TYPE BUSES 15 model years
TYPE "C" CONVENTIONAL BUSES 15 model years
TYPE "A" AND "B" BUSES 12 model years
TYPE III VEHICLES 12 model years

At least fifty (50%) percent of the bus equipment, not including replacement and stand-by buses, operating in the District shall not be older than the average of ten (10) years at the start of each contract year.

2. School buses shall comply with all federal and state laws and regulations at all times under this contract.

3. Successful contract Contractor shall maintain one standby vehicle for each ten (10)

devices must be provided for all pupils who require the devices to ensure their safe transportation. These devices must be selected by the school district in consultation with the pupil's parents and on the basis of the specific needs of the individual pupil with a disability.

Subp. 7. **Wheelchair securement.** A school bus used to transport pupils in wheelchairs must be equipped with fastening devices that will hold the wheelchairs securely in a fixed position.

When required, the successful Contractor shall provide approved car seat(s) and/or booster seat(s) according to the needs of the awarded route(s). This equipment shall be kept in satisfactory conditions at all times and replaced at the expense of the Contractor. When the contract bus(s) is/are without the required child seat(s) at any time when school is in session, the District will provide the seat and a $15 per day rental fee (per car seat and/or booster seat) will be billed to the contract bus company until such time that the Contractor can provide its own. The total rental costs will be deducted from the balance of the valid claim for compensation. If the rented car seat and/or booster seat is returned damaged or in a non-usable condition, the Contractor will be charged for half or full value of the seat based on its age and time of rental.

## D. CONDITION OF BUSES AND TYPE III VANS

1. Buses shall be maintained in good operating order and all equipment shall function properly as required by state law. Buses shall be painted the color required by law in the State of Minnesota. The interior, exterior, and windows of a bus shall be kept clean. Each bus shall be swept daily, and the floor and rear windows shall be cleaned daily. Contractor shall indicate the facilities available for cleaning buses.

2. Buses used must be equipped with signs, located in the second right side window, indicating the school's name and route number for the convenience of students, parents, and administrators.

## INSPECTION OF BUSES AND TYPE III VANS

Contractor shall have all buses inspected by the Law Compliance Representatives (LCR) of the Minnesota State Patrol annually as is required by state law. Contractor shall furnish the District's Director of Transportation Services with a copy of the summary of all of the annual and all or any periodic motor vehicle inspection reports prepared by the Minnesota State Patrol showing the inspection sticker that has been attached to each bus. Such forms shall be furnished immediately upon the completion of inspection by the Minnesota State Patrol. In addition to the State Patrol inspection, a special inspection of a school bus may be conducted by District personnel. Corrective action shall be taken by the school bus owner as set forth in the inspection report.

## FACILITIES

A. Contractor's facilities should Large enough to secure vehicles when not in service and be located near enough to provide service to any part of the District within thirty (30) minutes; to provide replacement buses in the event of breakdown with less than **thirty (30) minutes**

**COVID-19 COMPLIANCESERVICE PROVIDER COMPLIANCE REQUIREMENTS**

A. The Contractor agrees to comply with all State, City and MPS regulations as they pertain to COVID-19 related rules and regulation.

B. The Contractor agrees to comply with the following MPS COVID-19 protocols

1. Conduct pre & post cleaning of buses daily
2. Sanitize each bus between each run daily
3. Utilize MPS approved cleaning solution
4. Conduct verbal employee wellness checks daily

C. Each Contractor shall provide training on COVID related cleaning methods.

D. Contractor must immediately notify the Director of Transportation Services of any employee absences due to illness. Contractor must follow established procedures for reporting results.

**Metropolitan Transportation Network, Inc. (MTN)**

**Fees and Costs**

**Appendix C**

**Section III: General Business Requirements. F1**

## Contractor: Metropolitan Transportation Network

### I. PRICE AND RATE SCHEDULE FOR STUDENT TRANSPORTATION SERVICES

**SCHOOL YEAR(S) 2022-2023**

1. **Regular "to and from" routes:** The cost for all regular "to and from" A.M. and P.M. routes, including open-enrolled home-to-school transportation and after school runs, for the days of school operation, using the following unit costs:

| Bus Size | QUANTITY | Cost per route - Day | Cost per ½ route - Day |
|---|---|---|---|
| 71-77 Passenger Bus | **1-50** | $479 | $335 |
| | 51-90 | $479 | $335 |
| | >90 | $479 | $335 |
| <71 Passenger Bus | **1-50** | $479 | $335 |
| | 51-90 | $479 | $335 |
| | >90 | $479 | $335 |

2. **Rates for Excess Mileage and Time – Regular "To and From" Routes (Item 1 above)**: $ 20.00 per one-quarter (1/4) hour for time in excess of the route times, four (4) "live" hours per route-day or two (2) "live" hours per ½ route-day, whichever is greater, computed on a contractor daily and not an individual bus basis.

3. **Special Education and Special Needs Services – In-District.** The cost for all special education and special needs routes, including open-enrolled home-to-school transportation services and after school runs, for the days of school operation using the following unit costs:

| Bus/Van Size | Lift? | | QUANTITY | Cost per Route-Day | Cost per ½ route-Day | Cost per Hour# |
|---|---|---|---|---|---|---|
| Class C or D Bus | Yes | No | | $479 | $335 | |
| **1-50 RgEd/SPED rtes** | | | x | $479 | $335 | |
| 51-90 rtes | | | | $479 | $335 | |
| >90 rtes | | | | $479 | $335 | |
| Class A or B Bus | Yes | No | | $417 | $322 | |
| **1-50 RgEd/SPED rtes** | | | x | $417 | $322 | |
| 51-90 rtes | | | | $417 | $322 | |
| >90 rtes | | | | $417 | $322 | |
| Van or Type III | Yes | No | | $279 | $214 | |

| | | | |
|---|---|---|---|
| Bus Assistant/Aide | $32 | $32 | X |
| Lift | | | |

# billed in quarter of an hour after the first hour ##referene to Items 1 & 2
*Two hour minimum

8. **Midday, Vocational and Other Transportation Services and Shuttles.** The cost for all midday or shuttle services, vocational education services, and ALC routes, using one or more of the following unit costs:

| Bus or Van Size | "stand-alone"Service | | Continuous Service with AM/PM |
|---|---|---|---|
| | Cost Per Hour | Cost per add't hour# | |
| Class C or D Bus | $78/hr* | $20 | $103 |
| Class A or B Bus | $78/hr* | $20 | $103 |

# billed in quarter of an hour after the first hour ##referene to Items 1 & 2
*Two hour minimum

9. **Special Needs Services for Highly Mobile and Student with Special Needs NOT INCLUDING SPED – Out-of-District.** The cost for special needs routes shall be submitted for the days of school operation using one or more of the following unit costs.

| Bus and Van Size | Lift? | | Cost Per Hour# | Cost Per Mile** | Cost Per Day |
|---|---|---|---|---|---|
| Class A or B Bus | Yes | No | x | $3.50 | $417 |
| Bus Assistant/Aide | | | $32 | x | X |
| Lift | | | x | x | $0 |

# billed in quarter of an hour after the first hour
**beyond 8 miles from the District Transportation Center, including downtown St. Paul, State Capitol, Science Museum, Excel Ctr

10. After School Transportation Services. The cost for after school regular or SPED bus services, not including charters, and separate from and not routed with after school services identified in either item 1 or 2 above, using one or more of the following unit costs:

| Bus or Van Size | "stand-alone"Service | | Continuous Service with AM/PM## |
|---|---|---|---|
| | Cost Per Hour | Cost per add't hour# | |
| Class C or D Bus | $78/hr* | $20 | $103 |
| Class A or B Bus | $78/hr* | $20 | $103 |

# billed in quarter of an hour after the first hour ##referene to Items 1 & 2
*Two hour minimum

**Metropolitan Transportation Network, Inc. (MTN)**

**Fees and Costs**

**Appendix C**

**Section III: General Business Requirements. F1**

## Contractor: Metropolitan Transportation Network

### I. PRICE AND RATE SCHEDULE FOR STUDENT TRANSPORTATION SERVICES

**SCHOOL YEAR(S) 2022-2023**

1. **Special Education and Special Needs Services – In-District.** The cost for all special education and special needs routes, including open-enrolled home-to-school transportation services and after school runs, for the days of school operation using the following unit costs:

| Bus and Van Size | Lift? | | QUANTITY | Cost per route - Day | Cost per ½ route - Day | Cost Per Hour # |
|---|---|---|---|---|---|---|
| Van or Type III | Yes | No | 1-50 | $279 | $214 | |
| | | | **51-90** | $279 | $214 | |
| Bus Aide | | | | | | $32 |
| Lift | | | | NB | NB | |

# billed in quarter of an hour after the first hour

2. **Special Education and Special Needs Services (Item 1 above):**
$ 20 per one-quarter (1/4) hour for time in excess of the route times, four (4) "live" hours per route-day or two (2) "live" hours per ½ route-day, whichever is greater, on a contractor daily and not an individual bus basis.

3. **Special Education Services – Out-of-District.** The cost for special education and special needs routes, shall be submitted for the days of school operation using the following unit costs:

| Bus/Van Size | Lift? | | QUANTITY | Cost per Route-Day | Cost per ½ route-Day | Cost per Hour# |
|---|---|---|---|---|---|---|
| Type III | Yes | No | | $279 | $214 | |
| Bus Assistant/Aide # | | | | | | $32 |
| Lift | | | | NB | NB | |

# billed in quarter of an hour after the first hour

4. **Special Education and Special Needs Services (Item 3 above):**
$ 20 per one-quarter (1/4) hour for time in excess of the route times, four (4) "live" hours per route-day or two (2) "live" hours per ½ route-day, whichever is greater, computed on a contractor daily and not an individual bus basis.

