

## **Human Resources / Finance Committee - Regular School Board Meeting**

Duluth Public Schools, ISD 709

### Agenda

Tuesday, August 17, 2021

Historic Old Central High School - Board Room, 2nd Floor

215 N 1st Ave E

Duluth, MN 55802

6:30 PM

1. **Guest Presentations for this Meeting - None**
2. **Department Reports**
  - A. **Human Resources**
    - 1) HR Monthly Summary Report 3
  - B. **Business Services**
    - 1) Finance
      - a. Finance Education: Funds 4
    - 2) Facilities Report 5
    - 3) Enrollment Report - Verbal report by CFO (these reports will resume in October 2021)
    - 4) Child Nutrition Report 9
    - 5) Transportation Report 11
3. **Consent Agenda**
  - A. HR Staffing Report
    - 1) Human Resources Staffing Report 12
  - B. Finances
    - 1) Financial Report - June financials will be provided at a later date (after audited)
    - 2) Budget Revisions - June financials will be provided at a later date (after audited)
    - 3) Fundraisers - None
  - C. Bids, RFPs, and Quotes - None
    - 1) PLACEHOLDER - Bid, RFP or Quote
  - D. Contracts, Change Orders and Leases - None
    - 1) Change Order #1 - Deducts / Additions for Bid 1292 - Duluth Preschool's Nature Playscapes - Laura MacArthur ES, Myers-Wilkins ES and Piedmont ES 14
    - 2) City of Duluth School Resource Officer (SRO) 16
    - 3) PLACEHOLDER - Contracts, Change Orders and Leases
  - E. Resolutions
    - 1) HR-8-21-3824 - Employment of a School Board Member by the District 26
    - 2) B-8-21-3830 - Acceptance of Donations to Duluth Public Schools 27
    - 3) B-8-21-3831 - Providing for the Issuance, Sale and Delivery of \$31,497,601.65 General Obligation Capital Appreciation Bonds, Series 2021C; Establishing the Terms and Form Thereof; Creating a 28

Construction Fund and Debt Service Fund Therefor; and Awarding the Sale Thereof

4) B-8-21-3832 - Release and Pledge of Collateral 45

5) B-8-21-3833 - Petition to Vacate Street Alley or Utility Easement 46

6) PLACEHOLDER - Resolution

4. **Miscellaneous Informational Items (no action required)**

A. District Properties Update 52

B. Expenditure Contracts 54

C. No Cost Contracts 136

D. Revenue Contracts 153

E. Grant Applications - None

F. Change Orders Signed - None

G. Referrals to Policy Committee

1) 722 Public Data Requests (annual review as required by MN Statute 13.025 Subd.

2.)

H. Lease for Adult Basic Education Relocation to Arvig Building 172

I. Purchase Agreement for Central on the Hill 182

## Human Resources Report July 2021 Activities

### 1) Staffing Updates:

Number of staffing changes Received by HR during the month of June. This is a summary of the consent agenda.

	Certified	Non-Certified
# New Hires	7	3
# Retirements	1	1
# Resignations	3	2
# Leave of Absences	0	3
# Extensions	44	9
# Summer School	0	1
# Promotions	1	1
# Demotions	0	1

### 2) Benefits updates:

HCSP calculations for the Directors were completed. First retiree billing cycle of the year was completed. There were 14 HCSP Severance calculations for recent retirees and 10 estimates requested for future retirements. In an efforts to prepare for the new teacher induction on August 30 and new hires for the year, the benefits orientation is being reviewed. Starting to review and plan a record of our Retirement Information Session that can be shared with interested retirees.

### 3) Certified Updates:

We continue to focus efforts on the hiring and onboarding of teachers in preparation for the upcoming school year. During the month of July we posted 75 positions including the majority of ESSER positions. We have filled 76 positions, 28 are external hires, 48 are internal hires. There are 59 positions to fill and 35 ESSER positions to fill. We are preparing for new teacher induction on August 30.

### 4) Non-Certified Updates:

During the month of July, we have been focusing on getting staff hired for the upcoming school year. The current need is Paraprofessionals, Food Service Helpers & Custodian help.

### 5) Additional Updates:

Our HRIS and Payroll specialist started her employment on July 19. She has picked up speed quickly and is focussing on the rollover of one school year to the next as it relates to pay records. And she is also focussing her efforts on retro pay for contracts that have recently settled.

## Funds

### 21-22 REVENUES

#### FUND

- 1 General
- 2 Food Service
- 3 Transportation
- 4 Community Ed
- 5 Operating Captial
- 6 Building Construction
- 7 Debt Service Fund
- 8 Trust Fund
- 20 Dental Insurance Fund
- 71 Student Activity Co-Curric
- 79 Student Activity

### 21-22 EXPENSES

#### FUND

- 1 General
- 2 Food Service
- 3 Transportation
- 4 Community Ed
- 5 Operating Captial
- 6 Building Construction
- 7 Debt Service Fund
- 8 Trust Fund
- 20 Dental Insurance Fund
- 71 Student Activity Co-Curric
- 79 Student Activity

# Facilities Management & Capital Project Status Report July 2021

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## **Facilities Management – Maintenance and Operations - General**

- In the past month, the Facilities maintenance crews have completed 164 work orders and are currently working on 183 open work orders.

## **Capital Construction– Projects we are preparing for and will start or accomplish this summer:**

### **LTFM Approved Projects**

- The Congdon Park Window Replacement - windows in production.
- OEMS Door Replacement - doors in production.
- EHS 3 Small Roofs Replacement - work going well.

### **LTFM Amended Projects**

- Denfeld Clock Tower Roof and North, East, South, & West Walls - in progress.
- LMAC Tennis Court Crack - in progress.
- Lakewood sidewalk repairs - in progress.

### **Grant Funding – Approved Projects**

- MWE Nature Playscape - in progress.
- LMAC Nature Playscape - in progress.
- Piedmont Nature Playscape - in progress.
- Homecroft Field Improvements - pre - construction held and will be in progress.

### **District Approved Projects**

- Denfeld Bathroom Modification for Special Education - deferred till next summer.

### **Ongoing Discussion with Legal Representation**

- PSS Track Lane 1 Ponding Remediation / Resolution - in discussions.

### **HOCHS and “On the Hill” construction tasks**

- Many meetings have been conducted on all aspects of the projects
- Print Shop build out is starting in several weeks

### **Leases as related to the sale of HOCHS**

- UnitedHealth Group
- Radio Central
- Arvig Building

## **Building Operations**

- Operations crews have been continuing to complete project work such as extracting carpets and refinishing hard surface flooring.
- We have new burnishers which are proving to be extremely helpful in our project work.
- Gym floor refinishing is coming along nicely largely due to a new employee with gym floor finishing experience stemming from work at UMD.
- We continue to try to improve on recruiting applicants to fill our many vacant positions before school starts.

## **Health, Safety & Environmental Management**

- KnoxBox installation for schools within city limits is complete. Keys and maps to be locked inside August 4th.
- Homecroft and Lakewood KnoxBoxes received.
- Continuing work with DPD to allow card access to district buildings
- Lead-in-water follow up testing has been completed on 277 taps. Sometimes initial tests come back high due to failure to properly flush them according to procedure. Retesting was done on taps that scored high during the first round of tests. 2 laboratory faucets that had slightly elevated levels are being

**Health, Safety & Environmental Management...continued.**

replaced. 7 taps require retesting to verify results. These 7 taps are either being flushed twice a day, or are closed for the time being. 6

- Playground parts for repairs have been received. Top off wood chips have been ordered.
- Hazardous waste removal for HOCHS moveout is set for August
- Lincoln, Denfeld, and East Bleacher inspections complete. Ordean will be done later in August.

Workers' Compensation Activities

**July 2021**

- First report of incidents:----- 3
- OSHA recordable incidents:----- 1
- Days away from work:----- 2
- Days of restricted work:----- 31
- Identifiable work related covid cases as a result of interaction with confirmed positive staff or student cases:----- 0

**2021 YTD Incidents (January 1, 2021 - December 31, 2021)**

- First report of incidents:----- 42
- OSHA recordable incidents:----- 8
- Days away from work:----- 77
- Days of restricted work:----- 138
- Identifiable work related covid cases as a result of interaction with confirmed positive staff or student cases:----- 0

August 6, 2021

John Magas  
Superintendent of Schools

David J. Spooner, C.P.E.  
Manger of Facilities

Cathy Erickson  
CFO/Executive Director of Business Services

Duluth Public Schools  
215 N 1<sup>st</sup> Ave E  
Duluth, MN 55802

RE: Marketing Update  
800 E Central Entrance "Central High School Property"

**800 E. Central Entrance "Central High School Property"**

- Under Contract

**215 N 1<sup>st</sup> Ave E "Historic Old Central High School"**

- Under Contract



**230 East Superior Street • Duluth, MN 55802 • 218.310.0013 • [gregfollmer@gmail.com](mailto:gregfollmer@gmail.com)**

### **Website Advertising**

- Loopnet – visible to CoStar members
- MNCAR – Minnesota Association of Commercial Realtors – membership data base
- GregFollmer.com
- Crexi.com – publicly accessible site
- Social Media Sites Facebook, Twitter, Instagram

Respectfully,

Greg Follmer  
Broker



# Child Nutrition Report

## July 2021

### Human Resources Activity

#### **Interviews Held:**

Food Service Helpers 6  
 Area Supervisor in the Main Administrative office 3

#### **New Employees Hired:**

Tari Hunter, Helper - Homecroft  
 Betsy Sislo, Area Supervisor in the Main Administrative office 5 others  
 awaiting HR Hiring process

#### **Employee Resignations:**

None

#### **Jobs Open:**

Denfeld 1 Helper  
 East 4 Helpers  
 Lincoln Park 2 Helpers  
 Myers Wilkins 2 Helpers  
 Ordean East 2 Helpers  
 District Wide 1 Helper  
 Subs 5 Helpers  
 Site Supervisor in the Main Administrative office

### Meals and Food Production Activity:

#### **Number of meals Served this month:**

Monthly Report	July 2021						Summer Meals							
	Serving Days:													
	7/1/2021	7/5/2021	7/12/2021	19-Jul	26-Jul		7/1/2021	7/5/2021	7/12/2021	7/19/2021	26-Jul			
Meal counts	<b>Breakfast</b>						<b>Total</b>	<b>Lunch</b>						<b>Total</b>
							<b>S t u d e n t s</b>						<b>S t u d e n t s</b>	
<b>Denfeld</b>	69	170	189	211			639	76	219	251	265		811	
<b>Homecroft</b>	160	256	447				863	160	256	447			863	
<b>Lester Park Bags</b>	160	280	598	555			1593	160	280	598	555		1593	
<b>Lester Park Keyzone</b>	70	159	213	156			598	81	204	295	272		852	
<b>Lowell</b>	68	194	391	385			1038	63	252	465	386		1166	
<b>Macwest bags</b>	78	107	289	308			782	78	107	415	408		1008	
<b>Macwest Keyzone</b>	57	115	164	161			497	113	264	208	240		825	
<b>Myers-Wilkins</b>	176	256	679	709			1820	176	256	684	707		1823	
<b>Ordean/East Middle</b>	27	72	94	101			294	72	185	203	220		680	
<b>Piedmont</b>	108	284	329	399			1120	108	273	367	399		1147	
<b>Stowe</b>	70	152	339	300			861	70	152	339	360		921	
<b>Heritage Boys and Gir</b>	0	0	0	0			0	50	100	125	125		400	
<b>Lincoln Boys and girl</b>	0	0	0	0			0	40	78	120	100		338	
<b>Aicho</b>	0	0	0	0			0	40	70	59	42		211	
<b>Center City</b>	0	0	0	0			0	40	80	100	100		320	
<b>TOTALS</b>	1043	2045	3732	3285	0	0	10105	1327	2776	4676	4179	0	12958	

**Free and Reduce Lunch Benefits Activity:**

Mailed Letters to the families that were deemed free with Direct Certification status from the State or Minnesota Duluth had 1480 students on the Direct Certification list for 2021-2022

Mailed the Free and Reduce Lunch applications to families that were not on the Direct Certification List  
Began processing applications for benefits.

**Online Applications done:** 35

**On paper applications done:**

## **Transportation Report July 2021 Activities**

The ISD #709 Transportation Department manages both a district owned fleet of vehicles and district employees, including bus drivers, monitors, and mechanics, along with the coordination of contracted transportation services through Voyageur Bus Company.

Arrival of two new buses (purchased a few months ago) expected to arrive in September.

The Transportation department uses Versatrans as its student transportation software. Currently, the department is busy building and/or updating about 430+ fall routes, many field trips and coordinating with Voyageur.

Hiring for fall drivers has begun.

Routine general bus maintenance is ongoing and includes brake servicing, brake replacement, wiring, etc. The department is preparing for summer DOT inspection of buses in mid-August and non-transportation vehicles at the end of August.

The average fleet age is 7 years with an average mileage of 79,564 (goal is 50,000 – 60,000).

**HUMAN RESOURCES ACTION ITEMS FOR 8/17/21****CERT APPOINTMENTS**

CAWCUTT, ANNA	SECONDARY CURRICULUM SPECIALIST/TOSA, IV+45, 9, \$77,011.00	8/31/2021
DIETLIN, JEFFREY	SPECIAL EDUCATION RESOURCE, MYERS-WILKINS, IV, 9,\$72,919.00	8/31/2021
GILBERTSON, PAULA	DISTRICT WIDE, DEAF OR HARD OF HEARING, IV+30, 9, \$74,286.00	8/31/2021
MILLER, KIMBERLY	SPECIAL EDUCATION DCD SETTING III, MYERS-WILKINS, IV+15, 5, \$56,395.00	8/31/2021
POTTS, NATALIE	DISTRICT WIDE,SCHOOL NURSE, III+15, 6, \$48,117.00	8/31/2021
ROYCRAFT, JASON	SPECIAL EDUCATION RESIDENTIAL/MERRITT CREEK, III, 1, \$39,276.00	8/31/2021
SPARTZ, BRENDA	DIR ELEM TEACHING, LRN, EQUITY/HOCHS, 40/52 WKS, \$132,811, NEW POS	7/12/2021
TOTAL: 7		