5. **Midday Special Education Services and Shuttles.** The cost for all midday SPED shuttle bus and van services, using one or more of the following unit costs:

| Bus or Van Size | "stand-alone"Service | | |
|---|---|---|---|
| | Cost Per Hour | Cost per add't hour# | Continuous Service with AM/PM## |
| Type III | $63/hr * | $20 | $103 |
| Bus Assistant/Aide | $32 | $32 | X |
| Lift | | | |

# billed in quarter of an hour after the first hour ##referene to Items 3-6
*Two hour Minimum

6. **Midday, Vocational and Other Transportation Services and Shuttles.** The cost for all midday or shuttle services, vocational education services, and ALC routes, using one or more of the following unit costs:

| Bus or Van Size | "stand-alone"Service | | |
|---|---|---|---|
| | Cost Per Hour | Cost per add't hour# | Continuous Service with AM/PM## |
| Type III | $63/hr (2 hr min) | $20 | $103 |

# billed in quarter of an hour after the first hour ##referene to Items 1 & 2

7. **Special Needs Services for Highly Mobile and Student with Special Needs NOT INCLUDING SPED – Out-of-District.** The cost for special needs routes shall be submitted for the days of school operation using one or more of the following unit costs.

| Bus and Van Size | Lift? | | Cost Per Hour# | Cost Per Mile** | Cost Per Day |
|---|---|---|---|---|---|
| Type III | Yes | No | x | $3.50 | $279 |
| Bus Assistant/Aide | | | $32 | x | X |
| Lift | | | x | x | NB |

# billed in quarter of an hour after the first hour
**beyond 8 miles from the District Transportation Center, including downtown St. Paul, State Capitol, Science Museum, Excel Ctr

8. **Summer School Transportation Services.** The cost for all summer school regular, HHM or SPED bus and Type III van services, other than charters, using the following unit costs:

| Bus or Van Size | Cost Per Hour | Cost Per Day | Cost Per ½ day |
|---|---|---|---|
| | | | |
| Type III | $63/hr (2 hr min) | $279 | $214 |

**MINNEAPOLIS PUBLIC SCHOOLS**

**AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIALS**

**PROJECT:**

This Agreement (the "Agreement") is made this 22 day of January, 2024 (the "Effective Date") by and between Special School District No. 1, a Minnesota public school corporation (the "School District")_ and, Roofers Mart Inc.__ (the "Contractor").

**RECITALS:**

A. The School District owns and operates school buildings, administrative offices, and related sites and facilities that are generally located throughout the City of Minneapolis, Minnesota (collectively, the "Sites and Facilities").

B. The Sites and Facilities require maintenance, repair, and updating from time-to-time, necessitating the provision of services by a third-party contractor.

C. The School District also must periodically engage a third-party contractor to facilitate the purchase of equipment, materials and supplies to support its school operations.

D. The School District desires to retain a contractor to perform the services described below (the "Project") in accordance with and subject to the terms and conditions in this Agreement.

E. The Contractor has examined the location of all proposed work if applicable, carefully reviewed and evaluated the specifications set forth by the School District for the Project, is familiar with all conditions relevant to the performance of the services and is committed to perform all work required for the price specified in this Agreement.

In consideration of the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. ***General Terms and Conditions.*** Reference is hereby made to the General Terms and Conditions of this Agreement attached hereto as **Exhibit A** and made a part hereof (the "General Terms and Conditions"). The General Terms and Conditions are incorporated herein by

reference as if set forth in full herein. Without limiting the generality of the foregoing, (a) all capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in the General Terms and Conditions and (b) all capitalized terms used in the General Terms and Conditions without definition shall have the meanings ascribed to them in this Agreement.

2. ***Project Information.***

(a) ***Scope of Work.*** The Project generally consists of Roofing Systems to renew the life-cycled out and failing roof . _. A detailed Scope of Work is set forth in **Exhibit B**, attached hereto and made a part hereof. Where applicable, drawings, specifications, lists of equipment, supplies, materials, and/or other existing documents describing or connected to the Project are listed or described on **Exhibit B.**

(b) ***Time of Performance.*** The Project shall be commenced on the Effective Date and completed in accordance with the schedule set forth in the Scope of Work, **Exhibit B** hereto (the "Work Schedule"). Time is of the essence in the performance of services under this Agreement.

(c) ***Compensation.*** The School District shall pay the Contractor for the services in accordance with this Agreement and the Schedule of Rates/Payments attached hereto as **Exhibit C** (the "Payment Schedule") and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without the prior written approval of the School District. The Contractor's total compensation for services performed in accordance with this Agreement, including all reimbursable items, shall not exceed ____One Hundred Sixty-one Thousand and Ninety-eight Dollars and Fifty Cents__ Dollars ($__161,098.50___)(the "Contract Sum").

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

(a) To the Contractor: 111 2nd Ave NE Minneapolis, MN 55418-3413
_____
Attn: Roofers Mart Inc.

(b) To the School District: Minneapolis Public Schools
1250 W. Broadway Avenue
Minneapolis, MN 55411-2533
Attn: Grant Lindberg

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

4. ***Authorized Representatives.***

(a) The School District's authorized representatives with respect to this Agreement are: Grant Lindberg; 612-668-0281; grant.lindberg@mpls.k12.mn.us

(b) The Contractor's authorized representatives with respect to this Agreement are: Matt Bones; mattb@roofersmartmn.com

***IN WITNESS WHEREOF***, the parties hereto have executed this Agreement as of the date indicated next to the name of the party who signs below.

**SPECIAL SCHOOL DISTRICT NO. 1**

Dated: _____, 20__ By: _____
[Authorized Signatory]

_____
[Title]

**CONTRACTOR**

Dated: _____, 20__ By: _____
[Authorized Signatory]

# EXHIBIT A

# GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "General Terms and Conditions) form a part of that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

1. ***Definitions.*** The terms defined in this Section shall have the following meanings for purposes of these General Terms and Conditions when initially capitalized herein:

(a) "**Agreement"** means that certain AGREEMENT FOR LABOR, REPAIR, AND/OR INSTALLATION – OR PURCHASE OF GOODS, SUPPLIES AND MATERIAL**.**

(b) "**Contract Documents"** means, collectively, (i) the Agreement, (ii) these General Terms and Conditions, (iii) all Exhibits listed or described in the Agreement and (iv) all drawings, specifications, addenda and modifications describing the Work which are issued after the date hereof.

(c) "**Work**" means all labor, materials, equipment, supplies, and/or services required to complete the Project described in the Contract Documents.

2. ***Contract Sum.*** The School District agrees to pay the Contractor for the full and faithful performance of the Work and related costs a stipulated amount equal to the Contract Sum set forth in the Agreement. The Contract Sum shall be subject to additions and deductions for changes in the Work, and the School District may deduct from the Contract Sum the value of any Work done which, in the good faith opinion of the School District, is not in compliance with the Contract Documents. The Contract Sum shall be payable to the Contractor in accordance with the Payment Schedule, subject to the provisions of these General Terms and Conditions.

3. ***Work Schedule.*** Contractor shall perform all of the Work in accordance with the Work Schedule. Time is of the essence in completing the Project. The Contractor agrees to notify the School District in writing of any and all causes of delay of the Work, or any part thereof, within 24 hours after such cause of delay shall arise, and in case of the failure of the Contractor to perform this Agreement and complete the Work at the time specified in the Contract Documents, the School District may immediately, or at any time thereafter, proceed to complete the Work at the cost and expense of the Contractor. Upon receipt of written notice from the Contractor of the existence of causes over which the Contractor has no control and which must delay the completion of the work, the School District may at its discretion, extend the date specified for the completion of the Work.

4. ***Standards of Performance.*** The Contractor agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the Contract Documents and shall be subject to the inspection and approval by the proper authorities of the School District for the supervision of the

Work, and in case any of said material or labor shall be rejected by the School District as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the School District at the cost and expense of the Contractor. The Contractor agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require during the performance of this Agreement. The Contractor further agrees to make good, replace, and renew at the Contractor's own cost and expense any loss or damage to the Work and Project occurring prior to the final delivery to and acceptance thereof by the School District, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the Work and Project in its entirety for the final acceptance by the School District; and any payment or payments made to the Contractor hereunder, shall not be construed as operating to relieve the Contractor from responsibility for the Work and Project as herein provided and agreed. It is agreed and understood by the parties hereto that the use of the Work and Project at any time by the School District for any purposes shall not be construed to be or operate as an acceptance by the School District of the work to be done by the Contractor under this Agreement.

5. ***Change Orders; Limitations***. No claim for extra work done or additional materials, equipment, or supplies furnished by the Contractor will be made by the Contractor or allowed by the School District, nor shall the Contractor do any work or furnish any materials, equipment or supplies not covered by the Scope of Work, unless such work or materials, equipment or supplies is ordered in writing by the School District. Any such work or materials, equipment or supplies which may be done or furnished by the Contractor without such written order first being given, shall be at the Contractor's own risk and expense. When any extra work or materials, equipment or supplies is ordered by the School District to be done or furnished, the Contractor shall furnish such materials and do such work for the price mutually agreed to by the Contractor and the School District, and when any alteration of the Scope of Work is ordered by the School District, the Contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the Contract Sum.

6. ***Labor, Materials, Equipment, Etc.*** The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation and other facilities and/or services necessary for the proper execution of the Work. All costs and expenses for such items shall be included in the Contract Sum.

7. ***Permits, Fees and Compliance with Law***. The Contractor shall secure all permits, licenses and inspections necessary for the execution and completion of the Work as part of the Contract Sum. All permit, license and inspection fees shall be included in the Contract Sum. The Contractor shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to the Work.

8. ***Taxes.*** The Contractor shall pay sales, consumer, use and other similar taxes, except to the extent that such taxes are not payable due to the status of the School District as a tax-exempt entity. The Contractor shall not charge the School District for state sales taxes, uses taxes,

and other taxes that are not payable due to the status of the School District as a tax-exempt entity, and the Contract Sum shall be reduced to the extent that amounts for such taxes were included in the determination thereof.

9. ***Subcontractors; Third Party Claims***. The Contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the Contractor in and about the performance of this Agreement, and for all labor and material by them so performed and furnished, but in case the Contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the School District may apply the monies due and coming to the Contractor under this Agreement toward paying and satisfying such claims and demands, and the School District is herewith given the right to apply monies due and coming to the Contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the School District from the Contractor on any account whatsoever, and the amount of such payments shall be charged against the balance due the Contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the School District or of those to whose benefit the bond herein agreed upon shall insure, to hold the Contractor or surety liable on the bond for any breach of the conditions of the same nor as imposing upon the School District any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the Contractor hereunder. Contractor shall comply with the requirements of Minn. Stat. §471.425, subd. 4a., Prompt Payment to Subcontractors, which is incorporated herein by reference.