**EFFECTIVE DATES****CERT EXTENSIONS**

BARRATT, KATHLEEN J S	ERSEA COORD/HOCHS, NOT TO EXCEED 40 HRS	8/23/2021	8/27/2021
BARTLETTE, SHAWN H	ESY/SUBSTITUTE TEACHER, NOT TO EXCEED 22 HRS	7/26/2021	7/29/2021
BOITZ, KIMBERLY A	ESY/TEACHER, NOT TO EXCEED 67 HRS	7/26/2021	8/12/2021
BROSELL, AMANDA C	ESY/ECSE SPEECH SVCS AND EVAL, NOT TO EXCEED 20 HRS	7/14/2021	8/30/2021
BROWN, PAULA	ESY/SUBSTITUTE TEACHER, NOT TO EXCEED 22 HRS	7/26/2021	8/12/2021
BRUNS, CHRISTINA M	ESY/ECSE TEACHER, NOT TO EXCEED 30 HRS	6/14/2021	8/30/2021
CARIVEAU, CHRISTINA A	ESY/DHH TEACHER, NOT TO EXCEED 67 HRS	7/26/2021	8/12/2021
CRANE, REBECCA E	ESY/ECSE, INTERVIEWS, HANDBOOK, TRAINING, NOT TO EXCEED 200 HRS	6/14/2021	8/30/2021
DIEHL, CRYSTAL K	ESY/NURSE, COVID TEAM WORK, NOT TO EXCEED 100 HRS	6/14/2021	8/30/2021
FEYEN, ANN E	ESY/PSYCHOLOGIST, NOT TO EXCEED 10 HRS	6/14/2021	8/30/2021
FOYT, EMILY A	ESY/EBD, LD TEACHER, NOT TO EXCEED 67 HRS	7/26/2021	8/12/2021
GAMACHE, REBECCA L	PRESCHOOL EDUCATION COORD/HOCHS, NOT TO EXCEED 40 HRS	8/23/2021	8/27/2021
GOLDFIND, BRENDA L	PRE-K/MYERS-WILKINS HDST, NOT TO EXCEED 120 HRS	8/1/2021	8/30/2021
GOLDMAN, CRYSTAL S	TITLE III/HOCHS, NOT TO EXCEED 8 HRS	7/1/2021	8/12/2021
GOTTSCHALD, MEGAN R	ESY/TEACHER, NOT TO EXCEED 67 HRS	7/26/2021	8/12/2021
GRANMO, SHERYL A	ESY/TEACHER, NOT TO EXCEED 67 HRS	7/26/2021	8/12/2021
GUDECK, JULIE K	ESY/DHH TEACHER, NOT TO EXCEED 67 HRS	7/26/2021	8/12/2021
HATFIELD, KATHRYN L	ESY/TEACHER, NOT TO EXCEED 110 HRS	6/14/2021	8/30/2021
HOPEN, ELLIOTT A	ESY/TEACHER, NOT TO EXCEED 67 HRS	7/26/2021	8/12/2021
JARVIS, DEBRA A	ESY/TEACHER, NOT TO EXCEED 45 HRS	6/14/2021	8/30/2021
JASPERSON-AAGENES, STEPHANIE R	ESY/ASD HOMEBOUND TEACHER, NOT TO EXCEED 26 HRS	6/23/2021	8/30/2021
KRATSCH, SUSAN M	ESY/DISTANCE LEARNING, SUBSTITUTE TEACHER, NOT TO EXCEED 56 HRS	6/14/2021	8/12/2021
KUMEROW, NICKY C	ESY/HOMEBASED TEACHER, NOT TO EXCEED 20 HRS	6/14/2021	8/30/2021
LINDBERG, TIM C	ESY/WORK EXPERIENCE COORD, NOT TO EXCEED 160 HRS	6/14/2021	8/30/2021
LIPPITT, MARTHA L	ESY/COORD, NEW TEACHER TRAINING, INTERVIEWS, HANDBOOK, NOT TO EXCEED 200 HRS	6/14/2021	8/30/2021
MCGOWAN, TODD A	ESY/CTSS TEAM, ECSE SOCIAL WORKER, NOT TO EXCEED 50 HRS	6/14/2021	8/30/2021
MILLER, SARAH A	ESY/NURSE, COVID TEAM WORK, NOT TO EXCEED 75 HRS	6/14/2021	8/30/2021
NILSEN JOHNSON, DEBORAH A	ESY/EBD, LD TEACHER, NOT TO EXCEED 141 HRS	6/16/2021	8/30/2021
RAY, JULIE A	ESY/TECH SUPPORT, HANDBOOK, NEW TEACHER TRAINING, NOT TO EXCEED 150 HRS	6/14/2021	8/30/2021
RODD, RONI M	ESY/PT SUPPORT, NOT TO EXCEED 35 HRS	6/14/2021	8/30/2021
ROSS, SYDNEY P	ESY/SUBSTITUTE TEACHER, NOT TO EXCEED 20 HRS	7/23/2021	7/28/2021
SCHEUFELI, KATIE M	PRESCHOOL INCLUSION COORD/HOCHS, NOT TO EXCEED 40 HRS	8/23/2021	8/27/2021
SEXTON, SARAH M	ESY/ECSE TEACHER, NOT TO EXCEED 12 HRS	6/14/2021	8/30/2021
SHELDON, DARREN C	FEDERAL PROGRAMS COORD/HOCHS, NOT TO EXCEED 200 HRS	7/1/2021	8/12/2021
STOKKE, KARA K	ESY/PT SUPPORT, NOT TO EXCEED 15 HRS	6/14/2021	8/30/2021
TENG, IRA L	PRESCHOOL HEALTH COORD/HOCHS, NOT TO EXCEED 40 HRS	8/23/2021	8/27/2021
TRAVAGLIONE, ANN B	ESY/TEACHER, NOT TO EXCEED 67 HRS	7/26/2021	8/12/2021
TRENTOR, DOUGLAS J	ESY/INTERVIEWS, OTHER DUTIES, NOT TO EXCEED 30 HRS	6/14/2021	8/30/2021
TWARDOWSKI, STEPHANIE A	ESY/TEACHER, NOT TO EXCEED 100 HRS	7/26/2021	8/12/2021
VAUGHT, DANIEL J	ESY/RN SUPPORT, CONSULTANT, NOT TO EXCEED 75 HRS	6/14/2021	8/30/2021
WIKSTROM, MICHELLE L	ESY/OT ECSE, NOT TO EXCEED 160 HRS	6/14/2021	8/30/2021
ZADDACK, AMBER L	ESY/EARLY CHILDHOOD/DHH, NOT TO EXCEED 10 HRS	6/14/2021	8/30/2021
ZAMBORI, SARA L	ESY/ECSE SPEECH/EVALS, NOT TO EXCEED 80 HRS	6/14/2021	8/30/2021
ZYCHOWSKI, DOUGLAS J	ESY/TEACHER, NOT TO EXCEED 20 HRS	7/1/2021	8/30/2021
TOTAL: 44			

**EFFECTIVE DATES****CERT PROMOTION**

GLOCKLE, NATHAN	ALC/AEO ACADEMIC EXCELLENCE ONLINE PRINC/45WKS, IV, 5, \$123,912, A NORMAN	7/1/2021
TOTAL: 1		

**EFFECTIVE DATES****CERT RESIGNATIONS**

ARMBRUSTER, AUSTIN D	SPEC ED RESOURCE/LOWELL	6/30/2021
COPAS, JOSEPH P	ELEMENTARY PHY ED SPECIALIST/CONGDON PARK	8/30/2021
MONGER, JOY S	KINDERGARTEN/PIEDMONT	6/11/2021
TOTAL: 3		

**EFFECTIVE DATES****CERT RETIREMENT**

GRIGG, DAVID A	SPEC ED VOCATIONAL WORK EXP/DISTRICT WIDE	6/11/2021
TOTAL: 1		

**EFFECTIVE DATES****NON CERT APPOINTMENTS**

CLEVELAND, KATHRYN	DIGITAL INNOVATION SPECIALIST/DW, 40 HRS, 52 WKS, \$959 WK	
SISLO, BETTY R	CHILD NUTRITION AREA SITE SUPV/DW, 40 HRS, 52 WKS, \$1,184/WK, S OAK	7/21/2021
SMITH, NATHAN	COORDINATOR OF EDUCATION EQUITY, 48 WKS, STEP 1, 784/WK, W. HOWES	8/9/2021
TOTAL: 3		

**EFFECTIVE DATES****NON CERT DEMOTIONS**

LUOTO, KIMBERLY S	ENGINEER II/ROCKRIDGE, ENGINEER II/ORDEAN EAST, \$17.89/HR, VOLUNTARY	6/28/2021
TOTAL: 1		

**EFFECTIVE DATES**

**NON CERT EXTENSIONS**

ANDERSON, KRISTI J  
BERGERSON, RENEE A  
DRAGSTEN, MICHAEL C  
GUZZO, SHANNON M  
MICHELIZZI, AMY L  
MODER-PAUNA, LINDA D  
MORLANG, SHILO R  
ROSS, TERRY C  
WALDRUFF, TRACY L  
TOTAL: 9

**POSITION**

ESY/SPEC ED PARA/HOCHS, NOT TO EXCEED 126.4 (+ BUS) HRS  
ESY/SPEC ED PARA/DENFELD, NOT TO EXCEED 119 HRS  
ESY/SPEC ED PARA/HOCHS, NOT TO EXCEED 142 HRS  
ESY/JOB COACH/HOCHS, NOT TO EXCEED 119 HRS  
ESY/SPEC ED PARA/HOCHS, NOT TO EXCEED 59 HRS  
OSSS/ROCKRIDGE, NOT TO EXCEED 80 HRS  
ESY/FIELD SUPPORT TECH/HOCHS, NOT TO EXCEED 200 HRS  
ESY/OT SUPPORT, NOT TO EXCEED 20 HRS  
ESY/JOB COACH/TRANS, NOT TO EXCEED 119 HRS

**EFFECTIVE DATES**

7/6/2021 8/12/2021  
7/6/2021 8/12/2021  
7/6/2021 8/12/2021  
7/6/2021 8/12/2021  
7/6/2021 8/12/2021  
7/14/2021 7/22/2021  
6/14/2021 8/30/2021  
7/26/2021 8/12/2021  
7/6/2021 8/12/2021

**NON CERT LEAVES**

BEYER, ANGELA M  
JOHANSON, ERICK J  
STEBERG, TODD D  
TOTAL: 3

**POSITION**

CAFETERIA HELPER/LESTER PARK  
ENGINEER I/LAKEWOOD, DATE TBD  
CUSTODIAN I/EAST, DATE TBD

**EFFECTIVE DATES**

6/21/2021 6/25/2021  
6/15/2021  
6/22/2021

**NON CERT PROMOTION**

VESEL, SHANA L  
TOTAL: 1

**POSITION**

BENEFITS COORD/HOCHS/EEA CLERICAL III/HOCHS, \$1,122/WK, K ELLING

**EFFECTIVE DATES**

6/28/2021

**NON CERT RESIGNATIONS**

RATAI, MELISSA S  
ROWLAND, BRYANNA M  
TOTAL: 2

**POSITION**

COMMUNITY ED COORDINATOR/DENFELD  
SPEC ED PARAPROFESSIONAL/ORDEAN EAST

**EFFECTIVE DATES**

7/5/2021  
6/10/2021

**NON CERT RETIREMENTS**

WABROWETZ, JENNIFER L  
TOTAL: 1

**POSITION**

SPEC ED PARAPROFESSIONAL/LOWELL

**EFFECTIVE DATES**

8/16/2021

**NON CERT SUMMER**

MICHELIZZI, AMY L  
TOTAL: 1

**POSITION**

ESY SPEC ED PARAPROFESSIONAL/HOCHS, NOT TO EXCEED 59 HRS

**EFFECTIVE DATES**

7/6/2021 8/12/2021



3 Owls Outdoor Play Consultants, LLC

July 30, 2021

ISD709 Duluth Public Schools  
215 N. 1<sup>st</sup> Avenue East  
Duluth, MN 55802

Attn: Dave Spooner  
Sherry Williams  
ISD709 School Board

Re: Duluth Preschool's Nature Playscapes Change Order #1

The following changes to the contract awarded to Bella Terra Landscaping for the installation of Duluth Preschool's Nature Playscapes are recommended by 3 Owls Outdoor Play Consultants, LLC, in order to accommodate an upgrade to commercial-grade playground equipment as well as an unforeseen increase in cost of materials related to economic and industry changes during the pandemic.

### CHANGE ORDER #1

Item/Action	Unit Cost	Qty	Total Cost	Location
Remove Art Panel	(\$450)	3	(\$1350.00)	LM, MW, P
Remove Music Panel	(\$350)	3	(\$1050.00)	LM, MW, P
Remove Water/Ball Panel	(\$300)	3	(\$900.00)	LM, MW, P
Remove Stage Platform (P)	(\$1700)	1	(\$1700.00)	Piedmont
Remove Stage Platform (LM)	(\$2200)	1	(\$2200.00)	Laura MacArthur
Remove Seesaw	(\$650)	1	(\$650.00)	Myers-Wilkins
Remove Sod & Soil Prep	(\$5000 )	1	(\$5000 )	LM, P
<b>TOTAL Deductions</b>			<b>(\$12,850.00)</b>	
Add Fencing	\$3170.55	1	\$3170.55	LM, MW, P
Upgrade Hillslide	\$4022.82	2	\$4022.82	LM, P
<b>TOTAL Additions</b>			<b>\$7193.37</b>	
<b>TOTAL Change</b>			<b>(\$5656.63)</b>	

Duluth Preschool's Nature Playscapes

Change Order #1

15

DocuSigned by:  
  
 EA9A38EC84384A6... 8/2/2021

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Design Consultant Signature Date  
 Rebekah Johnson, 3 Owls Outdoor Play Consultants, LLC

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Contractor Signature Date  
 Keegan Hartley, Bella Terra Landscaping

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Board Chair Signature Date  
 Jill Lofald, ISD709 School Board

## SCHOOL RESOURCE OFFICER PROGRAM AGREEMENT

THIS AGREEMENT is by and between INDEPENDENT SCHOOL DISTRICT NO. 709 hereinafter referred to as the "School District", and the CITY OF DULUTH, hereinafter referred to as "City".

WHEREAS, the School District and the City desire to join in mutual effort to curb delinquency and crime in the community and to develop better community understanding of law and law enforcement; and

WHEREAS, the State Legislature has provided in Minnesota Statutes Section 126C.44, a vehicle to fund a cooperative effort by the School District and City to curb juvenile delinquency and crime;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, the School District and City agree as follows:

### ARTICLE I

#### SCHOOL RESOURCE OFFICER DEFINITION AND DUTIES

1. For the purpose of this Agreement, the term "school resource officer" (SRO) shall have the meaning and duties described by this article and in the job description attached to this Agreement as Exhibit A.

1.1. The school resource officer will be a police officer of the Duluth Police Department who will assist in the establishment and coordination of a cooperative community approach among schools, parents, police and other resources in reaching the children's and the community's needs and problems.

1.2. The duties of the school resource officer include the following:

- a. SROs will not have responsibility for enforcement of school discipline.
- b. Actively promote the goals and mission statement of the Duluth Police Department.
- c. Promote and participate in the Department's community policing efforts.



d. Conduct preliminary and follow-up investigations, to include interviews, collection of evidence, prepare and serve warrants, and submit cases to the St. Louis County Attorney's Office for juvenile prosecution.

e. Work in cooperation with agencies that serve juvenile justice needs, to include government and supportive service agencies.

f. Work with entities outside the school to resolve issues involving juvenile behavior.

g. Serve as a resource to staff, administration, parents and students regarding juvenile justice issues. Be a resource for students who may need help for any reason. This may include speaking or presenting to a class or other venues on topics relating to school safety and student welfare.

h. Serve as a resource to other officers in coordinating and facilitating information as well as investigations involving juveniles.

i. Meet or participate in student-focused teams in school.

j. Make referrals to the appropriate community service agencies or school personnel when the SRO is made aware of information or observes conditions that jeopardize the welfare of students.

k. When making enforcement decisions, be able to consider other courses of action to confinement, such as Bethany, releasing to family, consulting with probation, social services, Juvenile Detention Alternatives Initiatives (JDAI) community coaches, or other appropriate organizations. Other courses of action to punitive measures may also include school, or community-based restorative programs.

l. Establish a close association with youth who have committed delinquent acts to reduce recidivism.

m. Monitor runaway reports, and take action when appropriate. Make referrals to the appropriate human service agencies.

n. Conduct investigations within the school and surrounding community, both criminal and other, as deemed necessary by the Police Department or between the Police Department and school personnel by mutual agreement.

o. Investigate cases as assigned by the Police Department. These cases will vary in number and complexity thereby requiring flexibility in the hours that the officer works and requiring a freedom to leave the school building at various times.

p. In the instance of law violations, serve in the normal police officer capacity. That is, the officer has the obligation to protect life, limb and property; to prevent crime; to recover stolen and lost property; and to apprehend and prosecute offenders, but in so doing, to orient activities toward rehabilitation and correction.

q. Continue as a member and employee of the Police Department of the City of Duluth and will operate under the direct administration and supervision of the Police Department. Work in cooperation with school administrators towards mutually agreed upon goals involving the Police Department, the School District, and the students. The SRO shall not have disciplinary authority within the school.

## ARTICLE II

### FUNDING OF THE SCHOOL RESOURCE OFFICER PROGRAM

2. The parties agree that, notwithstanding the date of execution, this Agreement shall commence on Wednesday, September 1, 2021 and will continue through the end of the 2021-2022 school year, terminating on Thursday, June 9, 2022. The parties further agree that during the life of this Agreement the number of school resource officers actually employed pursuant to this contract may be adjusted upward or downward by mutual consent of the parties.

2.1 During the term of this Agreement, school resource officers shall be made available to the School District at approximately seventy-seven (77) percent of their time (annually) working directly on school district issues as identified in Paragraphs 1.2 a-q, above.

2.2 School District agrees to pay to City the total sum of \$277,096.00 for a total of four (4) school resource officers during the term of this Agreement in accordance with the following schedule:

- a. Fifty (50) percent of the total amount is due and owing on September 1, 2021 ; and
- b. Fifty (50) percent of the total amount is due and owing on February 15, 2022.
- c. The City agrees to provide an invoice for payments specified in this Article. All payments received under Paragraph 2.2 above shall be deposited in City Fund Number 110-160-1610-4261.

### ARTICLE III RESPONSIBILITY OF SCHOOL DISTRICT

3. The School District shall be responsible for the following duties and/or services:

- a. Provide guidance and assistance to the school resource officers through the principals, teachers, administrative staff and student body.
- b. Provide a private office, desk, telephone with outside line for use by the school resource officers to meet with people on both a public and private meeting basis.
- c. Require its principals to coordinate the efforts of the school resource officer within the schools.

### ARTICLE IV RESPONSIBILITY OF CITY

4. The City shall be responsible for the following duties and/or services:

- a. Provide school resource officers to the school district in the middle and secondary schools in the numbers as agreed to in Paragraph 2, above.

- b. Assign each of the school resource officers using a team approach which allows for better coverage during each school year. Assignments shall be at the discretion of the Chief of Police or the Chief's designee.
- c. Provide Police Department equipment needed by the school resource officer to perform necessary functions.
- d. Provide training and education within the scope of the Police Department of the City.
- e. Provide temporary replacements for the school resource officers as deemed necessary by the Police Department or in the event a school resource officer's absence extends beyond five consecutive days.
- f. The City will collaborate with School District administration in the hiring and performance review process of all SROs.

## ARTICLE V

### INDEMNITY AND HOLD HARMLESS

5. The City agrees to indemnify and save harmless the School District of and from any and all liability and expenses, including attorneys' fees, of any nature whatsoever (including any claim on account of any injuries, diseases, or claimed injuries or diseases compensable under the Workman's Compensation Laws of the State of Minnesota) resulting or in any manner arising out of the use by the City of any property, structures, or equipment of the School District (whether improved, modified, altered, or developed by the City or otherwise) or any activities sponsored by the City taking place on any such property, structures or equipment.

5.1 The School District agrees to indemnify and save harmless the City of and from any and all liability and expenses, including attorneys' fees, of any nature whatsoever (including any claim on account of any injuries, diseases, or claimed injuries or diseases compensable under the Workman's Compensation Laws of the State of Minnesota) resulting or in any manner arising out of the use by the School District of any property, structures or equipment of the City (whether improved, modified, altered, or developed by

the School District or otherwise) or any activities sponsored by the School District taking place on any such property, structures or equipment.

5.2 The indemnity provisions of Paragraph 5 shall not apply to any liability incurred by the School District as a result of any wrongful or tortious acts of the School District, its officers, agents or employees.

5.3 The indemnity provisions of Paragraph 5.1 hereof shall not apply to any liability or expenses incurred by the City as a result of any wrongful or tortious acts of the City, its officers, agents or employees.

5.4 The parties hereto agree to cooperate with one another in the defense of any claim, demand or rights of action within the terms of this Agreement.

5.5 In no case shall either party's obligation to indemnify the other party exceed the statutory liability limit of the other party.

## ARTICLE VI GENERAL PROVISIONS

6. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners, joint venture, or joint enterprise between the parties hereto or as constituting either party as an agent, representative or employee of the other for any purpose or in any manner whatsoever.

6.1 This Agreement is to be construed and understood solely as an Agreement between the parties hereto and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that she or he is a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties hereto, may be waived at any time by mutual agreement between the parties hereto.

6.2 Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed the original Agreement or their successors in office.

6.3 This Agreement, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

6.4 The waiver by the parties of any breach of any term, covenant, or condition herein contained, shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant, or condition herein contained.

6.5 Notice to City provided for herein shall be sufficient if sent by the regular United States mail, postage prepaid, addressed to Duluth Chief of Police, 2030 N. Arlington Avenue, Duluth, Minnesota 55811. Notices to School District shall be sufficient if sent by the regular United States mail, postage prepaid, addressed to ISD 709, Director of Business Services, 215 N 1<sup>st</sup> Ave East, Duluth Minnesota 55802 or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

6.6 This Agreement may be executed in separate counterparts with the same effect as if all signatures were on the same Agreement.

6.7 For purposes of this Agreement, a telecopy or facsimile document and signature shall be deemed as, and shall serve as, an original Agreement and signature.

6.8 This Agreement, along with any attached exhibits, embodies the entire understanding of the parties and there are no further or other agreements, permits, or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

6.9 The understandings of Paragraph 6.8 above shall also extend to any uncommunicated expectations the parties may have and not specifically mentioned in this Agreement.

*[Remainder of page intentionally left blank; signature page to follow.]*

IN WITNESS WHEREOF, the parties hereto have set their hands the day and date shown below.

CITY OF DULUTH

INDEPENDENT SCHOOL DISTRICT NO.  
709

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

By \_\_\_\_\_  
Chairman

ATTEST: \_\_\_\_\_  
City Clerk

ATTEST: \_\_\_\_\_  
Clerk

DATE:  
\_\_\_\_\_

Countersigned:  
  
\_\_\_\_\_  
City Auditor

Approved as to form:  
  
\_\_\_\_\_  
City Attorney



# EXHIBIT A

## DULUTH POLICE DEPARTMENT

### JOB SPECIFICATIONS

#### SCHOOL RESOURCE OFFICER

#### I. PURPOSE:

The Police Department maintains school resource officers to reduce delinquency and crime in the community; to help develop a better understanding of laws and law enforcement among young people and to develop and maintain a cooperative relationship with the Duluth School District.

#### II. ASSIGNMENT:

Assignment to the position of school resource officer shall be deemed temporary and not a promotion. Reassignment may occur at any time depending on officer performance and the need and priorities of the Police Department's Administration. Assignment as a school resource officer is anticipated to last three years, after which a rotation of assignment may occur.

All school resource officers work under the direct supervision of the Juvenile Services Unit Sergeant. During school holidays and days off, the school resource officer may be assigned other duties within the patrol area or elsewhere, depending upon departmental needs

#### III. DUTIES AND RESPONSIBILITIES:

The school resource officer's primary responsibility is one of being a sworn law enforcement officer. However, the school resource officer will assist in the coordination of a community approach to juvenile issues involving the schools, parents, police, and outside resources reaching the needs of both children and the community. This blended community approach will include:

- Actively promote and support the goals and mission statement of the Duluth Police Department;
- Promote and participate in the Department Community Policing effort;
- Operate under the direct administration and supervision of the Duluth Police Department;
- Conduct preliminary and follow-up investigations, complete initial event reports as necessary, and process assigned cases. The cases may involve the following assigned responsibilities:
  - interview complainants, witnesses, victims, and subjects, and taking statements when necessary;
  - collect and preserve evidence and provide for its identification and analysis;
  - prepare and serve search warrants and arrest warrants when needed;
  - complete written reports; and
  - present completed cases for prosecution or diversion in accordance with the guidelines set up by the St. Louis County Attorney and the Duluth Police Department



- Work in cooperation with the Duluth School District, District Court, St. Louis County Attorney's office, Arrowhead Regional Corrections, St. Louis County Social Services, Safe<sup>25</sup> School Healthy Students Partners, detention and shelter facilities;
- Process arrests during school days when possible. Process status and non-status offenders until Social Service agencies can become involved;
- Work with residents, businesses, students, and staff to identify and resolve unique neighborhood/school problems and issues;
- Serve as a resource to staff, administration, parents, and students regarding police and juvenile policies and procedures, and juvenile court procedures and determinations. Be available to help students who may be experiencing problems for whatever reasons.
- When available, respond to teachers' requests to speak to classes;
- Perform public relations activities as requested by the Duluth Police Department and the Duluth School District;
- Serve as a resource to other officers in coordinating and facilitating information and investigations concerning juveniles;
- Meet or participate in student focused teams at the school;
- Check school grounds for loiterers and take appropriate action;
- Make referral to the appropriate community agency or school personnel when the officer receives information or observes the conditions that jeopardize the welfare of students;
- When making enforcement decisions, be able to consider other courses of action to confinement, such as Bethany, releasing to family members, consulting with probation, social services or other appropriately responsible organizations.
- Work with school staff, offenders, victims and parents to resolve conflicts and help students develop conflict resolution skills.
- Speak with classes to educate them about what your responsibilities are to help them understand police can provide other services other than arrests.
- Establish a close association with youth who have committed delinquent acts to decrease recidivism;
- Identify gang activity and members; develop and implement plans related to deterring gang recruiting and increasing enforcement; and
- Monitor reported runaway reports and take action on same when appropriate. Make referral to appropriate human service agency.
- Assist with the School Safety Patrol and DARE Programs.

**RESOLUTION**

Employment of a School Board Member by the District

WHEREAS, the School Board member(s) below are/will be employed by the Duluth Public Schools during their service as a School Board member, and

WHEREAS, Minnesota Statute 123B.195 Board Member's Right to Employment requires that the member receive a majority approval by the School Board to be initially employed or to continue in employment at a meeting at which all board members are present, and

WHEREAS, Minnesota Statute 123B.195 Board Member's right to Employment states that the employment relationship will not exceed \$8,000 in a fiscal year, excluding compensation for being a School Board member,

BE IT RESOLVED, that the School Board authorize the employment of the following School Board members as listed, not to exceed \$8,000 in a fiscal year.

BOARD MEMBER

TIME FRAME

Jill Lofald

July 2021 - June 2022

Alanna Oswald

July 2021 - June 2022

Paul Sandholm

July 2021 - June 2022

**RESOLUTION**  
Acceptance of Donations to Duluth Public Schools

WHEREAS, Minnesota Statute 465.03 requires a school district to accept donations by resolution expressed in the terms prescribed by the donor in full; and,

WHEREAS, acceptance of the donations in accordance with the donor's terms is in the best interest of the Duluth Public Schools:

NOW, THEREFORE, BE IT RESOLVED that the Duluth Public Schools does accept the below-described donations from said organizations in accordance with the terms set forth herein.

BE IT FURTHER RESOLVED that the Duluth Public Schools wishes to extend its grateful appreciation to these various individuals and organizations.

<b>SCHOOL</b>	<b>DONOR</b>	<b>AMOUNT</b>	<b>RESTRICTION</b>	<b>COMMENTS</b>
East	Harbor Freight	\$200.00	Manufacturing classes	Must be used at Harbor Freight
Headstart	Janet Killough	\$50.00	None	

## RESOLUTION

Providing for the Issuance, Sale and Delivery of \$31,497,601.65 General Obligation Capital Appreciation Bonds, Series 2021C; Establishing the Terms and Form Thereof; Creating a Construction Fund and Debt Service Fund Therefor; and Awarding the Sale Thereof

BE IT RESOLVED, by the School Board (the “Board”) of Independent School District No. 709 (Duluth), St. Louis County, Minnesota (the “District”), as follows:

### Section 1. Bond Purpose and Authorization.

1.01 A. The District, pursuant to Minnesota Session Laws of 2020, 5<sup>th</sup> Special Session, Article 8, Section 4, and Minnesota Statutes, Chapter 475 (collectively, the “Act”), is authorized to issue general obligation bonds to provide funds to finance the elements of the facilities plan dated April 16, 2021 (the “Plan”), including (i) construction and equipping the District’s Administrative Service Center and Transportation Facility; (ii) renovation to the existing Facilities Building; (iii) site improvements and off-site improvements, including improving roads and infrastructure and demolition of the Duluth Central High School facility constructed in 1971; and (iv) furniture, fixtures and equipment and technology for such facilities (the “Project”). The Plan and the Project were approved by the Commissioner of Education on June 24, 2021. The Plan is incorporated in this resolution as though fully specified herein.

B. The Board has determined to issue its General Obligation Capital Appreciation Bonds, Series 2021C (the “Bonds”), in the amount of \$31,497,601.65 pursuant to the Act to pay for the Project and costs of issuance of the Bonds, and to pledge the District’s full faith and credit and power to levy direct ad valorem taxes to pay the principal of and interest on the Bonds.

1.02 Negotiated Sale. The District elects to apply the exception to the public sale requirement contained in Section 475.60, Subdivision 2(9) of the Act, as the District has retained Blue Rose Capital Advisors to act as its independent municipal advisor in connection with the sale of the Bonds.

1.03 Parameters Resolution. A resolution adopted by the Board on June 24, 2021, entitled “Resolution Regarding the Issuance of General Obligation Capital Appreciation Bonds, Series 2021C” (the “Parameters Resolution”), which authorized any officer of the District and the Superintendent or CFO/Executive Director of Business Services to serve as a pricing committee to approve the sale of the Bonds to Robert W. Baird & Co. Incorporated and execute a bond purchase agreement provided that the principal amount does not exceed \$31,500,000 and the TIC on the Bonds does not exceed 3.25%.

1.04 Notice of Intent. A Notice of Intent to Issue Bonds for the purpose of financing the Project was published in the official newspaper of the District as required by the Act.

1.05 Finding. All conditions precedent to the issuance of the Bonds pursuant to the Act have been fulfilled. The School Board hereby determines that it is necessary and desirable to finance the Project and to issue the Bonds therefor.

### 1.06 Award of Sale.

A. Pursuant to the exception to the public sale requirement described in Section 1.02 hereof and the Parameters Resolution, the District has solicited and received an offer from Robert W. Baird & Co., Inc. of Milwaukee, Wisconsin (the “Purchaser”), to purchase the Bonds at a cash price of \$31,140,128.52, upon the terms and conditions hereafter specified in this Resolution. The Board, after due consideration, finds that the conditions of the Parameters Resolution have been satisfied and that such offer is reasonable and proper and the offer of the Purchaser is accepted.

B. The actions of the officers of the District, the Superintendent and CFO/Executive Director of Business Services taken with respect to the execution on the part of the District of a bond purchase agreement for the sale of the Bonds in accordance with the Purchaser's proposal and the Parameters Resolution, are ratified and approved.

Section 2. Terms of the Bonds.

2.01 Designation; Denominations; Maturities; Interest Rates.

A. The Bonds to be issued hereunder shall be issued as fully-registered bonds designated the \$31,497,601.65 General Obligation Capital Appreciation Bonds, Series 2021C, dated August 31, 2021, as the date of original issue shall mature in the accreted maturity amounts (as hereinafter defined), of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward.

B. The Bonds shall be issued as capital appreciation bonds which shall mature on February 1 in the years and in the accreted amounts at maturity set forth in the following table, which table also sets forth, for each maturity, the total original principal amount, accreted amount at maturity (which accreted amount at maturity is also referred to herein as the "accreted maturity amount"), the aggregate original principal amount and the approximate yield to maturity applicable thereto, as follows:

<b>Maturity Date (February 1)</b>	<b>Total Accreted Amount at Maturity</b>	<b>Total Original Principal</b>	<b>Approximate Yield to Maturity</b>
2029	\$ 7,520,000.00	\$ 6,711,224.00	1.540%
2030	7,520,000.00	6,505,025.60	1.730%
2031	7,520,000.00	6,293,337.60	1.900%
2032	7,520,000.00	6,093,155.20	2.030%
2033	7,525,000.00	5,894,859.25	2.150%
<b>TOTAL</b>	<b>\$37,605,000.00</b>	<b>\$31,497,601.65</b>	

C. The principal maturities of the Bonds, together with the maturities of all other outstanding general obligation bonds of the District, meet the requirements of Minnesota Statutes, Section 475.54.

2.02 Redemption.

A. Optional Redemption. The Bonds shall be subject to redemption and prepayment at the option of the District on February 1, 2028, and any day thereafter at a price equal to the accreted amount thereof as of the most recent Compounding Date (hereinafter defined) occurring prior to the redemption date plus accrued interest on the Bonds to be redeemed from such Compounding Date to the date of redemption. Redemption may be in whole or in part of the Bonds subject to prepayment. Bonds or portions thereof called for redemption shall be due and payable on the redemption date, and interest thereon shall cease to accrue and compound from and after the redemption date, provide funds are on deposit at such time.

B. Partial Redemption. If redemption is in part, the maturities and the accreted amounts (in increments of \$5,000 of accreted maturity amount) within each maturity to be redeemed shall be determined by the District; and if only part of the Bonds having a common maturity date are called for prepayment, the specific Bonds to be prepaid shall be chosen by lot by the Bond Registrar hereinafter appointed. To effect a partial redemption of Bonds having a common maturity date, the Bond Registrar prior to giving notice of redemption shall assign to each Bond having a common maturity date a distinctive number for each \$5,000 of the accreted amount of such Bond. The Bond Registrar shall then select by lot, using such method of selection as it shall deem proper in its discretion, from the numbers so assigned to such Bonds, as many

numbers as, at \$5,000 for each number, shall equal the sum of said accreted amounts of such Bonds to be redeemed. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; provided, however, that only so much of the accreted amount of each such Bond of a denomination of more than \$5,000 of the accreted maturity amount shall be redeemed as shall equal \$5,000 of accreted amount for each number assigned to it and so selected. If a Bond is to be redeemed only in part, it shall be surrendered to the Bond Registrar and the District shall execute (if necessary) and the Bond Registrar shall authenticate and deliver to the Holder of the Bond, without service charge, a new Bond or Bonds having the same stated maturity and yield to maturity and of any authorized denomination or denominations, as requested by the Holder, in aggregate accreted amount equal to and in exchange for the unredeemed portion of the accreted maturity amount of the Bond so surrendered. Notwithstanding the foregoing, so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, Jersey City, New Jersey (“DTC”), selection of Bonds for redemption shall be subject to the requirements of the Representation Letter hereinafter defined.

C. Notice of Redemption. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days, but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co., notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure.

D. Partial Redemption of Bonds Held by Cede & Co. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the District or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine the amount of each maturity to be redeemed in the manner set forth above.