10. ***Bonds.*** If required by the Contract Documents, prior to performing any work under this Agreement, the Contractor shall provide the School District with the following bonds covering the Project: (a) a performance bond for the benefit of the School District, ensuring that Contractor will construct and maintain the Project in accordance with the Contract Documents, and saving and holding the School District harmless from all costs and charges which may accrue on account of completing the Project; and (b) a payment bond for the use and benefit of all persons furnishing labor or materials for the Project and making just claims for payment for such labor or materials.

11. ***Background Checks.*** The Contractor shall obtain a background check pursuant to applicable federal and state law and School District policy, including the Minnesota Child Protection Background Check Act, for each employee, volunteer or agent assigned to the Project. If Contractor receives a report that an employee, volunteer or agent so assigned has ever been convicted of a serious offense, or a background check crime, as defined at Minn. Stat. § 299C.61, it shall take immediate steps to notify the School District of the report and remove such employee, volunteer or agent from his/her assignment.

12. ***Equal Opportunity***. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this Agreement or any subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of

work under this Agreement or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this Section shall be a misdemeanor; and that this Agreement may be canceled or terminated by the School District and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this Agreement.

13. ***Independent Contractor***. All work provided pursuant to this Agreement shall be provided by the Contractor as an independent contractor and not as an employee of the School District for any purpose. Any and all officers, employees, subcontractors, agents, or any other person engaged by the Contractor in the performance of work or services pursuant to this Agreement shall not be considered employees of the School District. Any and all actions which arise as a consequence of any act or omission by the Contractor, its officers, employees, subcontractors, agents, or other persons engaged by the Contractor in the performance of work or services pursuant to this Agreement, shall not be the obligation or responsibility of the School District. The Contractor, and its officers, employees, subcontractors, and agents, shall not be entitled to any of the rights, privileges, or benefits of the School District's employees. This Agreement does not establish a joint powers agreement or joint partnership between the School District and the Contractor.

14. ***Indemnification***. The Contractor hereby agrees to protect, defend and hold the School District and its officers, elected and appointed officials, employees, administrators, agents, and representatives harmless from and indemnified against any and all loss, costs, fines, charges, damage and expenses, including, without limitation, reasonable attorneys' fees, consultants' and expert witness fees, and travel associated therewith, due to claims or demands of any kind whatsoever (including those based on strict liability) arising out of (i) the activities contemplated by this Agreement, (ii) including, without limitation, any claims for any lien imposed by law for services, labor or materials, or (iii) by reason of the execution of this Agreement or the performance of this Agreement. The Contractor, and the Contractor's successors or assigns, agree to protect, defend and save the School District, and its officers, agents, and employees, harmless from all such claims, demands, damages, and causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees. This indemnity shall be continuing and shall survive the performance or cancellation of this Agreement. Nothing in this Agreement shall be construed as a limitation of or waiver by the School District of any immunities, defenses, or other limitations on liability to which the School District is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466, or otherwise.

15. ***Insurance***. Prior to performing any work under this Agreement, the Contractor shall purchase and maintain such insurance in the amounts specified below as will protect the Contractor from claims which may arise out of, or result from, the Contractor's performance under this Agreement, whether such performance is by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable. Certificates of Insurance shall name the School District as an additional insured. The insurance shall not be canceled by the Contractor until all of the work required by this Agreement has been completed, accepted, and final payment made by the School District. Written notification of the School District by the Contractor shall be required thirty (30) calendar days prior to

cancellation, expiration, or change of insurance. All policies shall be written on an occurrence basis using ISO Form CG 00 01 or its equivalent.

(a) Statutory Workers Compensation and Employer's Liability

(b) Commercial General Liability:

| | |
|---|---|
| Each Occurrence | $1,500,000 |
| Damage to Rented Premises Each Occurrence | $ 100,000 |
| Medical Expense any One Person | $ 5,000 |
| Personal and Advertising Injury | $1,000,000 |
| General Aggregate | $2,000,000 |
| Products – Completed Operations Aggregate | $2,000,000 |

(c) Automobile Liability:

| | |
|---|---|
| Combined Single Limit (Each Accident) | $1,500,000 |

(d) Other forms of insurance as called for in the Contract Documents.

The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary for compliance with this Agreement. Certificates of Insurance must indicate if the policy is issued pursuant to all above requirements. The Contractor shall not commence work on the Project until the Contractor has obtained the required insurance and filed an acceptable Certificate(s) of Insurance with the School District. Copies of insurance policies shall be submitted to School District upon request.

16. ***Termination.*** The School District shall have the right to terminate the Agreement with or without cause by and upon delivering written notice to the Contractor. In the event of such termination by the School District for convenience, the School District shall promptly pay the Contractor any compensation owed for Work completed in compliance with the requirements of the Contract Documents through and including the date of termination, and upon payment of such compensation, the School District shall have no further obligations or liabilities to the Contractor. In the event of such termination by the School District for cause (including, without limitation, if the Contractor defaults, fails to comply with the Contract Documents, provides defective or non-conforming Work, becomes insolvent or becomes the subject of bankruptcy proceedings), the School District shall not be liable to the Contractor for any amounts, but the Contractor shall be liable to the School District for all losses, damages and expenses resulting from such default. The School District may withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the School District is determined. If a determination is made that the School District improperly terminated the Agreement "for cause," then such termination shall be deemed to have been a "without cause" termination for convenience.

17. ***Limitation on Liability.*** In no event shall the School District be liable for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of the

Agreement. The School District's maximum liability under the Agreement shall not exceed the Contract Sum.

18. ***Additional Requirements for Purchases of Equipment, Goods and Supplies.***

(a) ***Inspection and Testing.*** For a period of up to ten (10) business days following delivery, the School District shall have the right to inspect and/or test any equipment, goods and supplies (collectively, the "Goods") purchased by the School District. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in the Contract Documents, then without prejudice to any other rights or remedies, the School District may reject the Goods.

(b) ***Warranty.*** Contractor warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material and workmanship for the time period specified by a manufacturer's warranty or as agreed to by the Contractor and the School District. Contractor further warrants that the Goods will meet the performance requirements and specifications set forth in the Contract Documents and shall be fit for the purpose intended. Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Contractor agrees to indemnify, defend and hold the School District harmless against any and all third-party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

(c) ***Title and Risk of Loss.*** Title to the Goods shall remain with the Contractor until the School District accepts delivery of the Goods. The risk of loss will be on the Contractor until such time as the School District accepts delivery of the Goods. Contractor will be liable for any loss or damage to the Goods caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Goods at its own cost to the complete satisfaction of the School District.

19. ***Amendments; Binding Agreement; Assignment.*** Any amendment to this Agreement must be in writing and signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties. No assignment or attempted assignment of this Agreement or of any rights hereunder shall be effective without the prior written consent of the School District.

20. ***Authority.*** Each of the undersigned parties warrants it has the full authority to execute and delivery this Agreement.

21. ***Authorized Representatives***. Any consent, approval, authorization or other action required or permitted to be given or taken under the Contract Documents by the School District or the Contractor, as the case may be, shall be given or taken by one or more of the Authorized Representatives of each, except as provided by applicable law or School District policy.

22. ***Applicable Law; Jurisdiction.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the Hennepin County District Court or United States District Court of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

23. ***Compliance with Laws.*** The Contractor warrants that all work performed pursuant to this Agreement shall be in compliance with all federal, state and local laws, ordinances, regulations, rules, and standards, as well as all requirements set forth in the Contract Documents, or any further requirements of the School District. The Contractor and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances and legal requirements pertaining to the Project. Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this Agreement may be subject to the prevailing wages as established by the Minnesota Department of Labor and Industry.

24. ***Warranty.*** The Contractor warrants that the Work shall be in accordance with the Contract Documents, applicable law and trade standards and free from material structural defects, improper workmanship or defective materials. Contractor shall replace, correct, or repair any Work not in accordance with the Contract Documents, applicable law and trade standards or any defects caused by faulty materials, equipment or workmanship for a period of two (2) year(s) from the date of completion of the Work. Nothing in this Section shall be construed to place a time limit with respect to any other obligation Contractor may have under this Agreement.

25. ***Entire Agreement.*** The Contract Documents and any addenda or amendments thereto signed by the parties shall constitute the entire Agreement between the School District and Contractor, and supersedes any other written or oral agreements between and School District and Contractor.

26. ***Severability.*** In the event that any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions in any application thereof shall not in any way be affected or impaired thereby.

27. ***No Waiver.*** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of any other covenant, agreement, term, or condition, nor does it imply that such covenant, agreement, term or condition may be waived again.

28. ***Data Practices.*** Any and all data created, collected, received, stored, used, maintained, or disseminated by the Contractor pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and the Contractor must comply with these requirements as if it were a government entity. This Section does not create a duty on the part of the Contractor to provide access to public data to the public if the public data are available from the School District,

except as required by the terms of this Agreement. The Contractor will report immediately to the School District any requests from third parties for information related to the Agreement.

29. ***Audit.*** The Contractor must allow the School District, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to the Contractor's books, records, documents, and accounting procedures and practices that are pertinent to all work provided under this Agreement for a minimum of six years from the termination of this Agreement.

30. ***No Third-Party Beneficiary***. The Contractor acknowledges that nothing contained in this Agreement nor any act by the School District or the Contractor shall be deemed or construed by the Contractor or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the School District and the Contractor.