E. Prepayment Price. All prepayments shall be at a price equal to that set forth in Section 2.02A hereof.

2.03 Compounding Dates. The Bonds shall bear interest from the date of settlement at the annual yield to maturity stated therefor in Section 2.01. The interest on the Bonds of each maturity shall be compounded at the yield to maturity applicable to that maturity, as set out in Section 2.01, commencing on February 1, 2022, and semiannually thereafter on each February 1 and August 1 (each referred to herein as a “Compounding Date”). Interest on the Bonds shall be payable, together with the principal thereof, only at maturity or upon optional redemption thereof. For purposes of this Resolution and the Bonds, the accreted amount of each Bond as of a Compounding Date shall be the original principal amount thereof plus interest compounded in accordance with the foregoing provisions and accrued to said Compounding Date. As of any other date, it shall be the accreted amount as of the most recent Compounding Date prior to said date (or if the principal amount if such date precedes the first Compounding Date), plus simple interest thereon at a rate equal to the yield to maturity set forth in Section 2.01 (calculated upon the basis of a 360-day year of twelve 30-day months and rounded pursuant to the rules of the Municipal Securities Rulemaking Board) accrued from and after said Compounding Date (or the issuance date if the other date precedes the first Compounding Date).

#### 2.04 Preparation and Execution of Bonds.

A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Chair and attested by the manual or facsimile signature of the Clerk. In case any officer whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The Clerk is authorized and directed to obtain a copy of the approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, and cause the opinion to be attached to each Bond. If the legal opinion is not manually signed, the certificate as to legal opinion, in substantially the form set forth in Section 3 hereof, shall be executed by the manual signature of the Clerk. The Clerk is authorized and directed to execute the certificate in the name of the District upon receipt of the opinion and to file the opinion in the District offices.

#### 2.05 Appointment and Duties of Bond Registrar; Record Date.

A. The School Board hereby appoints U.S. Bank National Association, of St. Paul, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose unless or until either: (i) the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar or (ii) such Bond has been manually executed by at least one officer of the School Board. Authentication certificates on different Bonds need not be signed by the same representative. The executed Authentication Certificate or the manual signature of at least one officer of the School Board on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

B. The District shall cause to be kept at the principal corporate office of the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the District shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the School Board.

C. At the option of the registered owners, the Bonds may be exchanged for other Bonds of any authorized denomination, of a like aggregate accreted amount at maturity, maturing upon the same date, upon surrender of the Bonds to be exchanged at the principal corporate office of the Bond Registrar. Whenever any Bonds are so surrendered for exchange, the District shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver the Bonds which the registered owner making the exchange is entitled to receive. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the District shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the names(s) of the designated transferee(s), one or more new bonds of a like aggregate principal amount, as requested by the transferor. All Bonds surrendered upon the exchange provided for in this Resolution shall be promptly cancelled by the Bond Registrar and thereafter disposed of as directed by the School Board. All Bonds issued in exchange for or upon transfer of the Bonds shall be valid obligations of the District evidencing the same debt and entitled to the same benefits under this Resolution as the Bonds surrendered for such exchange or transfer. Every Bond presented for a transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, in form satisfactory to the District and the Bond Registrar, duly executed by the registered owner thereof or the owner's attorney duly authorized in writing. The District or the Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in

connection with the transfer or exchange of the Bonds, other than exchange expressly provided in this Resolution to be made, without expense or without charge to the registered owner.

D. Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication or manual execution, as the case may be. The District and the Bond Registrar shall not be required (i) to make any transfer or exchange during the 15 days next preceding any payment date on the Bonds (the "Payment Date"), (ii) to make any transfer or exchange of any Bonds called for redemption, or (iii) to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of notice of redemption in the case of a proposed redemption of the Bonds.

#### 2.06 Book-Entry System.

A. In order to make the Bonds eligible for the services provided by DTC, the District has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the District and DTC (the "Representation Letter").

B. Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

C. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the District on each Payment Date to the account of Cede & Co. on each Payment Date at the address indicated in or pursuant to the Representation Letter.

D. DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the District shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and delivery, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the District and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the accreted amount on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.



E. The District and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

F. All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

G. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of any Bond and any legal or unusual costs regarding transfers and lost bonds.

H. Bonds registered in the name of Cede & Co. may not after their original delivery, be transferred or exchanged except in accordance with the terms and conditions of the Letter of Representations and:

- (i) upon exchange of a Bond after a partial redemption, if provided in Section 2.03 of this Resolution;

- (ii) to any successor of the Depository (or its nominee) or any substitute depository (a "Substitute Depository") designated pursuant to clause (iii) below; provided that any successor of the Depository or any Substitute Depository must be both a "clearing corporation" as defined in the Minnesota Uniform Commercial Code, Minnesota Statutes, Section 336.8-102, and a qualified and registered "clearing agency" as provided in Section 17A of the Securities Exchange Act of 1934, as amended;

- (iii) to a Substitute Depository designated by and acceptable to the District upon (a) the determination by the Depository that the Bonds shall no longer be eligible for its depository services or (b) a determination by the District that the Depository is no longer able to carry out its functions; provided that any Substitute Depository must be qualified to act as such, as provided in subclause (ii) above; or

- (iv) in the event that (a) the Depository shall resign or discontinue its services for the Bonds or be declared no longer able to carry out its functions and the District is unable to locate a Substitute Depository within two months following the resignation or discontinuance or determination of noneligibility, or (b) the District determines in its sole discretion that (1) the continuation of the book-entry system described herein might adversely affect the interests of the beneficial owners of the Bonds, or (2) it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, then the District shall notify the Holders of its determination and of the availability of replacement Bonds to Holders. The District, the Bond Registrar and the Depository shall cooperate in providing Replacement Bonds to Holders

requesting the same and the registration, transfer and exchange of such Bonds shall thereafter be conducted as provided in Section 3 of this Resolution.

I. In the event of the designation of a Substitute Depository as authorized by clause H., the Bond Registrar, upon presentation of a Bond, shall register their transfer to the Substitute Depository, and the Substitute Depository shall be treated as the Depository for all purposes and functions under this Resolution. The Letter of Representations shall not apply to the Substitute Depository unless the District and the Substitute Depository so agree, and the execution of a similar agreement is hereby authorized.

2.07 Lost or Damaged Bonds. If a Bond becomes mutilated or is destroyed, stolen or lost, the Bond Registrar will deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Bond Registrar and the District in connection therewith, including the cost of printing new Bonds; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Bond Registrar and the District of evidence satisfactory to them that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Bond Registrar and the District of an appropriate bond or indemnity in form, substance and amount satisfactory to them and as provided by law, in which both the District and the Bond Registrar must be named as obligees. Bonds so surrendered to the Bond Registrar will be canceled by the Bond Registrar and evidence of such cancellation must be given to the District. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms, it is not necessary to issue a new Bond prior to payment.

2.08 Payment of Bonds.

A. The District and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the accreted amount on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the District nor the Bond Registrar shall be affected by notice to the contrary.

B. The accreted amount on the Bonds shall be payable by the Bond Registrar in such funds as are legal tender for the payment of debts due the United States of America. The District shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of the accreted amount.

2.09 Delivery. Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the District and the Purchaser. Printed or typewritten and executed Bonds shall be furnished by the District without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the Clerk to the Purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

R-\_\_ \$ \_\_\_\_\_

INDEPENDENT SCHOOL DISTRICT 709  
(DULUTH)

GENERAL OBLIGATION CAPITAL APPRECIATION BOND  
SERIES 2021C

<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
February 1, 20__	August 31, 2021	

REGISTERED OWNER: CEDE & CO.

ACCRETED AMOUNT  
AT MATURITY: \_\_\_\_\_ DOLLARS

Independent School District 709, St. Louis County, Minnesota (the “District”), for value received, promises to pay to the registered owner specified above, or registered assigns, unless called for earlier redemption, in the manner hereinafter set forth, the accreted amount at maturity specified above. The accreted amount at maturity set forth above is the original principal amount hereof with interest from the date of original issue stated above, accreted and payable with principal on the maturity date specified above, at a yield to maturity which, compounded on each February 1 and August 1, commencing February 1, 2022 (each such date, a “Compounding Date”), results in the accreted amount set forth for such date in the table attached hereto, for the specified amount per \$5,000 accreted amount at maturity, subject to the provisions for redemption of this Bond before maturity referred to below.

The “accreted amount” of this Bond, per \$5,000 of accreted amount at maturity (also referred to as “accreted maturity amount”), as of any given February 1 is the original principal amount hereof plus interest accrued or compounded to such date, as set forth on the table attached hereto for each applicable February 1.

Interest on this Bond will not be paid separately, but will only be paid with principal as accreted amount. The accreted amount of this Bond is payable in lawful money of the United States of America by check or draft at the main office of U.S. Bank National Association in St. Paul, Minnesota, as bond registrar, authenticating agent, paying agent and transfer agent (the “Bond Registrar”), or at the office of such successor Bond Registrar as may be designated by the School Board. The Bond Registrar shall make all payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the District by the Bond Registrar at the close of business on the 15th day of the month next preceding the maturity date or the redemption date (the “Payment Date”) (whether or not a business day) at such owner’s address shown on said bond registration records, without, except for payment of principal of the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligation of the District to the extent of the payments so made. Payment of the accreted amount at maturity shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit and taxing power of the District are irrevocably pledged.

This Bond is one of a series issued by the District in the aggregate principal amount of \$31,497,601.65 and a total accreted amount at maturity of \$37,605,000.00, all of like date and tenor, except as to number, maturity date, denomination, yield and redemption privilege, pursuant to the authority contained in Minnesota Session Laws of 2020, 5<sup>th</sup> Special Session, Article 8, Section 4, and Minnesota Statutes, Chapter 475, and all other

laws thereunto enabling, and pursuant to an authorizing Resolution adopted by the governing body of the District on August 17, 2021 (the “Resolution”), for the purpose of providing funds to finance the elements of the facilities plan dated April 16, 2021 (the “Plan”), including (i) construction and equipping the District’s Administrative Service Center and Transportation Facility; (ii) renovation to the existing Facilities Building; (iii) site improvements and off-site improvements, including improving roads and infrastructure and demolition of the Duluth Central High School facility constructed in 1971; and (iv) furniture, fixtures and equipment and technology for such facilities (the “Project”), and payment of the cost of issuance of the Bonds. The Plan and the Project were approved by the Commissioner of Education on June 24, 2021. The accreted amounts on this Bond are payable from ad valorem taxes levied upon all taxable property in the District as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds of this series are subject to redemption and prepayment at the option of the District on February 1, 2028, and on any day thereafter, in whole or in part, and if in part at the option of the District and in such manner as the District shall determine and by lot as to Bonds maturing in the same year, at a price equal to the accreted amount thereof as of the most recent Compounding Date occurring prior to the redemption date plus simple interest on the Bonds to be redeemed accrued to the date of redemption. Redemption may be in whole or in part of the Bonds subject to prepayment. If redemption is in part, the maturities and the accreted amounts (in increments of \$5,000 of accreted maturity amount) within each maturity to be redeemed shall be determined by the District; and if only part of the Bonds having a common maturity date are called for prepayment, the specific Bonds to be prepaid shall be chosen by lot by the Bond Registrar. Bonds or portions thereof called for redemption shall be due and payable on the redemption date, and interest thereon shall cease to accrue and compound from and after the redemption date.

Not more than 60 days and not less than 30 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, Jersey City, New Jersey (“DTC”), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the District and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the District or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed.

The District has qualified the Bonds for participation in the State of Minnesota program to preclude default of school district debt, pursuant to Minnesota Statutes, Section 126C.55. If the District is unable to make any portion of the principal or interest payment on the Bonds on or before any Payment Date, the State of Minnesota has agreed to make such payment in the District’s place.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to the limitations set forth in the Resolution, the District will, at the request of the registered owner, issue one or more new fully registered Bonds in the name of the registered owner in the aggregate accreted maturity amount equal to the unpaid accreted maturity amount of this Bond, and of like tenor except as to number and accreted maturity amount. This Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the District shall execute and the Bond Registrar shall authenticate, if required by law or the Resolution, and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate accreted maturity amount equal to the accreted maturity amount of this Bond, of the same maturity. No service charge shall be made for any transfer or exchange hereinbefore referred to but the District may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The accreted amounts of the Bonds of this issue, together with the original principal amount thereof, per \$5,000 of accreted amount at maturity, are set forth in the table attached hereto. The accreted amount on any date other than the maturity date set forth on the table attached hereto is (i) if the date is a Compounding Date, the accreted amount as of the Compounding Date, or (ii) if the date is not a Compounding Date, the accreted amount as of the most recent Compounding Date prior to such date (or is the original principal amount if the date precedes February 1, 2022) plus simple interest at a rate equal to the yield to maturity of the Bond (calculated on the basis of a 360 day year of twelve 30 day months) accrued from and after said Compounding Date (or the issuance date if the other date precedes February 1, 2022) to such other date.

IT IS CERTIFIED AND RECITED that all acts and conditions required by laws and the Constitution of the State of Minnesota to be done and to exist precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the District in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the corporate limits of the District is subject to the levy of ad valorem taxes to the extent needed to pay the accreted amount at maturity hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the District to exceed any constitutional or statutory limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives or this Bond has been manually executed by at least one officer of the District.

IN WITNESS WHEREOF, Independent School District 709, St. Louis County, Minnesota, by its governing body, has caused this Bond to be executed in its name by the facsimile signature of the Chair and attested by the facsimile signature of the Clerk.

ATTEST:

(form – no signature required)  
Clerk

(form – no signature required)  
Chair

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR’S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturity date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

U.S. BANK NATIONAL ASSOCIATION  
St. Paul, Minnesota  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

**REGISTRATION CERTIFICATE**

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by U.S. Bank National Association of St. Paul, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner’s attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on said books in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
8/31/2021	Cede & Co. c/o The Depository Trust Company 570 Washington Boulevard Jersey City, NJ 07310 Federal Taxpayer I.D. No.: 13-2555119	_____

**TABLE OF ACCRETED AMOUNTS**

<b>Date</b>	<b>Bond Component 2/1/2029 1.54%</b>	<b>Bond Component 2/1/2030 1.73%</b>	<b>Bond Component 2/1/2031 1.90%</b>	<b>Bond Component 2/1/2032 2.03%</b>	<b>Bond Component 2/1/2033 2.15%</b>
08/31/2021	4,462.25	4,325.15	4,184.40	4,051.30	3,916.85
02/01/2022	4,490.85	4,356.30	4,217.50	4,085.55	3,951.90
08/01/2022	4,525.45	4,394.00	4,257.55	4,127.00	3,994.35
02/01/2023	4,560.30	4,432.00	4,298.00	4,168.90	4,037.30
08/01/2023	4,595.40	4,470.35	4,338.85	4,211.20	4,080.70
02/01/2024	4,630.80	4,509.00	4,380.05	4,253.95	4,124.60

<b>Date</b>	<b>Bond Component 2/1/2029 1.54%</b>	<b>Bond Component 2/1/2030 1.73%</b>	<b>Bond Component 2/1/2031 1.90%</b>	<b>Bond Component 2/1/2032 2.03%</b>	<b>Bond Component 2/1/2033 2.15%</b>
08/01/2024	4,666.45	4,548.00	4,421.65	4,297.15	4,168.90
02/01/2025	4,702.40	4,587.35	4,463.65	4,340.75	4,213.75
08/01/2025	4,738.60	4,627.05	4,506.05	4,384.80	4,259.05
02/01/2026	4,775.05	4,667.05	4,548.90	4,429.30	4,304.80
08/01/2026	4,811.85	4,707.45	4,592.10	4,474.30	4,351.10
02/01/2027	4,848.90	4,748.15	4,635.70	4,519.70	4,397.85
08/01/2027	4,886.25	4,789.25	4,679.75	4,565.55	4,445.15
02/01/2028	4,923.85	4,830.65	4,724.20	4,611.90	4,492.95
08/01/2028	4,961.75	4,872.45	4,769.10	4,658.70	4,541.25
02/01/2029	5,000.00	4,914.60	4,814.40	4,706.00	4,590.05
08/01/2029		4,957.10	4,860.15	4,753.75	4,639.40
02/01/2030		5,000.00	4,906.30	4,802.00	4,689.25
08/01/2030			4,952.90	4,850.75	4,739.70
02/01/2031			5,000.00	4,900.00	4,790.65
08/01/2031				4,949.75	4,842.15
02/01/2032				5,000.00	4,894.20
08/01/2032					4,946.80
02/01/2033					5,000.00

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_  
Social Security or Other  
Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

---

(Bank, Trust Company, member of  
National Securities Exchange)

*Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the District or its agent for registration of transfer, exchange or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.*

Section 4. Covenants, Accounts and Representations.

4.01 Construction Fund. On receipt of the purchase price of the Bonds, the District shall credit the proceeds from the sale of the Bonds in the amount of \$31,140,128.52 to a separate construction fund, which is hereby created and designated as the “2021C Bonds Construction Fund” (the “Construction Fund”). Proceeds from the Bonds on deposit in the Construction Fund shall be used from time to time to pay the capital costs of the Project, including but not limited to, costs of construction, planning, architectural, engineering, legal, municipal advisory and other professional services, printing and publication costs, and costs of issuance of the Bonds, as such become due.