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

# EXHIBIT B

# SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

"Payments are to be made to vendor during the fiscal year
through invoices, with this contract expiring on _12/31/2025_"

# EXHIBIT C

## SCHEDULE OF RATES/PAYMENTS

Please see attachment

**SUN LIFE ABSENCE AND DISABILITY SOLUTIONS**

**ADA Complete**

| | |
|---|---|
| **Policy #:** | **201336** |
| **Company:** | **Special School District No. 1 - Minneapolis Public Schools** |
| **Effective Date:** | **September 1, 2024** |
| **Renewal Date:** | **January 1, 2027** |

Special School District No. 1 - Minneapolis Public Schools (the "Company") has requested Sun Life Assurance Company of Canada ("Sun Life") to provide the administration of certain leaves mandated by the Family & Medical Leave Act ("FMLA"), the Americans with Disabilities Act ("ADA") and applicable state statutory requirements (hereafter, the "FMLA/ADA Services").

This agreement sets forth the terms and conditions relating to the provision of the FMLA/ADA Services ("the Agreement").

## 1. Description of FMLA/ADA Services

Sun Life agrees to provide the following FMLA/ADA Services:

(a) **Account Management:** Sun Life will assign the Company an account manager who will serve as the contact person and provide the Company with reports and feedback on the Services.

(b) **Service Access:** Sun Life will provide toll-free access to FMLA experts.

(c) **FMLA Services Administration:** Sun Life will provide the following administrative services:

a. Receive leave requests.
b. Administer FMLA Eligibility based on the Company's guidelines. Any administrative decisions outside of the guidelines shall be referred to the Company for final determination. As defined herein, FMLA Eligibility includes both federal and state FMLA leaves as well as a broad spectrum of other state statutory leave requirements.
c. Sun Life shall utilize its own medical certification forms to certify leaves of absence.

d. Issue conditional approvals, final approvals and denial notifications, all based on the Company's procedural guidelines.
e. Maintain and update the FMLA Eligibility database based on information provided by the Company.

(d) **FMLA Information:** FMLA experts are available to answer questions and provide information to human resources personnel, managers, supervisors and employees.

(e) **ADA Complete Leave Administration Services**: Sun Life will provide the following administrative services:

i. In accordance with triggers created by Sun Life (e.g., ineligibility for a requested FMLA leave for the employee's health condition), Sun Life will open an ADA leave.
ii. Sun Life will automatically approve a requested leave if within parameters predetermined by Sun Life and the Company. In such circumstances, Sun Life will track the time as ADA leave and send a decision letter to the employee.
iii. Sun Life may gather additional medical information related to the ADA leave request and review information for accuracy and completeness.
iv. If the leave is not approved in accordance with paragraph (ii) of this section, Sun Life will send any medical information gathered and leave history to the Company for review and use in the ADA interactive process. Sun Life does not participate in the interactive process.
v. Provide ADA coaching to the Company's designated representative(s) to prepare the Company to engage in the interactive process by guiding the Company through relevant ADA standards and considerations;
vi. Upon the Company's decision to approve or deny a reasonable leave accommodation, it will notify Sun Life (via an identified channel) of its decision, and Sun Life will (A) track the time, where applicable, as ADA leave and (B) send a decision letter to the employee.
vii. Provide the Company with customary ADA reports.

## 2. Company's Responsibilities with regard to FMLA/ADA Services

a. In addition to other responsibilities set forth in this Agreement, the Company's duties with regard to the FMLA/ADA Services will also include the following:
    i. Provide demographic, employment and work schedule information on a weekly eligibility feed, including but not limited to employees' worksite state, and employees' hours worked. The Company acknowledges and agrees that Sun Life shall not be liable for any claims or losses resulting from or related to the Company's failure to provide such files or from the Company's provision of incomplete or inaccurate eligibility files.

ii. Provide Sun Life with employee counts for each Company worksite. Advise Sun Life if specific worksites are within a 75-mile radius of another. Advise Sun Life of current and future the Company worksites that are eligible locations. Advise Sun Life of all the Company worksites that are considered eligible locations with 50 employees within a 75-mile radius and ensure that all worksites, current and future, shall remain eligible locations.

iii. Provide accurate and complete Historical Data.

iv. Upon request, provide complete documentation for any existing leaves that Sun Life will manage.

v. Provide timely Workers' Compensation status and status updates so that Sun Life can deliver required notices.

vi. Provide copies of the Company's Leave of Absence policies, including amendments or revisions, for Sun Life to fulfill its obligations under this Agreement.

vii. The Company acknowledges and agrees that in order for Sun Life to manage leaves when the Company is unable to provide required information, information provided by the employee during intake is accurate unless or until informed differently by the Company.

viii. Notify Sun Life in writing when the Company reasonably concludes that Sun Life is not administering the Company's Leave of Absence policies in accordance with Federal and State regulations or in accordance with the instructions and interpretations of law as provided to Sun Life by the Company. After receipt of such notice Sun Life shall review all subsequent determinations in accordance with the Company's instruction and interpretation.

ix. Payment of any and all costs related to the Company authorized second or third opinions.

x. Notify Sun Life promptly of any failure by an employee to meet the scheduled return to work date.

xi. Provide employees with instructions about how to file a leave request.

xii. Designate contact personnel within Human Resources and any other appropriate areas. Contact personnel should be able to, and have the appropriate authority to, confirm information, interpret corporate leave policies, and make decisions regarding requested leaves within a reasonable time period after any request by Sun Life.

xiii. Provide Sun Life with five (5) business days prior written notice in the event the Company intends to take an adverse employment action against an employee as a result of or in reliance upon a decision or communication made by Sun Life in connection with the performance of Services under this Agreement.

xiv. Ensure managers are properly trained on the leave administration process.

b. All reports/information to be provided by the Company to Sun Life will be provided in a mutually agreed format.
c. The Company also agrees that it, not Sun Life, is responsible for engaging in the "interactive process" as that term is defined in the ADA and that the Company is responsible for making all accommodation decisions.

## 3. Exclusive Provider of FMLA/ADA Services

During the term of this Agreement, the Company warrants that Sun Life shall be the exclusive provider of the FMLA/ADA Services to all employees of the Company, its affiliates and subsidiaries and that all such employees shall be covered under this Agreement.

## 4. Fees and Payment

a. **FMLA/ADA Services Fee.** The Company agrees to pay Sun Life a fee for the FMLA/ADA Services fee described herein at the rate of $2.66 per FMLA/ADA Participating Employee, per month. The Company warrants that it has approximately 6,400 employees as of the date of the Agreement.
b. **Renewal.** The agreement will renew on the Renewal Date shown on the first page upon the written agreement of the parties. The fee charged shall be subject to change on the Renewal Date. Sun Life agrees to give Company [30] days' notice of any change in rates.
c. The fee for the first month is due when the Application is approved by Sun Life.

d. All fees due under this Agreement, including adjustments, if any, are payable by the Company on the first day of each month at Sun Life's U.S. Headquarters or at any other location designated by Sun Life. If there is litigation concerning nonpayment of fees, the successful party will be entitled to recover reasonable attorney's fees and costs associated with the claim.
e. Fees payable to Sun Life will be paid in United States dollars on the due date.
f. Fee adjustments, refunds or charges will be made for only:
    i. the current year beginning on the same month and day of the Effective Date shown on the first page ("Service Agreement Year"); and
    ii. the prior Service Agreement Year.

## 5. Customization of and/or Additional Services Provided by Sun Life

The FMLA/ADA Services shall include the standard services described in this Agreement. The Company understands that it is entitled to these standard FMLA/ADA Services pursuant to the terms and conditions of this Agreement. In the event the Company desires to customize services or add additional services, the Company agrees to pay all costs incurred by Sun Life to effectuate such customizations and/or to provide such additional services, including, but not limited to, charges associated with software programming, web-site development or process adjustments, at a rate to be agreed by the parties at the time of the request.

## 6. No Default or Breach for events beyond Sun Life's control

No failure, delay or default in performance of any obligation of Sun Life shall constitute an event of default or breach of the Agreement to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the control and without negligence of Sun Life, including, but not limited to: action or inaction of governmental, civil or military authority; fire, strike, lockout or other labor dispute; flood, war; terrorism; riot; theft; earthquake and other natural disaster.

## 7. Notices

Any notice required hereunder will not be effective, unless in writing, signed by an authorized officer of the party delivering such notice, and sent by certified mail or recognized overnight carrier to the other party.

## 8. Assignment of rights

The Company must assign its rights and obligations under this Agreement to any successor by merger, consolidation or sale or other disposition of all or substantially all of its assets or stock.

## 9. Revisions to Agreement Must be in Writing

Any changes, additions, or deletions to this Agreement will not be considered binding or agreed to unless the modifications have been initialed or otherwise approved in writing by the other party.

## 10. Execution Documents

Facsimile or electronically scanned transmission of an executed copy of this Agreement or any amendments hereto shall be accepted as evidence of a party's execution of the Agreement or amendment. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.

## 11. No Legal Advice

The Company understands that Sun Life does not provide any legal advice. The Company agrees that Sun Life shall not be responsible for assuring that any and all of the Client's policies, practices or directives are in conformance with applicable Laws. The Company further understands that decisions made by Sun Life regarding any of the Services in this Agreement shall not be deemed by the Company to be a recommendation, suggestion or determination to take any employment action against an employee. The Company agrees that it has been advised to seek legal counsel prior to making any adverse employment decision.

## 12. Independent Contractor

Sun Life and the Company agree that Sun Life is an independent contractor and neither party nor their respective employees or agents shall be deemed to be an employee of the other, nor shall this Agreement be deemed to create a partnership, joint venture, agency relationship or other association between the parties hereto.

## 13. No Third Party Beneficiaries

Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person or entity other than the Company and Sun Life any rights, remedies, obligations, or liabilities whatsoever, whether in contract, statute, tort (such as negligence) or otherwise, and no person or entity shall be deemed a third-party beneficiary under or by reason of this Agreement.

## 14. Indemnity

Sun Life agrees to indemnify, defend and hold the Company harmless from any and all liability, loss, damage, fine, penalty or cost (including expenses and reasonable attorney's fees) (collectively "Losses") sustained by the Company on account of a third party claim, to the extent such Losses were caused solely by Sun Life's negligence, gross negligence, willful misconduct, or breach, violation or failure to comply with the express terms and conditions of this Agreement, unless such Losses were the result of or arose out of the Company's breach, violation and/or failure to comply with the express terms and conditions of this Agreement. The Company agrees to indemnify, defend and hold Sun Life harmless from any and all Losses sustained by Sun Life on account of a third party claim, to the extent such Losses were caused solely by the Company's negligence, gross negligence, willful misconduct or breach violation or failure to comply with the express terms and conditions of this Agreement, incomplete or inaccurate eligiblity files(s) or employment-related decisions, unless such Losses were the result of or arose out of Sun Life's breach, violation or failure to comply with the express terms and conditions of this Agreement.

If any portion of any Losses arose from the acts or omissions of the Indemnified Party, the obligation of the Indemnifying Party shall be reduced to the proportionate share of the Losses which are attributable solely to its acts or omissions.

Further, the Company agrees to indemnify and hold Sun Life harmless from any and all Losses sustained by Sun Life on account of a third party claim to the extent i) such Losses are the result of or arises out of Sun Life's performance of Services hereunder that are in accordance with and/or based on the Company's directions, to the extent that such directions differ from the requirements of any and all applicable law, including but not limited to FMLA, ADA, state or local leave laws, regulations and authoritative guidance ("Laws"); or (ii) such Losses are related to any historical data provided to Sun Life by the Company.

Notwithstanding anything to the contrary herein, Sun Life shall not be liable for non-performance, errors in Services or delays in the performance of this Agreement caused by (1) the Company's failure to perform its duties hereunder in a timely and accurate manner, (2) by an employee's failure to provide Sun Life with timely and accurate information or (3) caused by an event or circumstance beyond the reasonable control of Sun Life. Sun Life and the Company shall promptly advise each other of commenced legal actions or administrative proceedings involving any matter relating to or arising out of the Services provided under this Agreement which come to the respective attentions of the parties.

## 15. Limitation of Damages

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES EVEN IF A PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 16. Accuracy of Information Provided by Company

The Company agrees that Sun Life shall be entitled to rely on eligibility, employment, compensation and other information provided by Company in connection with any request for leave, and that Sun Life shall not be held liable for any erroneous action taken with regard to a leave request in the event that the information provided by Company is not accurate.

## 17. Third Party Service Providers.

Sun Life may utilize third party service providers in its provision of the FMLA/ADA Services to the Company. The Company acknowledges that its sole remedy in relation to such FMLA/ADA Services is against Sun Life and that any such third party service providers shall not be liable to the Company in any way on account of such FMLA/ADA Services. The Company agrees not to assert any claim or cause of action arising out of the ADA/FMLA Services against such third party providers.

## 18. Agency Provision

Both the Company and Sun Life recognize that Sun Life, in performing its obligations under this Agreement, is acting in an administrative capacity only on behalf of the Company and that Sun Life has no discretion to make claim determinations or to interpret the terms of the Plan. For the purposes of the Employee Retirement Income Security Act of 1974 or any other federal or state law of similar nature, Sun Life is not acting as, and shall not be designated or deemed to be, a fiduciary or administrator of the Plan.

## 19. Choice of Law

This Agreement shall be interpreted under and governed by the laws of the Commonwealth of Massachusetts, without regard to its conflict of laws rules.

## 20. Entire Agreement

This Agreement, together with the Schedules attached hereto, shall constitute the entire Agreement by and between the parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein and, this Agreement shall supersede all prior and contemporaneous communications, representations or agreements, either verbal or written, by and between the parties hereto, all of which are merged herein.

## 21. Termination Provisions

(a) Termination of the Agreement

This Agreement may be terminated as follows:

(i) The Company may terminate this Agreement by written notice delivered to Sun Life at least 31 days in advance of the termination. The Company will be liable to Sun Life for all fees due and unpaid through the termination date.

(ii) If the Company fails to pay the monthly fees, or costs or other amount owed to Sun Life under this Agreement within 30 days from the date it is due, Sun Life may terminate this Agreement immediately without advance notice to the Company.

(iii) Sun Life may terminate this Agreement by giving written notice to the Company at least 31 days in advance if the Company fails to:

(A) furnish promptly any information Sun Life may reasonably require; or

(B) perform any other obligation it may have under this Agreement.

(iv) Sun Life may terminate this Agreement by giving written notice to the Company at least [60] days in advance.

(v) This Agreement may be terminated at any time upon mutual agreement of the parties.

The Agreement will terminate when the Company's group insurance policy with Sun Life terminates.

(b) Continuation of Services Upon Termination of the Agreement

(i) **Termination Due to Breach or Failure to Pay:** If the Agreement is terminated because Company has breached its obligations under it or has failed to timely pay any amount owed to Sun Life, Sun Life shall not provide any further services as of the termination date.

(ii) **Processing Run Out Claims Upon Termination of the Agreement:** Upon termination of this Agreement for a reason other than those set forth in 21(b)(i), Sun Life will, unless otherwise agreed by the parties.

**Special School District No. 1 -**
**Minneapolis Public Schools**

Signature: _____

Printed name: _____

Title: _____

Date: _____

**Sun Life Assurance Company of Canada**
**One Sun Life Executive Park**
**Wellesley Hills, Massachusetts 02481**

Signature: _____ Signature: _____

Printed name: _____ Printed name: _____

Title: _____ Title: _____

Date: _____ Date: _____

# FY20 District Wide Security Upgrades-Group 6

## Contract Sum: $154,290

## Consultant: True North Consulting Group

## Project Number

Minneapolis Public Schools Project Number 20MULTI007

## Description

Camera, intrusion detection, and access controls upgrades at Bancroft School, Camden High School, Hale School, Justice Page Middle School, Northrop School, Pillsbury School, Southwest High School and Victory Memorial Ice Arena.

## Contract Documents

AIA Document C103-2015
EXH-A Project Charter and Schedule
EXH-C Owner Insurance

# AIA® Document C103® – 2015

## *Standard Form of Agreement Between Owner and Consultant without a Predefined Scope of Consultant's Services*

**AGREEMENT** made as of the sixteenth day of January in the year 2025
*(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 Consultant:
*(Name, legal status, address, and other information)*

True North Consulting Group
140 3rd Street South
Stillwater, MN 55082

Consultant's discipline:

Security Technologies

for the following Project:
*(Name, location and detailed description. Time limits for bringing claims in Section 6.1.1 are tied to completion of the "Project." The "Project" may be limited to the scope of services to be provided by the Consultant, or the Consultant may be providing services for a "Project" involving design and construction of one or more structures. Care should be taken in describing or defining the Project.)*

Detailed project description defined in:
EXH-A Project Charter and Schedule
EXH-C Owner's Insurance

The Owner and Consultant 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.

This document does not contain a description of the Consultant's scope of Services. This document is intended to be used in conjunction with AIA Standard Form of Consultant's Services documents.


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**User Notes:** (3B9ADA3D)

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**11 SCOPE OF THE AGREEMENT**

## ARTICLE 1 INITIAL INFORMATION

**§ 1.1** This Agreement is based on the Initial Information set forth in this Article 1:
*(State below Initial Information, such as details of the Project's site and program; identity of the Architect, Owner's contractors and other consultants, and Consultants' subconsultants; anticipated procurement method; and other information relevant to the Consultant's Services.)*

Defined in EXH-A Project Charter and Schedule

**§ 1.2** Unless otherwise specifically defined in this Agreement, terms in this Agreement shall have the same meaning as those in AIA Document A201™–2007, General Conditions of the Contract for Construction.

**§ 1.3** The Owner's anticipated design and construction schedule:

**.1** Design phase milestones, if any:

Defined in EXH-A Project Charter and Schedule

**.2** Date for commencement of construction:

Defined in EXH-A Project Charter and Schedule

**.3** Substantial Completion date:

Defined in EXH-A Project Charter and Schedule

**.4** Other milestone dates:

Defined in EXH-A Project Charter and Schedule

**§ 1.4** The Owner and Consultant 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 Consultant shall appropriately adjust the schedule, the Consultant's services, and the Consultant's compensation.



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**ARTICLE 2 CONSULTANT'S RESPONSIBILITIES**

**§ 2.1** The Consultant shall provide the following professional services:
*(Describe the scope of the Consultant's services or identify an exhibit or scope of services document setting forth the Consultant's services and incorporated into this document in Section 11.2.)*

Defined in EXH-A Project Charter and Schedule

**§ 2.2** The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by professionals in the same discipline practicing in the same or similar locality under the same or similar circumstances. The Consultant 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 Consultant identifies the following representative who is authorized to act on behalf of the Consultant with respect to the Project.
*(List name, address, and other information.)*

Brandon Frasier
True North Consulting Group
140 3rd Street South
Stillwater, MN 55082

**§ 2.4** If required in the jurisdiction where the Project is located, the Consultant shall be licensed to perform the services described in this Agreement, or shall cause such services to be performed by appropriately licensed professionals.

**§ 2.5** The Consultant shall coordinate its services with those services provided by the Owner and the Owner's other consultants. The Consultant may communicate with the Owner's other consultants for the purposes of performing its services on the Project. The Consultant shall keep the Owner reasonably informed of any such communications. The Consultant shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's other consultants. The Consultant shall provide prompt written notice to the Owner if the Consultant becomes aware of any error, omission, or inconsistency in such services or information.

**§ 2.6** The Consultant shall keep the Owner reasonably informed of the progress of the Consultant's services.

§ 2.7 Insurance. The Consultant shall maintain the insurance for the duration of this Agreement as defined in EXH-C Owner Insurance.

*(Paragraphs Deleted)*

§ 2.8 Time. The Consultant shall provide its services within the time limits established in the Consultant's Schedule, or within the Deliverable(s) Time Limit(s) set forth below. The Consultant shall immediately inform the Owner of any circumstances which may cause a delay.
*(Check one or both selections below.)*

[ ] Consultant's Schedule: As soon as practicable after the date of this Agreement, the Consultant shall submit, for the Owner's approval, a schedule for the performance of the Consultant's Services. If relevant to the Consultant's Services, the schedule initially shall include anticipated dates for design phase milestones, commencement of construction, and for Substantial Completion of the Work as set forth in the Initial Information. 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


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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 Consultant or Owner.

[ X ] Deliverable(s) Time Limit: The Consultant shall provide the following deliverable(s) within the time limit(s) set forth in EXH-A Project Charter and Schedule.