4.02 Debt Service Fund.

A. A separate debt service fund is hereby created and is designated as the “General Obligation School Capital Appreciation Bonds, Series 2021C Debt Service Fund” (the “Debt Service Fund”).

B. There is hereby pledged and appropriated and there shall be credited to the Debt Service Fund: (i) the accrued interest in the amount of \$0.00; (ii) the rounding in the amount of \$0.00; (iii) the ad valorem taxes hereinafter levied; and (iv) investment earnings on the monies identified in the foregoing clauses (i) through (iii). The proceeds of the Bonds described in clauses (i) and (ii) of the preceding sentence shall be used for payment of interest on the Bonds. Upon completion of the Project, any unspent proceeds in the Construction Fund shall be transferred to the Debt Service Fund.

C. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the CFO/Executive Director of Business Services shall pay the same from any other funds of the District and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied.

4.03 Tax Levy.

A. For the prompt and full payment of the principal and interest on the Bonds when due, the full faith and credit and taxing power of the District are hereby irrevocably pledged. There is hereby levied a direct, annual, ad valorem tax upon all taxable property within the District which shall be extended upon the tax rolls and collected with and as part of the other general property taxes in the District for the years and in the amounts set forth on *Exhibit A* hereto and incorporated herein by reference as though fully specified in this Section.



B. Said levies are such that if collected in full they will produce between five and six percent in excess of the amount needed to meet when due the principal and interest payments on the Bonds.

C. Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that on November 30 of each year, while any Bonds issued hereunder remain outstanding, the District may reduce or cancel the above levies to the extent of the amount which has been appropriated to and is on deposit in the Debt Service Fund to pay the principal of and interest on the Bonds, and may direct the County Auditor to reduce the levy for such year by that amount.

4.04 Investments. Monies on deposit in the Construction Fund and in the Debt Service Fund may, at the discretion of the CFO/Executive Director of Business Services, be invested in securities permitted by Minnesota Statutes, Chapter 118A, that any such investments shall mature at such times and in such amounts as will permit for payment of Project costs and/or payment of the principal and interest on the Bonds when due.

4.05 Minnesota School District Credit Enhancement Program.

A. The Board hereby covenants and obligates itself to be bound by the provisions of Minnesota Statutes, Section 126C.55. The Board covenants and obligates itself to deposit with the Bond Registrar, as paying agent, three business days prior to any payment date an amount sufficient to make the payment of accreted maturity amount due or to notify the State of Minnesota Commissioner of Education not less than 15 working days prior to such payment date that it is unable to make all or a portion of the payment due on such payment date. The District understands that as a result of its covenant to be bound by the provisions of Minnesota Statutes, Section 126C.55, the provisions of that section shall be binding as long as any Bonds of this issue remain outstanding.

B. The Bond Registrar is authorized and directed to notify the Commissioner of Education if it becomes aware of a potential default in the payment of the accreted maturity amount on the Bonds or if, on the day two business days prior to the date a payment is due on the Bonds, there are insufficient funds to make that payment on deposit with the Bond Registrar.

C. The District further covenants to comply with all procedures now or hereafter established by the Department of Management and Budget and the Department of Education of the State of Minnesota pursuant to Minnesota Statutes, Section 126C.55 and otherwise to take such actions as necessary to comply with that section.

Section 5. Tax Covenants.

5.01 General. The District covenants and agrees with the holders of the Bonds that the District will (i) take all action on its part necessary to cause the interest on the Bonds to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, permitting excessive private use of the Project and private payments therefrom, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

5.02 Investment Yield Restriction. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in

an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other District account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

5.03 Eighteen-Month Spending Exemption to Rebate. Pursuant to Section 1.148-7(d) of the U.S. Treasury Regulations, relating to exception from rebate for certain proceeds of the Bonds spent within a specified time frame, the District reasonably expects that the gross proceeds and investment earnings thereon will be allocated to project costs allocable to the Bonds in accordance with the following schedule measured from the date of closing and delivery of the Bonds:

- A. at least 15% within six months (the first spending period);
- B. at least 60% within 12 months (the second spending period); and
- C. 100% within 18 months (the third spending period);

provided that the Bonds will not fail to satisfy the spending requirement herein specified as a result of reasonable retainage not exceeding five percent of the proceeds of the Bonds if such amount is allocated to the portion of the project costs allocable to the Bonds within 30 months of the date of closing and delivery of the Bonds. In the event proceeds of the Bonds are not so spent, the District will compute and cause the payment to the United States of all amounts required under the rebate requirement of Section 148(f) of the Code and the Regulations issued thereunder.

#### Section 6. Certificates of Proceedings; Miscellaneous.

6.01 Filing of Resolution; County Auditor Certificate. The Clerk is directed to file in the office of the County Auditor of St. Louis County a certified copy of this Resolution and such other information as the County Auditor may require, and to obtain from the County Auditor a certificate stating that the Bonds herein authorized have been duly entered on the Auditor's register and that the tax required by law for the payment of said Bonds has been levied.

6.02 Authentication of Transcript. The officers of the District are authorized and directed to prepare and furnish to the Purchaser and to Bond Counsel certified copies of all proceedings and records of the District relating to the authorization and issuance of the Bonds and to the financial condition and affairs of the District and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the District as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 Offering Materials. The Official Statement relating to the Bonds, on file with the Clerk and presented to this meeting, is hereby approved and deemed final, and the furnishing thereof to prospective purchasers of the Bonds is hereby ratified and confirmed, insofar as the same relates to the Bonds and the sale thereof. The Chair and Clerk are hereby authorized and directed to certify that they have examined the

Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as of the date of the Official Statement.

6.04 Absent or Disabled Officers. In the event of the absence or disability of the Chair, Clerk or CFO/Executive Director of Business Services, such officers or members of the Board as in the opinion of the District's attorney may act in their behalf shall, without further act or authorization, execute and deliver the Bonds, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

6.05 Defeasance. When all of the Bonds have been discharged as provided in this Section, all pledges, covenants and other rights granted by this Resolution shall cease. The District may discharge its obligations with respect to any Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit. The District may also discharge all Bonds of said issue at any time by irrevocably depositing in escrow with the Bond Registrar, for the purpose of paying all principal and interest due on such Bonds to maturity, a sum of cash or securities of the types described in Section 475.67 of the Act, as amended, in such aggregate amount, bearing interest at such rates and maturing or callable at the District's option on such dates as shall be required to provide funds sufficient for this purpose.

Section 7. Continuing Disclosure. The Board of the District acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the Holders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Chair and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the District.

Section 8. Post-Issuance Compliance Policy and Procedures. The School Board has previously approved a Post-Issuance Debt Compliance Policy and Post-Issuance Debt Compliance Procedures which applies to qualifying obligations to provide for compliance with all applicable federal regulations for tax-exempt obligations or tax-advantaged obligations (collectively, the "Policy and Procedures"). The School Board hereby approves the Policy and Procedures for the Bonds. The Chief Financial Officer/Executive Director of Business Services continues to be designated to be responsible for post-issuance compliance in accordance with the Policy and Procedures.

**EXHIBIT A**  
**TAX LEVY SCHEDULE**

<b>Levy Year</b>	<b>Collection Year</b>	<b>Tax Levy</b>
2027	2028	\$7,896,000
2028	2029	7,896,000
2029	2030	7,896,000
2030	2031	7,896,000
2031	2032	7,901,250

**RESOLUTION**  
Release and Pledge of Collateral

BE IT RESOLVED, by the School Board of Independent School District No. 709, St. Louis County, Minnesota, that it hereby releases the \$500,000 par value FHOR note, CUSIP number XXXXXXXXA0, pledged as collateral by Harbor Pointe Credit Union.

BE IT FURTHER RESOLVED, By the School Board, that it accepts the pledge collateral of a \$500,000 par value FHOR note maturing 1/28/2026, CUSIP number XXXXXXRZ1 in exchange for the released collateral noted above.

**RESOLUTION**  
Petition to Vacate Street Alley or Utility Easement

WHEREAS, Petitioner comprises at least 51% ownership of the real property abutting the property for which the vacation is sought, as depicted on the attached Exhibit A; and

WHEREAS, the description of street, alley, or easement to vacate:

7th Street East lying between 20<sup>th</sup> Avenue East and 21<sup>st</sup> Avenue East, being 66 feet in width and ½ adjacent to property owned by Safe Haven Shelter for Battered Women and ½ adjacent to property owned by Independent School District No. 709; and

WHEREAS, Petitioner requests the vacations due to the adjacent property for which it owns at least 51%; and

WHEREAS, the subject easement is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city as the structures they serviced are no longer located on the property; and

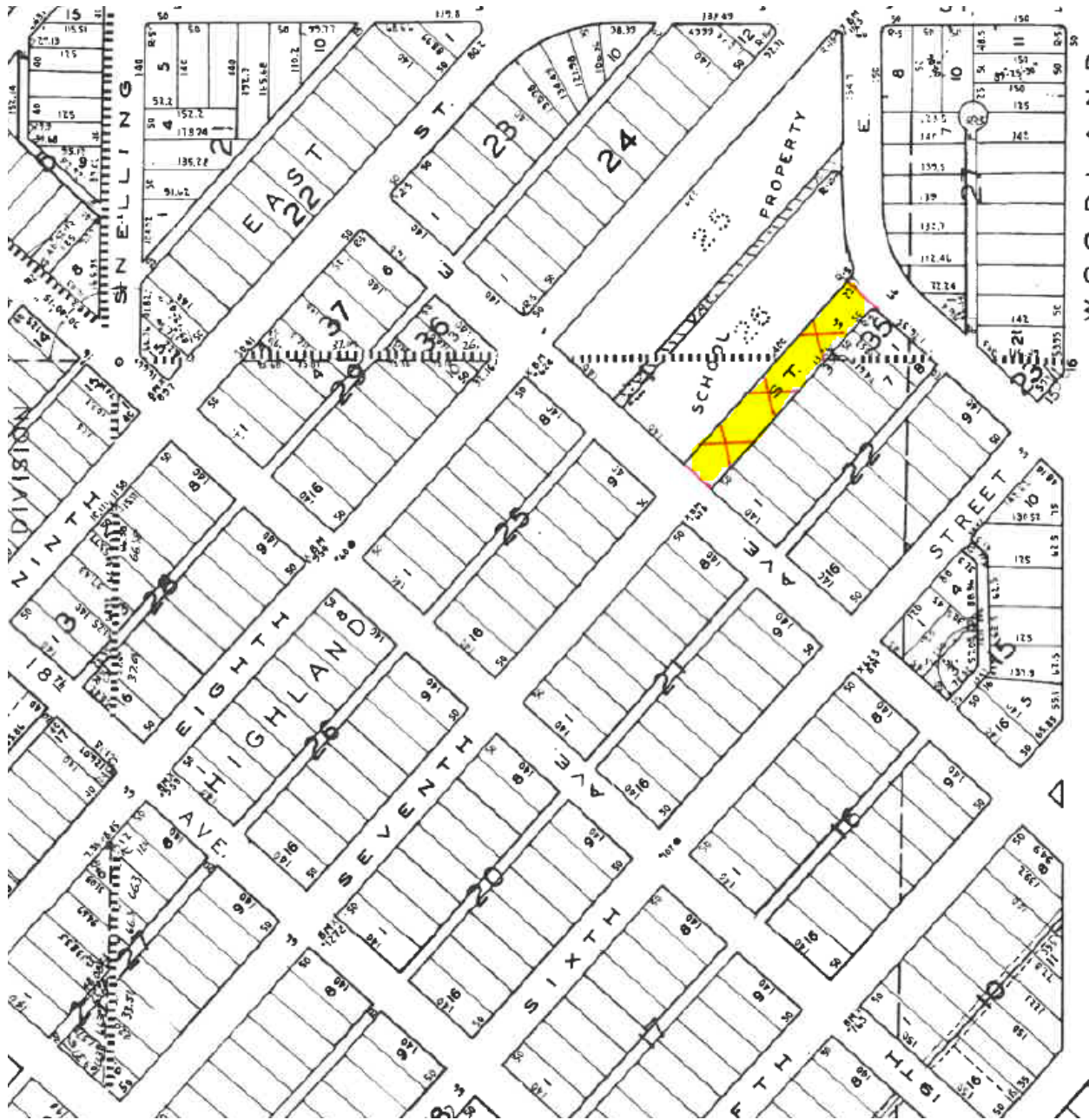
WHEREAS, the subject easement is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth; and

WHEREAS, the vacation requested will allow for the continued, uninterrupted use of the adjacent properties.

NOW THEREFORE, BE IT RESOLVED, by the School Board of Independent School District No. 709, St. Louis County, State of Minnesota, authorizes the applications and petition to the City of Duluth requesting the vacation as shown on Exhibit A and in the description above.

BE IT FURTHER RESOLVED that the School Board authorizes the School Board Chair to execute any applicable paperwork for this petition and vacation.

EXHIBIT A



## Petition to Vacate Street Alley or Utility Easement

**Name:**           **SAFE HAVEN SHELTER FOR BATTERED WOMEN  
INDEPENDENT SCHOOL DISTRICT NO. 709, formerly the  
Board of Education of the City of Duluth**

**Description of street, alley, or easement to vacate:**

7th Street East lying between 20<sup>th</sup> Avenue East and 21<sup>st</sup> Avenue East, being 66 feet in width and ½ adjacent to property owned by Safe Haven Shelter for Battered Women and ½ adjacent to property owned by Independent School District No. 709.

A map disclosing those specific portions described is attached hereto as Exhibit A.

**My request for this vacation is to (indicate purpose of vacation):** Petitioners requests the vacations to accrue to the adjacent property for which it owns at least 51%.

**The City of Duluth will not need this street, alley, or easement in the future because:** The structures they serviced are no longer located on the property.

**PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Counsel to vacate the street, alley, or easement described in the attached legal description.**

**This petition is made upon the following facts and reasons (identify the actual basis and reasons supporting the petition)<sup>1</sup>:**

1.       Petitioner comprises at least 51% ownership of the real property abutting the property for which the vacation is sought, as depicted on the attached Exhibit A.
2.       The subject easement is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city as the structures they serviced are no longer located on the property.
3.       The subject easement is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
4.       The vacation requested will allow for the continued, uninterrupted use of the adjacent properties.

---

<sup>1</sup> In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.



**This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signature of these persons is attached hereto and made a part hereof.<sup>2</sup>**

**The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.**

**Signature(s):** \_\_\_\_\_

**Signature(s):** \_\_\_\_\_

**Date:** \_\_\_\_\_.

**Notice: This is public data.**

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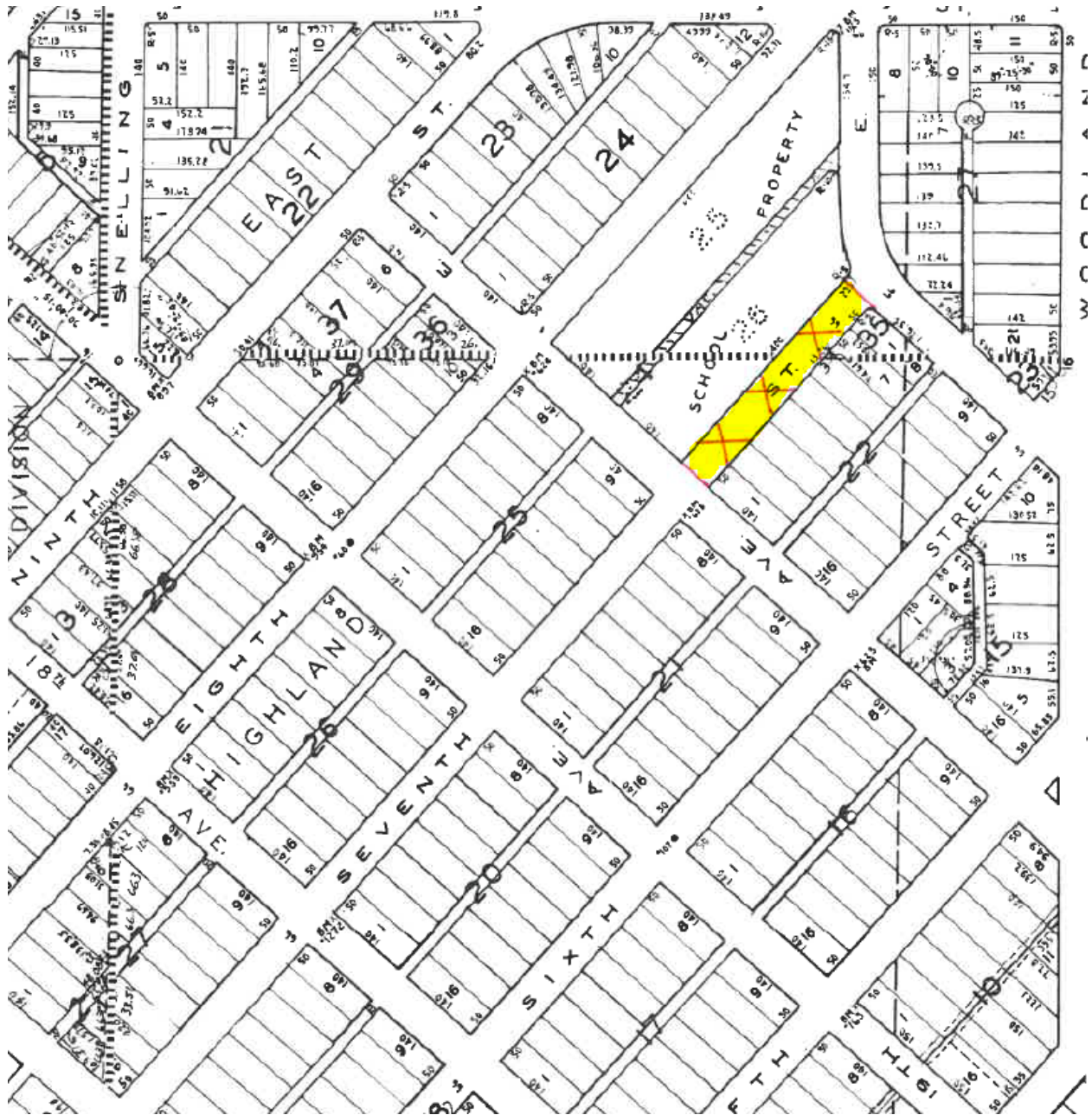
<sup>2</sup> If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.


**Petition Signature Form**

We, the undersigned, do hereby request that the City of Duluth consider vacation:

N/A

EXHIBIT A



 <b>ISD 709</b> <b>Duluth</b> <b>Public Schools</b>	<b>ISD #709</b> <b>Duluth Public Schools</b> HOCHS Relocation Project
	Monthly Progress Report July 2021
Address: 215 N. 1 <sup>st</sup> Avenue East, Duluth, MN 55802	

### Recent Progress and Activities:

- The City of Duluth City Council listened to the 1st reading of the re-platting agreement on 7/13/21. They will have the second reading on 8/16/21. A final plat application will be created and issued to the Planning and Zoning for final approval in the coming months.
- The School Board, on July 13th, approved the Developers agreement for the Old Central site.
- Temporary lease space for District Services and ABE is finalized. The ALC/AEO lease space is in the contract/lease review stages.
- The design is still in full swing on the District Services Center, Transportation Building, and Facilities remodel. The design team has been meeting every week, pushing forward with floor plans and details. Currently, the design team is in the final Construction Document (CD) phase, with recent design changes, which are now scheduled to be completed on August 11th.
- A detailed wetland delineation report was requested from the City. This survey report has been completed and issued to the City for approval.
- HOCHS move-out meetings that establish expectations have and will continue to occur. Details of these meetings include processes of inventorying HOCHC, grading existing furniture, labeling furniture for final locations, setting staff expectations, and decommissioning the facility.
- Continued refinement of the phasing of the construction and milestone schedule.

## Upcoming Activities and Next Steps:

- Project consultants will be working with the District administration to comply with all required approvals associated with the special legislation process. Notable aspects of this process include:
- A second reading at the City Council meeting discussing the re-platting of the two parcels at the Central on the Hill site will occur on 8/16/21. This process will lead to a regulatory plan that is planned to be submitted on 8/13/21, a development agreement, and a city permit with the City of Duluth.
- The project is in the Construction Document phase and is scheduled to be completed in mid-August.  
Public bidding is scheduled to commence in late August 2021.
- Continued refinement of construction budgets as the documents continues to be developed.
- Ongoing communication with staff regarding move-out of HOCHS and move-in to lease spaces.  
Reconfiguration of the existing cubicles at the UHG lease space location will start in the coming month.

**Expenditure Contracts Signed  
July 2021**

For your information, the Superintendent or the CFO, Executive Director of Business Services has signed the following expenditure contracts during the above timeframe.

**\* Not to Exceed:** If asterisk is noted, then the contract has a guaranteed maximum price; District may not pay more than the dollar amount listed (this does not mean the vendor will invoice this amount and may invoice much less).

**\*\* Contract is paid via monies from:**

**DR** = Department Restricted (LTFM, Indian Education Funds, Compensatory, Achievement Integration)

**DU** = Department Unrestricted (General Fund)

**G** = Grant (external grants from foundations such as Northland, Duluth Superior Area Community)

**SAF** = Student Activity Funds (monies raised by students, gate fees, etc.)

<b>Name</b>	<b>Amount*</b>	<b>Contract Source**</b>	<b>Description</b>
Joseph Montano Sr	\$10,000.00*	American Indian Education (DR)	Cultural opportunities for drumming, teaching and organizing events
Leanna Hudson	\$22,000.00*	Asst. Superintendent (DR)	FY22 Families in Transition Program Coordinator
Leanna Hudson	\$22,000.00*	Asst. Superintendent (DR)	FY21 Families in Transition Program Coordinator (March – June 2021)
Innovative	\$94,105.01	Business Services (DU)	HOCHS relocation with moving supplies, inventory
Logikcull	\$20,004.00*	Business Services (DU)	Business Services processing software
ARC Northland	\$2,136.00*	Community Education (DR)	Direct support services for student
Great Lakes Excavating	\$15,000.00*	Facilities (DR)	Homecroft school drainage correction; Total cost of project is \$34,562.00 (balance paid by grants)
Van Iwaarden Associates	\$15,000.00*	Finance (DU)	Actuarial Services for FY22 and FY23
Trillium Services Inc.	\$9,850.56*	Special Services (DR)	Direct support services and special education paraprofessional duties
Lake Superior College (LSC)	\$19,000.00	Teaching and Learning (DU)	College in the Schools (CITS) FY22

AT&T	\$1,000.00	Technology (DU)	Hot spot testing
Spectrum	\$10,000.00	Technology (DU)	Fiber optic service for UHG

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 28th day of June 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and Joseph Montano Sr, an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:** *(insert or attach as appropriate)*

1. **Dates of Service.** This Agreement shall be deemed to be effective as of June 28, 2021 and shall remain in effect until June 30, 2021, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** The Contractor will provide cultural opportunities such as drumming, teaching moccasin game, and organizing events for the American Indian Education Department, district wide.

3. **Background Check.** *(applies to contractors working independent with students)*

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$ 10,000 (Ten thousand dollars). The Contractor will be paid \$75.00 (Seventy five dollars) hour. Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall



not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

**7. Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

**8. Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensation, and any other taxes or business license fees as required.

**9. Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

**10. Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Edye Washington, Coordinator for American Indian Education Department. 215 North 1<sup>st</sup> Avenue East, Duluth, MN 55802.

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to (mailing address with zip)  
Joseph Montano Sr. 35357 Community Rd. #20 Bayfield, WI 54814

**11. Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

**12. Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

**13. Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.


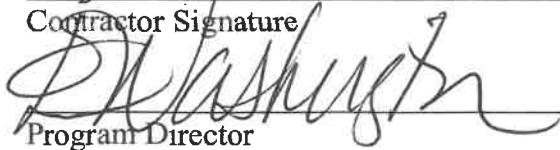
17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Contractor must provide Workers Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

**AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT,** set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

	[REDACTED]	6/28/2021
Contractor Signature	SSN/Tax ID Number	Date
		6/30/2021
Program Director		Date

**Please note:** All signatures *must* be obtained AND the following *must* be completed by Program Director before submission to the CFO for review and approval. This contract is funded by the following budget (include full 16 digit code):

01-E-005 605-320-305-340					
01	605	005	320	340	130500

*Catherine E. Boer*

CFO/Superintendent of Schools/Board Chair

*7/6/21*

Date

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 19 day of May, 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and Leanna Hudson, an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contactor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:** *(insert here or attach as appropriate)*

1. **Dates of Service.** This Agreement shall be deemed to be effective as of October 1, 2021 and shall remain in effect until June 30, 2022, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

2. **Performance.** Support services include: Connecting with ISD 709 Families in Transition program coordinator to determine needs of families and students, meet with families in shelters or households to determine concerns and community support options, provide parenting support individually or in small groups at shelter and/or transitional housing sites, assist parents in maintaining appointments for children/youth within the community and school.

3. **Background Check.** (applies to contractors working independent with students)

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

If Contractor already completed background check for their business needs, Contractor stipulates that the background checks are completed, on file, and will be made available for review if the District should request.

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

4. **Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$32/hour and \$22,000.00 in total.

Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided

**5. Request for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

**6. Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

**7. Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

**8. Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State Income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

**9. Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Katie Danielson, 215 North 1st Avenue East, Duluth, MN 55802.

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to 1545 Torgenson Road, Duluth, MN 55804.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

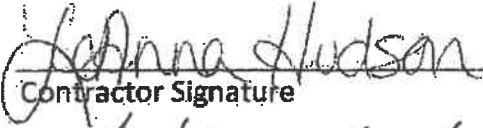
Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:


**Workers' Compensation Insurance:** Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.


**18. Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written:

  
 Contractor Signature

  
 SSN/Tax ID Number

5-19-21  
 Date

  
 Program Director Signature

7/14/21  
 Date

Please note: All signatures must be obtained AND the following must be completed by Program Director before submission to the CFO for review and approval.

This contract is funded by either:

1. The following budget (include full 16 digit code); or
2. Will be paid using Student Activity Funds; or
3. Is no cost contract (e.g. Memorandum of Understanding).

Please check the appropriate line below:

  2   Check if the contract will be paid using District Funds, using the codes below.

01	005	216	401	303	637
01	005	203	868	303	180

       Check this box if the contract will be paid using Student Activity Funds.

       Check this box if this contract is a no-cost contract such as a Memo of Understanding.

  
 CFO / Superintendent of Schools / Board Chair

7-14-21  
 Date



## AGREEMENT

**THIS AGREEMENT**, made and entered into this 1st day of June, 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and Leanna Hudson, an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:** *(insert here or attach as appropriate)*

**1. Dates of Service.** This Agreement shall be deemed to be effective as of June 01, 2021 and shall remain in effect until September 30, 2021, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

**2. Performance.** Support services include: Connecting with ISD 709 Families in Transition program coordinator to determine needs of families and students, meet with families in shelters or households to determine concerns and community support options, provide parenting support individually or in small groups at shelter and/or transitional housing sites, assist parents in maintaining appointments for children/youth within the community and school.

**3. Background Check.** *(applies to contractors working independent with students)*

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

If Contractor already completed background check for their business needs, Contractor stipulates that the background checks are completed, on file, and will be made available for review if the District should request.

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

**4. Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$32/hour and \$22,000.00 in total.

Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided

- 5. Request for Reimbursement.** The terms of payment under this Agreement are as follows:
- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
  - b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

**6. Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

**7. Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

**8. Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment insurance taxes, workers compensations, and any other taxes or business license fees as required.

**9. Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Katie Danielson, 215 North 1st Avenue East, Duluth, MN 55802.

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to 1545 Torgenson Road, Duluth, MN 55804.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

**18. Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 – Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

**AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT**, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written

<u>Jeanna Hudson</u>	<u>[REDACTED]</u>	<u>6-3-21</u>
Contractor Signature	SSN/Tax ID Number	Date
<u>Anthony Bush</u>		<u>7/14/21</u>
Program Director Signature		Date

**Please note:** All signatures **must** be obtained AND the following must be completed by Program Director before submission to the CFO for review and approval.

**This contract is funded by:**  
American Recovery Plan (APR) Homeless I Allocations

<u>Caroline Gilson</u>	<u>7-14-21</u>
CFO / Superintendent of Schools / Board Chair	Date



952.808.9900 | 866.574.5389

INNOVATIVEOS.COM

SALES PERSON Mike Guggenberger  
952-698-9241  
mguggenberger@innovativeos.com

# PROPOSAL

DATE 07/29/2021  
CUSTOMER NAME DULUTH PUBLIC SCHOOLS ISD 709  
CUSTOMER NUMBER C100951  
CUSTOMER PO  
ORDER NAME Duluth Move Process  
ORDER NUMBER 202855  
PROJECT NUMBER  
TERMS NET30

**BILL TO**  
DULUTH PUBLIC SCHOOLS ISD 709  
215 N 1ST AVE E  
DULUTH, MN 55802-2058

**SHIP TO**  
DULUTH PUBLIC SCHOOLS ISD 709  
215 N 1ST AVE E  
DULUTH, MN 55802-2058

ATTN: Greg Jones - (218) 336-8845

ATTN: Greg Jones - (218) 336-8845

\*Quote excludes Soil & Water Department, Detached garage storage and 1890's Muse

GROUP	DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED AMOUNT
CONTENTS MOVE	Scope of the project to include: *Move furniture and contents as described to other school locations. *Customer to box contents and label items to be moved. *Project to be completed in phases during regular hours. *Estimate includes drivetime as needed to and from our Minneapolis warehouse. *Assumes functional and exclusive use of the elevator as needed at origin and destination.	1.0	94,030.00	94,030.00

LINE	DESCRIPTION	QUANTITY	EXTENDED AMOUNT
3	OFFICE EMPLOYEE CONTENTS & FILES *Relocate approx. (100) employee's contents and files as needed to temp space. *Quote excludes all furniture except vertical, lateral and pedestal files as needed. *Employee contents from the following departments: ECFE, Preschool, Food Service, Room #313 Storage, Indian Education, Grant Programs, Curriculum, Technology, Budget, Business, Superintendent, SPED, Community Education, Human Resources, Special Services, Assistant Superintendent. *Excludes all basement storage items.	1.00 Each	16,600.00
5	ADDITIONAL/ALTERNATE *Relocate approx. (50) file cabinets from boardroom mezzanine area.	1.00 Each	1,400.00
7	RELOCATE ALC & AOE OFFICES AND CLASSROOMS *Relocate classroom and office contents, curriculum and files as needed. *Relocate music, art and storage areas. *Quote excludes all furniture except vertical, lateral and pedestal files. *Excludes all basement storage.	1.00 Each	14,500.00
8	RELOCATE ALC & AOE OFFICES AND CLASSROOMS *Relocate and redistribute approx. (30) PC's, customer to label and prep to move.	1.00 Each	650.00
9	ADDITIONAL/ALTERNATE *Budget to relocate 100% of classroom and office furniture. *Actual bid to be completed once a reuse assessment is completed.	1.00 Each	13,350.00
10	RELOCATE ADULT ED OFFICES AND CLASSROOMS *Relocate classroom and office contents, curriculum and files as needed.	1.00 Each	5,500.00



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\*Quote excludes all furniture except vertical, lateral and pedestal files.

11	RELOCATE ADULT ED OFFICES AND CLASSROOMS *Relocate and redistribute approx. (15) PC's, customer to label and prep to move.	1.00 Each	350.00
12	ADDITIONAL/ALTERNATE *Budget to relocate 100% of classroom and office furniture. *Actual bid to be completed once a reuse assessment is completed.	1.00 Each	6,650.00
13	PRINT SHOP AREA (BASEMENT) *Relocate all contents and storage. *Relocate misc. storage furniture as needed. *Copiers and printers to be moved by others, likely per lease agreement.	1.00 Each	5,400.00
14	SPED STORAGE AND FILE ROOM (BASEMENT) *Relocate all contents and storage items. *Relocate misc. storage furniture as needed.	1.00 Each	2,200.00
15	RELOCATE BOOKROOM (BASEMENT) *Relocate all contents and storage items from bookroom. *Relocate misc. shelving as needed.	1.00 Each	3,300.00
16	LOWER HALLWAY STORAGE (BASEMENT) *Relocate all palletized and hallway storage items. *Knockdown, relocate and reinstall approx. (12) sections of racking.	1.00 Each	4,500.00
17	LOWER-LEVEL JANITOR STORAGE AREA (BASEMENT) *Stir carry contents as needed at origin, relocate to alternate site.	1.00 Each	2,700.00
18	ADDITIONAL STORAGE AREAS (BASEMENT) *Relocate Technology, science and curriculum storage areas. *Excludes all shelving assembled or disassembled.	1.00 Each	4,400.00
19	COMPANIES FOR CLASSROOMS (BASEMENT) *Relocate all contents. *Knockdown, relocate and reinstall approx. (14) sections of gondola shelving.	1.00 Each	4,400.00
20	DELIVER PACKING MATERIALS *Deliver packing materials and stage on each floor as needed.	1.00 Each	1,300.00
21	MATERIALS Materials (Labels - 500) Qty (10) rolls @ \$15 ea.	1.00 Each	160.00
22	MATERIALS (Boxes) Qty 2,500 @ \$1.50 ea.	1.00 Each	4,200.00
23	MATERIALS (Tape) Qty 10 @ \$2.50 ea.	1.00 Each	270.00
24	MATERIALS (Large Speedpack boxes) Qty 100 @ \$20 ea.	1.00 Each	2,200.00

GROUP	DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED AMOUNT
DECOMMISSIO		1.0	0.01	0.01
LINE	DESCRIPTION	QUANTITY	EXTENDED AMOUNT	



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1.00 0.01
Each

2 DECOMMISSION
TBD

Table with 5 columns: GROUP, DESCRIPTION, QUANTITY, UNIT PRICE, EXTENDED AMOUNT. Row 1: INVENTORY ASSESSMENT, 1.0, 75.00, 75.00

Table with 4 columns: LINE, DESCRIPTION, QUANTITY, EXTENDED AMOUNT. Row 1: 1, INVENTORY ASSESSMENT \$75.00 per hour per person. Total TBD, 1.00, 75.00

Representatives from Innovative Office Solutions will be assisting Duluth School District in assessing the condition of existing furniture in the district office building. Innovative will provide its input to District personnel whether to Recycle, Reuse or Auction off this furniture. Neither Innovative Office Solutions nor their representatives is responsible for the final decision and assumes no liability for the District's decision in relation to the disposition of the assessed furniture.