*(Table Deleted)*

## ARTICLE 3 ADDITIONAL SERVICES

**§ 3.1** Additional Services may be provided after execution of this Agreement without invalidating the Agreement.

**§ 3.2** The Consultant shall promptly notify the Owner upon recognizing the need to perform Additional Services. The Consultant, however, shall not proceed to provide such services until the Consultant receives the Owner's written authorization. Except for services due to the fault of the Consultant, any Additional Services provided in accordance with this Section 3.2 shall entitle the Consultant to compensation pursuant to Section 8.2.

## ARTICLE 4 OWNER'S RESPONSIBILITIES

**§ 4.1** Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project. Within 15 days after receipt of a written request from the Consultant, the Owner shall furnish the requested information as necessary and relevant for the Consultant to evaluate, give notice of, or enforce lien rights.

**§ 4.2** The Owner identifies the following representative who is authorized to act on the Owner's behalf with respect to the Project.
*(List name, address, and other information.)*

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

**§ 4.3** The Owner shall render decisions and approve the Consultant's submittals, if any, in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.

**§ 4.4** The Owner shall coordinate the services of its other consultants with those services provided by the Consultant. The Owner shall provide the Consultant with a list of other consultants on the Project whose services relate to the Consultant's services. The Owner shall also, upon written request, furnish the Consultant with copies of the scope of services in contracts between the Owner and such other consultants. The Owner shall require that its other consultants maintain professional liability insurance as appropriate to the services provided.

**§ 4.5** The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Consultant to furnish them as an Additional Service, when the Consultant requests such services and demonstrates that they are reasonably required for the Consultant to be able to perform its services.

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

## ARTICLE 5 COPYRIGHTS AND LICENSES

**§ 5.1** 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 Consultant and the Consultant's subconsultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials in digital or physical form.


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**§ 5.2** The Consultant 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. If the Owner and Consultant intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions or comply with protocols established for the Project, if any.

**§ 5.3** The Consultant and the Consultant's subconsultants shall be deemed the authors and owners of their respective Instruments of Service 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 Consultant's subconsultants.

**§ 5.4** Upon execution of this Agreement, the Consultant grants to the Owner a nonexclusive license to use the Consultant's Instruments of Service solely and exclusively for purposes of designing, constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Consultant shall obtain similar nonexclusive licenses from its subconsultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Owner's consultants and contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for the purposes of designing, constructing, using, maintaining, altering and adding to the Project. If the Consultant rightfully terminates this Agreement for cause as provided in Section 7.4, the license granted in this Section 5.4 shall terminate.

**§ 5.4.1** In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Consultant and the Consultant's subconsultants 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 Consultant and its subconsultants 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 5.4.1. The terms of this Section 5.4.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 7.4.

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

## ARTICLE 6 CLAIMS AND DISPUTES

### § 6.1 General

**§ 6.1.1** The Owner and Consultant shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date the Project is sufficiently complete so that the Owner can utilize it for its intended use. The Owner and Consultant waive all claims and causes of action not commenced in accordance with this Section 6.1.1.

**§ 6.1.2** To the extent damages are covered by property insurance, the Owner and Consultant 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. The Owner or the Consultant, 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.

**§ 6.1.3** The Consultant 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 7.7.

### § 6.2 Mediation

**§ 6.2.1** 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


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arising out of the Consultant's services, the Consultant 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.

**§ 6.2.2** The Owner and Consultant 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 the Agreement. A request for mediation shall be made in writing, delivered to the other party to the 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.

**§ 6.2.3** 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.

**§ 6.2.4** If the parties do not resolve a dispute through mediation pursuant to this Section 6.2, the method of binding dispute resolution shall be the following:
*(Check the appropriate box. If the Owner and Consultant do not select a method of binding dispute resolution below, 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.)*

[ ] Arbitration pursuant to Section 6.3 of this Agreement

[ X ] Litigation in a court of competent jurisdiction

[ ] Other: (Specify)

**§ 6.3 Arbitration**

**§ 6.3.1** 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.

**§ 6.3.1.1** 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.

**§ 6.3.2** 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.

**§ 6.3.3** 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.


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**§ 6.3.4 Consolidation or Joinder**

**§ 6.3.4.1** 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).

**§ 6.3.4.2** 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.

**§ 6.3.4.3** The Owner and Consultant grant to any person or entity made a party to an arbitration conducted under this Section 6.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Consultant under this Agreement.

## ARTICLE 7 TERMINATION OR SUSPENSION

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

**§ 7.2** If the Owner suspends the Project or the Consultant's services, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project or the Consultant's services are resumed, the Consultant shall be compensated for expenses incurred in the interruption and resumption of the Consultant's services. The Consultant's fees for the remaining services and the time schedules shall be equitably adjusted.

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

**§ 7.4** 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.

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

**§ 7.6** In the event of termination not the fault of the Consultant, the Consultant shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 7.7.

**§ 7.7** Termination Expenses are in addition to compensation for the Consultant's services and include expenses directly attributable to termination for which the Consultant is not otherwise compensated, plus an amount for the Consultant's anticipated profit on the value of the services not performed by the Consultant.

**§ 7.8** The Owner's rights to use the Consultant's Instruments of Service in the event of a termination of this Agreement are set forth in Article 5 and Section 8.7.

## ARTICLE 8 COMPENSATION

**§ 8.1** The Owner shall compensate the Consultant for services described in Article 2 as follows:
*(Insert amount of, or basis for, compensation)*


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Defined in EXH-A Project Charter and Schedule

**§ 8.2** The Owner shall compensate the Consultant for Additional Services that may arise during the course of the Project as follows:
*(Insert amount of, or basis for, compensation.)*

Defined in EXH-A Project Charter and Schedule

**§ 8.3** The hourly billing rates for services of the Consultant and the Consultant's subconsultants, if any, are set forth below. The rates shall be adjusted in accordance with the Consultant's and Consultant's subconsultants' normal review practices.
*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Defined in EXH-A Project Charter and Schedule

*(Table Deleted)*

**§ 8.4** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Consultant'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 Consultant.
*(Insert rate of monthly or annual interest agreed upon.)*

five percent ( 5 %)

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

**§ 8.6 Reimbursable Expenses**

**§ 8.6.1** Reimbursable Expenses are in addition to compensation for the Consultant's professional services and include expenses incurred by the Consultant 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** Fees paid for securing approval of authorities having jurisdiction over the Project;
- **.4** Printing, reproductions, plots, 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;

*(Paragraph Deleted)*

- **.8** All taxes levied on professional services and on reimbursable expenses;
- **.9** Other similar Project-related expenditures, if authorized in advance by the Owner.

**§ 8.6.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Consultant plus an administrative fee of five percent ( 5 %) of the expenses incurred.

*(Paragraph Deleted)*

**§ 8.6.4** Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.


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**§ 8.7 Compensation for Use of Consultant's Instruments of Service**
If the Owner terminates the Consultant for its convenience under Section 7.5, or the Consultant terminates this Agreement under Section 7.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Consultant's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

$0

**ARTICLE 9 MISCELLANEOUS PROVISIONS**
**§ 9.1** This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 6.3.

**§ 9.2** The Owner and Consultant, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Consultant 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.

**§ 9.3** If the Owner requests the Consultant to execute certificates, the proposed language of such certificates shall be submitted to the Consultant for review at least 14 days prior to the requested dates of execution. If the Owner requests the Consultant to execute consents reasonably required to facilitate assignment to a lender, the Consultant shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Consultant for review at least 14 days prior to execution. The Consultant shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

**§ 9.4** 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 Consultant.

**§ 9.5** Unless otherwise required in this Agreement, the Consultant 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.

**§ 9.6** Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential." If the Owner or Consultant transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 9.6.1.

**§ 9.6.1** A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential 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 Confidential Information as set forth in this Agreement.

*(Paragraphs Deleted)*

**ARTICLE 11 SCOPE OF THE AGREEMENT**
**§ 11.1** This Agreement represents the entire and integrated agreement between the Owner and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant. In the event of a conflict between the terms and conditions of this C103™–2015, Standard Form Agreement between Owner and Consultant and an


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attached exhibit, the terms and conditions of the C103–2015, Standard Form Agreement between Owner and Consultant shall take precedence.

**§ 11.2** This Agreement is comprised of the following documents listed below:

**.1** AIA Document C103™–2015, Standard Form of Agreement Between Owner and Consultant.

*(Paragraph Deleted)*

**.3** Scope of Services Exhibit(s) listed in section 2.1

**.4** Other documents:

*(List other documents hereby incorporated into the Agreement.)*

EXH-A Project Charter and Schedule
EXH-C Owner Insurance

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

| | |
|---|---|
| **OWNER***(Signature)* | **CONSULTANT***(Signature)* |
| | Brandon Frazier, Director |
| *(Printed name and title)* | *(Printed name and title)* |


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# *Additions and Deletions Report for*
## *AIA® Document C103® – 2015*

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**

**AGREEMENT** made as of the sixteenth day of January in the year 2025

...

**BETWEEN** the ~~Owner:~~Owner:

...

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

...

True North Consulting Group
140 3rd Street South
Stillwater, MN 55082

...

Security Technologies

...

Detailed project description defined in:
EXH-A Project Charter and Schedule
EXH-C Owner's Insurance

**PAGE 2**

**TABLE OF ARTICLES**

...

Defined in EXH-A Project Charter and Schedule

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...

Brandon Frasier
True North Consulting Group
140 3rd Street South
Stillwater, MN 55082

...

§ 2.7 Insurance. The Consultant shall maintain the ~~following~~ insurance for the duration of this ~~Agreement. If any of the requirements set forth below exceed the types and limits the Consultant normally maintains, the Owner shall reimburse the Consultant for any additional cost as set forth in~~Section 8.6.3.Agreement as defined in

...

EXH-C Owner Insurance.

...

~~**§ 2.7.1** Commercial General Liability with policy limits of not less than ($ ) for each occurrence and ($ ) in the aggregate for bodily injury and property damage.~~

...

~~**§ 2.7.2** Automobile Liability covering vehicles owned by the Consultant and non-owned vehicles used by the Consultant with policy limits of not less than ($ ) per claim and ($ ) in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.~~

...