Remit to address for deposits:
Innovative Office Solutions, LLC PO Box
860627
Minneapolis, MN
55486-0627

Table with 2 columns: Description, Amount. Rows: SUBTOTAL \$94,105.01, TOTAL \$94,105.01, REQUIRED DEPOSIT 50.0% \$47,052.51

PROPOSAL VALID FOR 14 DAYS

Thank you for the opportunity to partner together. Please review the quotation and let us know if you have any questions.

Signature: [Handwritten Signature] Name: Catherine Erickson Title: CFO Date: 7/29/21





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INNOVATIVEOS.COM

SALES PERSON

Mike Guggenberger  
952-698-9241  
mguggenberger@innovativeos.com

## PROPOSAL

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### THANK YOU FOR THE OPPORTUNITY

We are thrilled for the opportunity to partner together on your project. The terms and conditions below outline a working understanding for the project journey and is intended to set both organizations up for success. If you have questions or concerns, please contact us directly.

### QUOTES AND PRICING

Please review your final project plan and quote to confirm it will fit your space and workplace needs. Quoted prices are good for 14 days from the date of the proposal. Due to the volatile transportation conditions in 2021, freight will be billed based upon actual. Unless otherwise noted, prices quoted do not include sales, use, excise, or other applicable taxes. Any applicable taxes will be added or adjusted on the invoice at the time of billing. Buyers exempt from taxes should provide Innovative with copies of exemption certificates prior to placing the order.

### DESIGN AND ORDERING

Innovative's Design team will work with you and/or your team to design a space that is customized to your budget, style and unique needs to transform your space/s and bring your vision to life. If you do not want to move forward with us on a project, the design work remains the exclusive property of Innovative Office Solutions and we reserve the right to invoice you for the design costs incurred.

### NEED FOR DEPOSITS

A deposit of 50% of the order is required on all projects in excess of \$5,000. The deposit is essential as our vendor partners require payment from us when placing orders. Once the deposit is received, we will place your order. Payments must be in the form of check, ACH or wire transfer. Credit cards are not accepted for deposits or other furniture payments over \$5,000.

### PAYMENT TERMS

Our Innovative team will send invoices following delivery and installation completion. To ensure a seamless accounting experience, please send payment within 30 days of the invoice date. It is not uncommon for a project to be substantially complete, except for a few punch list items. We appreciate you paying your invoice in full. Innovative will complete your project when outstanding items and/or parts become available.

### CHANGES

Once we receive the sign off on design plan and proposed budget, your order will be placed. Due to the customization of many projects, once orders are placed, most products are not returnable. Modifications or cancellations may result in cancellation or restocking charges by our manufacturer partners. Unfortunately, we will need to invoice you if such charges are incurred. Where a Scope of Work is included with this Agreement, costs resulting from changes in the scope of the project, including any additional requirements or restrictions placed on Innovative will be added to the project price. When Innovative becomes aware of the nature and impact of the change, you will be notified, and all project paperwork will be updated as necessary. In this instance, a revised quote will be generated for signoff.

### PROJECT DELAYS AND STORAGE

We understand projects are occasionally delayed. This may mean you are unable to accept product from us as scheduled. When this occurs, Innovative will store your items at no charge for up to 30 days to provide you with additional time to ensure your space is ready for installation. After 30 days, we will provide a quote to continue to store your product, as we want to make sure it is safe and in a secure location.

### DELIVERY AND RECEIPT OF PRODUCT

We will contact you once we are notified your product has been shipped and is on its way. Your product will be delivered during regular business hours. In order to provide an exceptional delivery experience, we ask that you inform us of any unique circumstances that a driver or install team may face during a delivery. This may include such challenges as a downtown location or the need for a liftgate. Providing us with this information ensures that product is delivered to the proper location within your facility and will reduce the chances of damage to any of the items.

We kindly ask you to inspect all product directly shipped and/or delivered and brought onto the job site as scheduled. If you discover product has been damaged or shipped in error during the receiving process, please notify us within 24 hours to ensure that appropriate claims can be



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filed. After product arrives at your site, any loss or damage caused by other trades or by weather, fire or other elements is your responsibility.

INSTALLATION PREMISES CONDITIONS

It is our sincere priority to make sure the installation of your product is timely, professional, and as efficient as possible. To facilitate this, we ask the site to be clean, clear, and free of debris prior to installation. The jobsite should have proper lighting, heat, power source, hoisting and/or elevator service and suitable unobstructed dock space and a secured staging area. The job site shall also be free of the interference of other trades in the area where installation is taking place.

We understand in certain situations spaces are not ready for installation when the initial date was scheduled. If this is the case, please provide at least a 48-hour notice so we can keep your project on track to the best of our ability. If proper, timely communication does not occur, unfortunately additional charges may be invoiced to cover costs incurred. Our Installation Team installs product based on the final approved layout. If there are any changes to the final plan, please make sure these are addressed prior to the installation date.

WARRANTY

Each manufacturing partner of Innovative has a warranty standard. For more information on warranty details, reach out to your Innovative Account Executive. Warrantied product replacements may require billable installation services.

CLAIMS

Innovative will help resolve claims concerning damaged and/or defective product, materials and/or workmanship made within the warranty period as stated by the manufacturer, supplier, or fabricator. We will arrange for the repair or replacement of any damaged or defective items and/or installation to make sure the project is successful.

FORCE MAJEURE

We will do our absolute best to ensure we can secure and install your product, but if there are reasons beyond our control, Innovative will not be liable. Reasons include but are not limited to, strikes, pandemics, embargos, war or other breakout of hostilities, acts of God, machinery breakdowns, delays of carriers or suppliers, and domestic or foreign governmental acts or regulations.

GOVERNING LAW

This agreement shall be governed by and construed according to the laws of the State of Minnesota.

ARBITRATION

We want to make this a true partnership and resolve any issues that may occur. Any controversies or claims arising relating to this contract will be settled by arbitration administered by the American Arbitration Association. They will fall under its commercial rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court with authority. The award shall include the costs of arbitration and the legal fees of the prevailing party.

THANK YOU FOR YOUR PARTNERSHIP

Innovative Office Solutions is built upon a "relationships matter" belief system, and every project matters to us. We are thankful for the opportunity to partner together and we look forward to serving you!

Handwritten signature


Authorized Signature


7/29/21

Date

05 E 005 850 000 305 000

<b>logikcull</b>		<b>Logikcull Subscription License</b>
<b>Customer: Duluth Public Schools</b> <b>Address: 215 N. 1st Ave. E., Room 215, Duluth, MN 55802</b>		
<b>Primary Account Holder</b>	<b>Name:</b> Catherine Erickson <b>Phone:</b> (218) 336-8704 <b>Email Address:</b> catherine.erickson@isd709.org	
<b>Licensing</b>	<ul style="list-style-type: none"> <li>Logikcull Discovery Solution: drag &amp; drop collection &amp; ingestion, automated processing, ECA &amp; review platform, search capability, unlimited production &amp; exports             <ul style="list-style-type: none"> <li><b>Unlimited</b> Users</li> <li><b>Unlimited</b> Active Matters</li> <li><b>Dedicated</b> Customer Success Manager</li> <li>Premium Solution and Features</li> <li><b>100 GB</b> (gigabytes) of Active Storage data space</li> </ul> </li> <li>Premium in-app support with 24/7 coverage</li> </ul>	<b>Monthly: \$1,667</b>  This agreement supersedes and replaces any prior agreement
<b>Terms</b>	<ul style="list-style-type: none"> <li>Contract Term: 08/01/2021 - 07/31/2022</li> <li>Renewal Date: 08/01/2022</li> <li>Unless notified in writing 60 days prior to renewal, order form will auto-renew for a one-year term at the end of the prior term.</li> <li>Payment Terms: Annually, Due Upon Receipt of Invoice</li> <li>Payment Method: Check</li> <li>Data size is based on the post-processed, post de-duplicated high watermark data size.</li> <li>Additional Flex Data will be \$25 per stored GB per month</li> <li>Governed by the Logikcull Terms of Service: <a href="https://logikcull.com/terms-of-service">https://logikcull.com/terms-of-service</a></li> </ul>	

<b>Customer:</b>	
<b>Sign:</b>	
<b>Name:</b>	Catherine A. Erickson
<b>Title:</b>	CFO
<b>Date:</b>	07/29/21

<b>Logik Systems, Inc.:</b>	
<b>Sign:</b>	 /s/ Andrew Wilson
<b>Name:</b>	Andrew Wilson
<b>Title:</b>	Chief Executive Officer
<b>Date:</b>	07/29/2021

01-E-012-110-000-305-000  
 ok to pay / Imbalent  
 Direct pay  
 7/29/21

Catherine Erickson

\$20,004.00  
 Annual fee

Terms of Service  
Effective November 27th, 2019

PLEASE READ THESE TERMS OF SERVICE CAREFULLY. CUSTOMER AGREES TO THESE TERMS AND CONDITIONS BY (A) CLICKING TO ACCEPT OR AGREE WHERE SUCH OPTION IS MADE AVAILABLE TO CUSTOMER, OR (B) ACTUALLY USING OR ACCESSING THE SERVICE AND SITE (THE "EFFECTIVE DATE").

These Terms of Service constitute an agreement (the "Agreement") by and between Logik Systems, Inc. ("Logik") and the corporation, LLC, partnership, sole proprietorship, other business entity, or individual ("Customer") agreeing to this Agreement. This Agreement is effective as of the Effective Date. Customer's use of and Logik's provision of the Service (as defined below in Section 1) are governed by this Agreement.

**1. DEFINITIONS.** The following capitalized terms will have the following meanings whenever used in this Agreement:

a. "Aggregated Statistics" means data, metadata, and information related to Customer's use of the Service, excluding Hosted Data, that is used by Logik in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Service.

b. "Documentation" means Logik's standard information related to use of the System, which can be found at <https://support.logikcull.com/>

c. "Feedback" means any suggestion or idea for improving or otherwise modifying any of Logik's products or services.

d. "Hosted Data" means all information, data and materials uploaded, created, modified, stored in the Service by Customer or Customer's Users, including, without limitation, all uploaded & created data post de-duplication and de-nesting, including the extracted native files, the extracted or OCR'd text files, the rendered PDF files, and zipped downloads. By way of example, a 1GB (gigabyte) PST uploaded may extract to 2GB of extracted and created data, but 50% of the data may be duplicate. In this example, the total data size consumed is 1GB, not 2GB, because of the duplicate data detected.

e. "Privacy Policy" means Logik's Privacy Policy found at <https://www.logikcull.com/privacy-policy>.

f. "Service" means the hosted eDiscovery and document management solution for online storage, sharing and processing of files, documents, materials, images, videos, or other content, including all updates, modifications, and enhancements thereto, as made generally available by Logik.

g. "Site" means Logik's web site located at <https://app.logikcull.com>.

h. "Users" means any individual who uses the Service on Customer's behalf or through Customer's account or passwords, whether authorized or not.

## 2. ACCESS AND USE OF THE SERVICE.

a. Provision of Access. Subject to and conditioned on Customer's payment of fees and compliance with all the terms and conditions of this Agreement, Provider hereby grants Customer a non-exclusive, non-transferable right to access and use the Service during the Term, solely for use by Users in accordance with the terms and conditions herein. Such use is limited to Customer's internal use. Logik shall provide to Customer the necessary passwords and network links or connections to allow Customer to access the Service. A Users access to and use of the Service signifies their acceptance of Logik's service terms and obligations as detailed in this Agreement. Customer will ensure its Users comply with the terms of this Agreement. Customer will be liable for all acts and omissions of its Users, including but not limited to any fees or expenses incurred through a Users' use and access to the Service.

b. Documentation. Customer may access, reproduce, and use the Documentation solely as necessary to support Users' use of the Service.

c. Customization. Customer may request features or functionality not already offered through the Service. If Logik determines that such requests are feasible, Logik may choose to provide those features or functionalities to Customer for an additional fee. The terms and conditions of such fees and customization will be detailed via a separate written statement of work ("SOW") to be executed by the parties for such professional services by Logik.

d. System Requirements. A stable internet connection and modern browser such as Firefox or Google Chrome is required to access and use the Service. The Service may work in a limited manner on other web browsers, but the Service is designed for use on modern browsers. For a list of currently supported browsers go to support.logikcull.com.

e. Updates; Modifications. Logik reserves the right, in its sole discretion, to update, modify, or remove the features, functionality, or other aspects of the Service at any time.

f. Trial Period. This Agreement also applies to any trial period that Customer may be using, which begins when Customer first accesses the Service. During any such trial period certain usage restrictions may apply. If Customer upgrades to a paid subscription plan and desires to keep the Hosted Data uploaded during the trial period, the trial period Hosted Data retained will become billable at the then-current rates pursuant to Section 11 of this Agreement. Termination will occur immediately upon expiration of the trial period if Customer does not upgrade to a paid plan. ANY NATIVE DATA ENTERED OR UPLOADED INTO THE SERVICE, AND ANY CUSTOMIZATIONS MADE TO THE SERVICE DURING THE TRIAL, WILL BE PERMANENTLY DELETED AND UNAVAILABLE UNLESS CUSTOMER UPGRADES TO A PAID SERVICE PRIOR TO THE CLOSE OF THE TRIAL PERIOD. CUSTOMER UNDERSTANDS AND

ACKNOWLEDGES THAT IT WILL NOT BE ENTITLED TO RECEIVE ANY ADDITIONAL FREE TRIALS ONCE THE INITIAL TRIAL PERIOD HAS EXPIRED.

g. Suspension of the Service. Without limiting Logik's termination rights herein, Logik reserves the right, at any time, with or without notice in Logik's sole and absolute discretion, to temporarily suspend or otherwise deny access to or use of the Service, without incurring obligation or liability, for: (a) scheduled or unscheduled maintenance; (b) maintaining the security or integrity of Logik's network, hardware, or associated systems or those of Logik third party providers; (c) unusual spikes in activity or usage of the Service; (d) unplanned technical problems or outages; (e) the actual or suspected violation of this Agreement by Customer or any of its Users; (f) any failure by Customer to pay an invoice when due; (g) judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires Logik to do so; or (h) the expiration or termination of this Agreement. Logik will use reasonable efforts to notify Customer of any scheduled maintenance. Logik will not be liable for any suspension or disablement of the Service that occurs pursuant to this Section 2.g.

#### CUSTOMER RESPONSIBILITIES & RESTRICTIONS.

a. General. Customer is responsible and liable for all uses of the Service and Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Users, and any act or omission by an User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Users aware of this Agreement's provisions as applicable to such User's use of the Service, and shall cause Users to comply with such provisions.

b. Restrictions. Customer shall not use the Service for any purposes beyond the scope of the access granted in this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Users to: (i) copy, modify, or create derivative works of the Service or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Service or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Service, in whole or in part; (iv) remove any proprietary notices from the Service or Documentation; (v) use the Service in a manner that comprises the integrity of Service or the confidentiality of other users of the Service; and (vi) use the Service or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

c. Notification of Unauthorized Use. Customer will immediately notify Logik of any actual or threatened unauthorized use of or access to the Service or Customer's Hosted Data

that comes to Customer or a User's attention. In the event of any such unauthorized use, Customer will take all steps necessary to terminate such unauthorized use or threatened activity and to mitigate its effects. Additionally, Customer will provide Logik with such cooperation and assistance related to any such unauthorized use as Logik may reasonably request. Notification of such unauthorized use or other security concerns should be reported to Logik at [security@logikcull.com](mailto:security@logikcull.com).