~~**§ 2.7.3** The Consultant may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.7.1 and 2.7.2.~~

...

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**User Notes:** (3B9ADA3D)

~~**§ 2.7.4** Workers' Compensation at statutory limits and Employers' Liability with a policy limit of not less than ( ($ ) ).~~

...

~~**§ 2.7.5** Professional Liability covering the negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ( ($ ) ) per claim and ( ($ ) ) in the aggregate.~~

...

~~**§ 2.7.6** The Owner shall be an additional insured on the Consultant's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.~~

...

~~**§ 2.7.7** The Consultant shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.7. The certificates will show the Owner as an additional insured on the Commercial General Liability, Automobile Liability, and any excess policies.~~

**PAGE 4**

[ X ] Deliverable(s) Time Limit: The Consultant shall provide the following deliverable(s) within the time limit(s) set forth ~~below. Unless otherwise indicated below, time shall be calculated based on calendar days from the date of this Agreement.~~in EXH-A Project Charter and Schedule.

...

| ~~**Deliverable(s)**~~<br>~~*(Describe the deliverable(s))*~~ | ~~**Time Limits**~~<br>~~*(Insert number of calendar days and, where appropriate, if time is to be measured from a separate written authorization from the Owner)*~~ |
|---|---|
| | |
| | |
| | |
| | |
| | |

...

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

**PAGE 5**

**§ 5.5** ~~Except for the licenses granted in this Article 5, 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 Consultant.~~ Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Consultant and the Consultant's

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**User Notes:** (3B9ADA3D)

subconsultants. The Owner retains full rights to all Instruments of Service for use in the Project and any existing or future projects.

**PAGE 6**

[ X ] Litigation in a court of competent jurisdiction

...

[ ] ~~Other:~~ Other: (Specify)

**PAGE 8**

Defined in EXH-A Project Charter and Schedule

...

Defined in EXH-A Project Charter and Schedule

...

Defined in EXH-A Project Charter and Schedule

...

~~**Employee or Category** **Rate**~~

...

**§ 8.4** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Consultant'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 Consultant.

...

five percent ( 5 %)

...

~~.7 Consultant's subconsultants expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Consultant's subconsultants;~~

...

**§ 8.6.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Consultant plus an administrative fee of five percent ( 5 %) of the expenses incurred.

...

~~**§ 8.6.3** If the insurance requirements listed in Section 2.7 exceed the types and limits the Consultant normally maintains and the Consultant incurred or will incur additional costs to satisfy such requirements, the Owner shall reimburse the Consultant for such costs as set forth below:~~

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**PAGE 9**

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...

~~**ARTICLE 10 SPECIAL TERMS AND CONDITIONS**~~

...

~~Special terms and conditions that modify this Agreement are as follows:~~

**PAGE 10**

**.1** AIA Document ~~C103™–2014,~~ C103™–2015, Standard Form of Agreement Between Owner and Consultant.

...

~~**.2** AIA Document E202™–2022, BIM Exhibit for Sharing Models with Project Participants, Where Model Versions May Not be Enumerated as a Contract Document, if completed, or the following:~~

...

EXH-A Project Charter and Schedule

...

EXH-C Owner Insurance

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# *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 12:34:29 CT on 01/16/2025 under Order No. 4104251278 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document C103™ - 2015, Standard Form of Agreement Between Owner and Consultant without a Predefined Scope of Consultant's Services, other than those additions and deletions shown in the associated Additions and Deletions Report.

*(Signed)*

Curtis Hartog, Executive Director

*(Title)*

1/16/2025

*(Dated)*

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# EXHIBIT A - Project Charter

## Project Identification and Scope

MPS Project Name: FY20 District Wide Security Upgrade-Group 6

### Scope

Provide deign, bid and construction review for camera, intrusion detection, and access controls upgrades at Bancroft School, Camden High School, Hale School, Justice Page Middle School, Northrop School, Pillsbury School, Southwest High School and Victory Memorial Ice Arena.

### Project Schedule

| **Project Phase** | **Suggested Completion Date** |
|---|---|
| Design Phase | January-February 2025 |
| Procurement | March 2025 |
| Construction Phase | April-October 2025 |
| Closeout Phase | November 2025 |
| Warranty Phase | November 2026 |

### Project Staff

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

| | |
|---|---|
| Diedra Geye | Project Manager |
| Curt Hartog | CPCM Executive Director |
| Ernest North | EMSS Director |

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

Compensation for Project Services as defined herein is a fixed fee of $154,290.

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

*Proposal for Technology Consulting Services*

*for*

# ***FY20 District Wide Security Upgrades***

# ***Group 6***

January 10, 2025

**Prepared by:**
Brandon Frazier
Regional Director | Security Technologies
Brandon.frazier@tncg.com

TRUENORTH

## A. Introduction

Minneapolis Public Schools (the Owner) has requested that True North Consulting Group (the Consultant, or TNCG) provide a technology design and consulting proposal for the Group 6 security upgrades. The Consultant's proposed services include design to the Owner's current technology and security standards. As part of this consulting scope, TNCG shall work closely with the Owner's representatives and stakeholders to determine project-specific needs and design requirements.

TNCG will provide the preparation of detailed design drawings, and specifications (Division 27 format) for a Competitive Sealed bid process. The specifications will include detailed Contractor submittal requirements, including technical data, record drawings, and test data. The Consultant will host a pre-proposal meeting, provide proposal evaluation, provide basic contract administration (CA) services and commissioning and optimization services as described below.

The project consists of the following facilities:

| Group 6 | Equity Score | BP # | Estimate |
|---|---|---|---|
| Bancroft | 34.55 | 6 | $193,250 |
| Camden HS | 37.42 | 6 | $457,500 |
| Hale ES | 40.13 | 6 | $180,250 |
| Justice Page | 29.38 | 6 | $269,900 |
| Northrop ES | 32.47 | 6 | $179,250 |
| Pillsbury ES | 42.97 | 6 | $173,250 |
| Southwest HS | 29.82 | 6 | $647,250 |
| VMIA | 21.37 | 6 | $49,965 |
| Total | | | $2,150,615 |

These professional services will be performed for a stipulated sum fee based upon the project scope, schedule, and budget, with the technology systems and services outlined below.

## B. Contract and Cooperatives

1. True North's services are listed on the following state contracts and purchasing contracts:

   a) MNSITE (Minnesota State Contract): Contract Number 216623, Expires August 31, 2027

   b) TNCG is a Minneapolis Public Schools SOQ list approved low voltage specialty consultant as awarded by RFP 25-06.

## C. Technology Systems – Scope of Services and Deliverables

The Consultant will coordinate the scope of work with the architectural and the MEP documents. The Consultant will receive electronic architectural and MEP background plans in AutoCAD or Revit format to complete the technology project drawings.

The following is a list of technology systems, professional services and deliverables that are included in the stipulated sum fee.

### 1. Premise Data Cabling

Based upon the Owner's established standards for voice and data connectivity, the Consultant will provide the design and specification of a structured data system. This shall include data outlets for video surveillance cameras, access control enclosures, video intercoms and master stations and intrusion detection enclosures. The specifications will include execution requirements relating to the furnishing and installation of data and voice cabling, as well as termination components, racks, cable support systems, and related subsystems as part of a complete, turnkey, structured cabling system for security.

### 2. Outside Plant Cabling Coordination

The Consultant shall provide design for fiber optic cabling pathway from MDF/MER to exterior pull boxes/fiber optic cabling vault for site security as required.

### 3. Electronic Access Control

The Consultant will provide a design for access control to comply with the Owner's current standards and industry best practices. The access control system will include provisions for card readers, door contacts / position switches, request-to-exit motion sensors, and a bundled cable routed from each access-controlled door back to a headend panel. The access control system and electrified door hardware will typically be powered from the access control panel using power supplies and battery backup.

Door hardware will be specified under Division 8 as required.

### 4. Video Surveillance System

The Consultant will provide a design for a video surveillance system to comply with the Owner's current standards and industry best practices. The video surveillance system will include provisions for single- and multi-sensor cameras, mounting hardware, and video management system software and licensing. Camera models will be selected to provide the desired coverage in each location.

If required by the Owner, the Consultant may include provisions for servers. TNCG will also include the required data cabling to support the IP cameras that are part of this system.

### 5. Intrusion Detection System

The Consultant will provide a design for an intrusion detection system (sometimes referred to as a "burglar alarm" system) to comply with the Owner's current standards and industry best practices. The intrusion system will include provisions for door contacts / position switches, motion detectors, keypads, panic or duress buttons, and associated cabling and panels. TNCG will also include required data cabling to support IP devices that are part of this system.

### 6. Conduits, Pathways, and MEP Coordination

To support the systems listed above, the Consultant will provide details for rough-in locations and pathways along with specification sections and CADD drawings/BIM model. Technology device locations, indicated on Construction Documents shall include electrical and rough-in requirements to be provided by the Division 26 contractor.

The following is a list of technology systems, professional services, and deliverables that are **EXCLUDED** from the stipulated sum fee:

1. Network Electronics (Core, Edge, PoE Switches, Software)
2. Life safety systems, including area of refuge systems
3. Professional Electrical Engineering (PE) services and PE stamping.

## D. Professional Service Tasks

### 1. Construction Document Phase

#### a) Field Work

The Consultant will make up to two site visits to each facility along with a district employee to document the district approved device locations, pathways and field conditions.

#### b) Infrastructure / Rough-in Requirements

The Consultant will meet with the Architect and MEP to review rough-in locations, infrastructure, and provisions for AC power and HVAC to support system hardware. The Consultant will provide the Architect and MEP with infrastructure requirement drawings on an overlay for coordination of electrical requirements. The Consultant will also assist the Architect and MEP in gathering AC power and BTU loads for technology equipment rooms from the Owner for communication closets (MDF/IDF spaces). The Consultant will also assist in the layout and required capacity of the cable tray for primary cable paths.

#### c) Division 00 and 01 Front End Bid Specifications

The Consultant will utilize the District standard Division 00 and 01 front end specifications to produce a bid package

#### d) Technology System Specifications

The Consultant will create specifications with section titles and system descriptions based upon the approved program. The Consultant will utilize the fonts, headers and footers provided by the Architect and develop 3-part specifications for each technical system portion of the work utilizing Division 27/28.

### e) BIM Model

The Consultant will provide technology drawings and backgrounds as part of the CD document set. Drawings will include plans, equipment room layouts, details, rough-in details, cabling details and security details.

## 2. Bidding and Negotiation Phase

### a) Pre-Bid Meeting

The Consultant will host a mandatory pre-bid meeting to summarize the technology scope of work and respond to bidders questions.

### b) Addenda & Requests-for-Information (RFIs)

The Consultant will assist with answering questions submitted and provide required clarifications in the form of addenda to meet the Architect's requirements.

### c) Bid Evaluation and Recommendation for Award

The Consultant will help analyze, tabulate and carefully review proposal responses for completeness and specific contractor requirements.

The Consultant may request any required supplementary information and provide the Architect and the Owner a written evaluation and recommendation for award of project scope areas.

## 3. Contract Administration Phase

### a) Pre-Construction Meeting

The technology pre-construction meeting will be scheduled under the direction of the Architect. The Consultant and the Architect will co-facilitate the meeting with the Technology Sub-contractor(s). Items to be reviewed in this meeting shall include: project schedule, submittal requirements, schedule of values, procedures for applications for payment, and notification of work progress for scheduled site visits.

### b) Review of Schedule of Values Submittal

The Consultant will review the format and content of the Schedule of Values submitted by the successful technology sub-contractor(s) for inclusion of all line items related to work scope, materials, labor, as-built documents, submittals, testing, project manuals, and all close out documentation. Schedule of Values will be completed on an AIA G-703 continuation sheet to the AIA G-702 Application and Certificate of Payment. The approved Schedule of Values on the form AIA G-703 will be included with each Application for Payment to be reviewed and verified by the Consultant.

### c) Review of Project Submittals

The technology sub-contractor(s) shall provide all required project submittals to the Architect for review. The Architect will then transmit project submittals and technical data to the Consultant for review. The technology contractor(s) shall provide submittals as a complete package, in a timely fashion, to allow an adequate review period prior to commencement of the work. The technology contractor(s) is responsible for compliance with contract documents and shall not proceed without approved submittals.

### d) Response to Requests for Information (RFIs)

The Consultant will log and process RFIs relating to technology work, in a timely fashion, not to delay the progress of the work.

### e) Meetings

The Consultant will host bi-weekly virtual progress meetings with the contractor to discuss current progress and planned future progress.

### f) Review of Payment Applications

The Consultant will review and approve the Applications for Payment submitted by the Technology Contractors on AIA G-702 and AIA G-703 forms, based upon the approved Schedule of Values for the work completed.

### g) Punch List Walk Through / Test Verification

Upon substantial completion of the work, the Consultant will be notified and provided with testing documentation from the technology contractor, along with closeout documents. The Consultant will then schedule a job walk-though, in the presence of the sub-contractor(s) to review and verify testing, validate as-built drawings, and review completed work for compliance with contract documents.

### h) Follow-up / Verification Walk Through

Upon notification that all punch list items and corrections to as-built documents have been completed and/or corrected, the Consultant will schedule a final walk-through to confirm that corrective work has been satisfactorily completed. Should additional follow-up visits be required due to the sub-contractor's failure to complete the work satisfactorily, the Consultant will submit these additional visits as an additional service to be back-charged to the sub-contractor.

### i) Review of Close-Out Documents

The Consultant will review final corrected versions of as-built drawings, project manuals, and record submittals for compliance with the Contract Documents. The Consultant will also review the final Application for Payment prior to release of retainage and final payment to the sub-contractor.

## 4. Enhanced Commissioning Services

TNCG has included enhanced software level system commissioning scope beyond basic contract administration services as described above. TNCG may engage various manufacturers to assist with commissioning, best practice verification and support. This includes the following:

### a) A detailed review of camera settings and applying optimizations including:

- Wide Dynamic Range settings
- White balance settings
- Optimize interior and exterior settings such as defog, electronic image stabilization, infrared, etc.

**b) A detailed review and optimization of Genetec video streaming settings including:**

- Review and adjust multi-streaming for the ideal recording of video, live stream video and remote viewing video. Optimize resolution, bitrates and frame rates for each stream.
- Enable and tune smart codec settings such as Zipstream, Dynamic GoP and Dynamic FPS.
- Partitions and Areas follow best practices

**c) A detailed review and optimization of Genetec access control settings including:**

- Card reader configuration
- Door position switch configuration
- Request to exit configuration
- Hold open timing
- Proper linking of doors to cameras
- Partitions and Areas follow best practices

**d) A detailed review and optimization of Genetec Sipelia intercom settings including:**

- SIP extension ranges
- Ring groups
- Intercom recording and audio codec settings
- DTMF presets for door unlocking
- Intercom master station video streaming
- Event to action programming for door unlock.
- Proper linking of intercoms to doors and cameras.

**e) A detailed configuration and optimization of mapping within Genetec including:**

- Confirm all devices are mapped including cameras, access controlled doors and intrusion detection devices.
- Confirm mapped devices correlates correctly to actual field placement.
- Confirm maps are geolocated with latitude and longitude calibrated.
- Confirm maps links are in place and link to proper sub maps.

**f) A detailed configuration and optimization of the Bosch intrusion detection integration into Genetec including:**

- Panels are correctly linked and integrated.

- User Groups and PIN holders are synchronized.
- Intrusion zones are imported correctly.
- Intrusion zones are categorized configured.
- Zones are linked to cameras.
- Access control integration and credential groups are carried through.
- Partitions and Areas follow best practices.
- A detailed configuration and optimization of mapping within Genetec including:
- Confirm all devices are mapped including cameras, access controlled doors and intrusion detection devices.
- Confirm mapped devices correlates correctly to actual field placement.
- Confirm maps are geolocated with latitude and longitude calibrated.
- Confirm maps links are in place and link to proper sub maps.
- A detailed review and configuration of alarms within Genetec including:
- Intrusion area alarms are configured.
- Intrusion fail to close alarms are configured.
- Genetec Event to actions are configured.

## E. Proposed Project Personnel

Brandon Frazier, Director | Security Technologies – Project Director, Lead Consultant

Jake Meier, Technology Systems Engineer – Project Engineer and Commissioning

Joe Knip, Security Consultant – Field Work and Inspections

Bryce Hinderks, Technology Systems Drafter – Project Drafter

## F. Professional Fees

### 1. Base Proposal

True North Consulting Group proposes to provide Professional Services related to Technology Systems outlined in "B. Technology Systems/Scope of Services and Deliverables", based on a stipulated sum fee for phases as follows:

| Professional Service Tasks – Base Scope | Fees |
|---|---|
| Base Services for Security Consulting, Design and Bid | $97,850 |
| Base Services for Security Contract Administration | $41,900 |

| | |
|---|---|
| Base Services for Enhanced Commissioning and Optimization | $14,000 |
| Reimbursable Expenses (Not To Exceed) | $540 |
| **Total Base Scope Fee** | **$154,290** |

### 2. Expenses

TNCG will expense mileage at $0.67/mile (or current IRS rate) for site visits and inspections.

### 3. Payment Terms

Payment for services and expenses will be invoiced on a monthly basis based upon percentage complete of services performed. Payments are due within 30 days of the Architect receiving payment from the Owner.

### 4. Additional Services

Additional services outside the original scope of work will be based on an hourly fee structure. The Consultant will perform such additional services only upon written authorization from the Architect at either hourly rates or mutually agreed upon stipulated sum for specific services.

## G. Agreement

_____ _____

Minneapolis Public Schools Date

_____ _____

True North Consulting Group Date

# 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 additional 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.

# MINNEAPOLIS PUBLIC SCHOOLS 2026-2027 School Calendar (DRAFT)

## September

**8** First Day of School and Quarter 1 for Grades 1-12
**10** First Day PreK and Kindergarten
**21** No School (Yom Kippur)

## October

**14** No School (Conferences)
**15-16** No School (MEA Break)

## November

**3** No School (Staff PD/Election Day)
**13** No School (Record Keeping)
**25-27** No School (Thanksgiving Break)
**12** Last Day of Quarter 1
**16** First Day of Quarter 2

## December

**21-31** No School (Winter Break)

## January

**1** No School (Winter Break)
**18** No School (Dr. Martin Luther King Jr. Day)
**28** Last Day of Quarter 2
**29** No School (Record Keeping)

## February

**1** First Day of Quarter 3
**15** No School (Presidents' Day)
**12** No School (Conferences)

## March

**10** No School (Eid al-Fitr)

## April

**1** Last Day of Quarter 3
**5-9** No School (Spring Break)
**2** No School (Record Keeping)
**12** First Day of Quarter 4

## May

**24** No School (Memorial Day)

## June

**11** Last Day of School and Quarter 4
**28** First Day of Summer School

## July/August

**8/5** Last Day of Summer School

**September 2026**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | | | |

**October 2026**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | | | | 1 | 2 | 3 |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

**November 2026**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | | | | | |

**December 2026**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 | | |

**January 2027**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | | | | | 1 | 2 |
| 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| 31 | | | | | | |

**February 2027**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | | | | | | |

**March 2027**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | 31 | | | |

**April 2027**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | | | | 1 | 2 | 3 |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | |

**May 2027**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | | | | | | 1 |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 | 31 | | | | | |

**June 2027**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | | | |

**July 2027**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| | | | | 1 | 2 | 3 |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

**August 2027**

| Su | M | Tu | W | Th | F | Sa |
|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 | | | | |

## Key

- No School
- Last Day of the Quarter
- First Day of the Quarter
- Summer School

## Quarter and Semester Counts (Student Days)

| Q1 | Q2 | Q3 | Q4 | Total |
|---|---|---|---|---|
| 43 | 40 | 41 | 44 | 168 |
| **Semester 1:** 83 | | **Semester 2:** 85 | | |

For more calendars, visit: mpschools.org/calendars

Updated: 1/31/2025

**Draft (Not Yet Approved)**