#### HOSTED DATA.

a. Customer Responsibility. Customer shall retain sole responsibility for: (a) all Hosted Data, including its content and use; (b) all information, instructions and materials provided by Customer or any User in connection with the Service; (c) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services; (d) the security and use of Customer's and its Users' account access credentials; and (e) all access to and use of the Service directly or indirectly by or through the Customer systems or Customer and Users' account access credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use. Logik will have no responsibility or liability for the accuracy of data uploaded to the Service by Customer, including without limitation Hosted Data.

b. Customer Access and Security. Customer shall employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all account access credentials and protect against any unauthorized access to or use of the Service; and (b) control the content and use of Hosted Data, including the uploading or other provision of Hosted Data for processing by the Service.

c. Data Privacy and Security. This Agreement and use of the Service and Site are subject to the Privacy Policy. The Privacy Policy applies only to the Service and Site, and does not apply to any third-party website or service linked to the Service. Logik shall maintain appropriate administrative, physical and technical safeguards to protect the security, confidentiality and integrity of Hosted Data, including encryption of Hosted Data at rest and in internet transmission (using TLS or similar technologies). Except otherwise set forth in this Agreement, Logik shall not disclose Hosted Data to any third party for any purpose other than to provide the Service, support, or related services to Customer.

d. Processing of Hosted Data. Subject to the terms of this Agreement, Logik shall use commercially reasonable efforts to process Hosted Data in accordance with the normal functions of the Service. Notwithstanding the foregoing, Customer understands and acknowledges that due to file type, file corruption, encryption, or automatic image conversion issues, there may be times when: (a) Hosted Data cannot be extracted and processed; (b) a certain amount of Hosted Data may not be suitable or available for

extraction from text, metadata or other information; or (c) file images may not correctly format when image files are created from native documents for purposes of review or production (collectively, "Exception" or "Exceptions"). Such Exceptions may limit the function of any searching, filtering or other analysis of the Hosted Data within the Service. Additionally, Customer understands that in processing data there are times data is lost or damaged. Customer will be responsible for and shall maintain adequate back-up and archival copies of all Hosted Data. Logik shall bear no liability with respect to any of Hosted Data that is lost or damaged as a result of the processing Hosted Data.

e. Data Processing Addendum. To the extent the Service provided to Customer will include Processing (as defined in the [Data Processing Addendum](#)) of personal data subject to the laws of the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom, including, without limitation, GDPR (as defined in the Data Processing Addendum), then the parties agree that the additional terms and conditions set forth in the Data Processing Addendum shall be incorporated herein by this reference, and each party agrees to comply with the terms and conditions set forth in the Data Processing Addendum.

f. Ownership of Hosted Data. Customer is and will remain the sole and exclusive owner of all right, title and interest in and to all Hosted Data. Customer grants Logik a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for Logik, Logik's personnel, and Logik's authorized third parties to provide the Services, including, but not limited to, maintenance of the Services and Customer's account, improving search and tagging functions with Customer's account, and supporting the integrity of the Services and data processing systems. Customer hereby irrevocably grant all such rights and permissions in or relating to Hosted Data as are necessary or useful for Logik.

g. Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, Logik may monitor Customer's use of the Service and collect and compile Aggregated Statistics. As between Logik and Customer, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Logik. Customer acknowledges that Provider may compile Aggregated Statistics based on Customer data input into the Service. Customer agrees that Logik may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law; provided that such Aggregated Statistics do not identify Customer or Customer's Confidential Information.

## 5. INTELLECTUAL PROPERTY; FEEDBACK.

a. Ownership. Logik owns all right, title, and interest in and to the Service and the Site (including without limitation all software used to provide the Service and all graphics, user interfaces, logos, and trademarks reproduced through the Service), Logik's Confidential Information, and the Feedback including all intellectual property rights



contained therein. Except for the express rights granted in Section 2, no other licenses or rights are granted by Logik, by implication, estoppel or otherwise, and all rights not expressly granted herein are reserved. Customer may not modify, publish, transmit, reproduce, create derivative works or improvements from, distribute, display, incorporate into another web site, or in any other way exploit the Service or the Site, in whole or in part, without prior written permission from Logik.

b. Feedback. Customer has not agreed to and does not agree to treat as confidential any Feedback Customer or Users provide to Logik, and nothing in this Agreement or in the parties' dealings arising out of or related to this Agreement will restrict Logik's right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting Customer or the User in question. Notwithstanding the provisions of Section 6 below, Feedback will not be considered Confidential Information, provided information Customer transmits with Feedback or related to Feedback may be considered Confidential Information.

c. Trademarks. The Service and Site contains valuable trademarks owned and used by Logik to distinguish Logik services from those of others. The Service and Site may also contain references to other entities' trademarks and service marks, but such references are for identification purposes only and are used with permission of their respective owners. Logik does not claim ownership in, or any affiliation with, any third-party trademarks or service marks appearing in the Service or Site. Customer will not use or display Logik's trademarks without Logik's prior written consent.

## 6. CONFIDENTIALITY.

a. "Confidential Information" shall include confidential or proprietary technical, business or financial information and materials disclosed by Customer or Logik to the other party, whether orally or in writing, that is designated or identified as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances surrounding the disclosure. Hosted Data constitutes Customer Confidential Information. Notwithstanding the foregoing, the Service, and any associated pricing, documentation, product roadmaps, business and marketing plans, and any information related to the foregoing constitutes the Confidential Information of Logik, regardless of a lack of confidentiality marking or reasonableness determination.

b. Both Parties agree to hold Confidential Information in confidence and protect such Confidential Information from disclosure to any third party, other than as expressly set forth in this Agreement and to limit access to the other party's Confidential Information to such of its personnel, agents, subcontractors, suppliers and/or consultants, if any, who have a need to access such information in accordance with the terms of this Agreement. Both parties agree that all Confidential Information is proprietary to the disclosing party or such third party, as applicable, and shall remain the sole property of the disclosing party or such third party.

c. Confidential Information shall not include any information that: (i) is or becomes

generally known to the public without breach of any obligation owed to disclosing party; (ii) was known to the receiving party prior to its disclosure by the disclosing party without restriction on use or disclosure; (iii) was independently developed by the receiving party without breach of any obligation owed to disclosing party; or (iv) is rightfully received from a third party without restriction on use or disclosure.

d. **Compelled Disclosures.** Notwithstanding the foregoing, Logik reserves the right to disclose Confidential Information in response to an order of a court or other governmental body of competent authority or as otherwise required by law or regulation to be disclosed (“Compelled Disclosure”), provided that, Logik will use reasonable efforts to provide Customer with prior notice (to the extent legally permitted) in order to afford Customer an opportunity to seek a protective order or otherwise challenge the Compelled Disclosure. Customer is responsible for any expenses incurred in seeking to prevent a Compelled Disclosure. After provision of such prior notice, Logik will not be liable if Logik complies with the disclosure after giving Customer a reasonable amount of time to respond.

## 7. REPRESENTATIONS AND WARRANTIES; DISCLAIMER.

a. **From Customer.** Customer represents and warrants that: (a) it has the full right and authority to enter into, execute, and perform its obligations under this Agreement; (b) it has accurately identified itself and it has not provided any inaccurate information about itself or its Users to or through the Service; (c) it is a corporation, the sole proprietorship of an individual 18 years or older, or another entity authorized to do business pursuant to applicable law; and (d) the information Customer provides in registering for the Service is accurate, complete, and is Customer has the right to use and disclose to Logik.

b. EXCEPT FOR THE WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICE AND SITE ARE PROVIDED TO CUSTOMER ON AN “AS IS” AND “AS AVAILABLE” BASIS. LOGIK EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, ACCURACY, COMPLETENESS, ADEQUACY OF INFORMATION AND ALL OTHER WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. LOGIK DOES NOT WARRANT THAT THE SERVICE AND SITE WILL OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE, OR THAT DEFECTS CAN BE CORRECTED. ADDITIONALLY, ALL THIRD-PARTY MATERIALS ARE PROVIDED “AS IS” AND LOGIK EXPRESSLY DISCLAIMS ALL WARRANTIES RELATED TO THE THIRD-PARTY SOFTWARE, MATERIALS OR WEB BROWSERS THAT CUSTOMER MAY NEED TO USE IN CONJUNCTION WITH THE SERVICE OR SITE. ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY SOFTWARE, MATERIALS OR WEB BROWSERS

ARE STRICTLY BETWEEN CUSTOMER AND THE APPLICABLE THIRD-PARTY PROVIDER. MOREOVER, GIVEN THE NUMBER OF VARIABLES INVOLVED LOGIK DOES NOT WARRANT A GUARANTEED SPEED FOR DATA PROCESSING OR LENGTH OF SERVICE. CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT LOGIK WILL HAVE NO LIABILITY OF ANY KIND WITH RESPECT TO (A) THE LOSS, ALTERATION, OR DESTRUCTION OF CUSTOMER HOSTED DATA IN CONNECTION WITH THE SERVICE; (B) ANY CLAIMS OR LOSSES OF ANY KIND RELATED TO THE MISUSE OF THE SERVICE, INCLUDING BUT NOT LIMITED TO THE ACTIVITIES OF THIRD PARTIES OR DUE TO CUSTOMER'S FAILURE TO MAINTAIN THE CONFIDENTIALITY AND SECURITY OF THE SERVICE; OR (C) ANY CLAIMS OR LOSSES DUE TO IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICE, INCLUDING BUT NOT LIMITED TO PLANNED OR UNPLANNED DOWNTIME OR ANY UNAVAILABILITY DUE TO A FORCE MAJEURE EVENT.

#### 8. LIMITATION OF LIABILITY.

a. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LOGIK, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS (COLLECTIVELY, "LOGIK PARTIES") SHALL NOT BE LIABLE TO CUSTOMER, CUSTOMER'S USERS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, CLIENTS, OR ANY PARTY CLAIMING THROUGH CUSTOMER (COLLECTIVELY, "CUSTOMER PARTIES") FOR ANY (A) INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, REVENUE, GOODWILL, BUSINESS, USE, OR REVENUE, DIMINUTION IN VALUE, OR IMPAIRMENT INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY IN SERVICE); OR (B) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, INCURRED BY CUSTOMER PARTIES UNDER ANY THEORY OF LIABILITY, INCLUDING WITHOUT LIMITATION, CONTRACT, TORT, WARRANTY, NEGLIGENCE OR AS A RESULT OF ANY BREACH OF THIS AGREEMENT OR THE USE OR INABILITY TO USE THE SERVICE, EVEN IF LOGIK OR THE LOGIK PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

b. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LOGIK AND THE LOGIK PARTIES MAXIMUM COLLECTIVE AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNTS PAID BY CUSTOMER TO LOGIK IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY, WHETHER ARISING UNDER OR RELATED TO A CLAIM OF BREACH OF CONTRACT, TORT, WARRANTY, NEGLIGENCE OR AS A RESULT OF ANY BREACH OF THIS AGREEMENT OR THE USE OR INABILITY TO USE THE SERVICE, EVEN IF LOGIK OR THE LOGIK PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

c. ANY CLAIM RELATED TO THIS AGREEMENT OR THE SERVICE AND SITE MUST BE BROUGHT WITHIN ONE YEAR OF THE DATE IN WHICH THE CLAIM FIRST COULD BE FILED. IF IT IS NOT, THEN THAT CLAIM IS PERMANENTLY BARRED.

## 9. INDEMNIFICATION.

a. Customer will defend, indemnify and hold Logik, its affiliates and licensors, and Logik's respective employees, officers, directors, and representatives harmless from and against all claims, damages, losses, liabilities, costs, and expenses (including attorneys' fees) relating to or arising from (a) the Hosted Data, including any processing of the Hosted Data by or on behalf of Logik in accordance with this Agreement; (b) Customer or its Users' use of the Service or Site; (c) any violation by Customer or Customer's Users of this Agreement, or applicable laws; or (d) Customer or its Users infringement or violation of the intellectual property rights or other rights of another. Logik will provide Customer with notice of such claim and Logik reserves the right to assume sole control of the defense.

## 10. TERM AND TERMINATION.

a. Term. This Agreement will remain in effect until terminated by either Customer or Logik as set out below ("Term").

### b. Termination.

i. Logik may terminate Customer's access and use of the Service and this Agreement, effective upon notice to Customer, at any time and for any reason, including but not limited to: (a) if Customer fails to pay an invoice within 30 days of receipt; (b) if Logik reasonably believes that Customer has violated this Agreement or applicable laws; or (c) if Customer becomes the subject of a bankruptcy, insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding.

ii. Customer can terminate at any time by contacting Logik at support@logikcull.com, provided that if Customer is under a subscription plan, Customer understands and agrees that the Service will not terminate until the end of the then current Term as detailed in the subscription plan Customer selects. Cancellations will be processed within forty-eight (48) hours from Logik's receipt of the request.

c. Export and Destruction of Hosted Data. During the Term or a trial Term, Customer will have the ability to export or retrieve Hosted Data from the Service at any time. Following Termination, Logik will have no obligation to maintain or provide Hosted Data and shall thereafter, unless otherwise prohibited by applicable law, delete Hosted Data in Logik systems or otherwise in Logik's possession or control within a reasonable period of time after termination.

d. Survival. Sections 3, 4.i., 4.j., 5, 7, 8, 9, 11, and 13 shall survive the termination or

expiration of this Agreement.

## 11. PAYMENT OF FEES.

a. Pricing. Customer agrees to pay all Fees as agreed between Logik and Customer via the Site or other pricing agreement, incurred in connection with its account. Fees will be invoiced on a monthly or annual basis, as applicable. Customer may cancel this Agreement at any time, subject to the provisions of Section 11.c below. Customer may upgrade its subscription to the Services, if such upgrades are available, at any time to accommodate additional requirements. If you choose to upgrade, your existing Fees arrangement will be terminated and replaced by a new prorated Fees arrangement reflecting the upgrades.

b. Payment Terms. Customer will have the option of paying by credit card, electronic debit, or being invoiced. All payments are due within seven (7) days of the billing date. If payment is not received in thirty (30) days of the billing date Logik reserves the right to suspend the Service until Logik receives and processes all payments. If payment is not received at the end of sixty (60) days from the billing date, Logik reserves the right to terminate this Agreement and delete all Hosted Data. Alternatively, at Logik's sole discretion, in the event that payment is late, Logik reserves the right to charge interest at the rate of twelve percent (12%) per annum or the highest legal rate, whichever is lower, calculated from the payment due date until the date that full payment is received. Logik reserves the right to modify the Fees at any time upon notice via the email address provided by Customer.

c. No Refunds. All Fees associated with the Service are non-refundable. Customer understands and acknowledges that no credits, refunds or prorated discounts will be issued for unused amounts — even if prepaid via a subscription plan.

## 12. AVAILABILITY OF SERVICE; MAINTENANCE.

a. Interruptions of data processing and access may occur due to planned or emergency maintenance and repair by Logik, or due to a Force Majeure Event (as defined in Section 13.c). Under no circumstances will Logik be held liable for any financial or other damages due to such interruptions. For the purposes of this Section, maintenance shall include, but is not limited to, one quarterly (forty-eight hour) planned maintenance window if needed, brief planned maintenance windows (scheduled in advance, as needed), and emergency maintenance windows (critical, unforeseen maintenance needed for the security or performance of the platform). Logik will make reasonable effort to limit quarterly planned maintenance windows to the timeframes outlined below. Customer will be notified in advance if Logik plans to exercise a quarterly planned maintenance window, or if Logik intends to deviate from the timeframes outlined below:

Dates: The second weekend in February, May, August, and November  
 Start time: Saturday 12:00 AM EST  
 Stop time: Monday 12:00 AM EST

### 13. GENERAL.

a. **Governing Law; Venue.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Delaware, without regard to its principles regarding conflicts of law. Each Party hereby irrevocably submits to, and waives any objection to, the exclusive personal jurisdiction and venue of the courts located within the city and county of San Francisco, California.

b. **Dispute Resolution.** If a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, Customer and Logik agree first to try in good faith to settle the dispute by mediation to be held in the city and county of San Francisco and administered by the American Arbitration Association under its Commercial Mediation Rules, before resorting to arbitration, litigation, or some other dispute resolution procedure. The foregoing process shall not apply to Logik's collection of unpaid amounts or to any action by Customer or Logik to seek injunctive or other equitable relief.

c. **Force Majeure.** Logik will not be liable for any delay or failure to perform under this Agreement due to circumstances beyond Logik's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, regional shortage of adequate power or telecommunications or transportation, internet or other service disruptions involving hardware, software or power systems not within Logik's possession or reasonable control, and denial of service attacks ("Force Majeure Event").

d. **Entire Agreement.** This Agreement constitutes the entire agreement between Customer and Logik and supersedes all proposals, oral or written, all negotiations, conversations, discussions, or agreements between Customer and Logik relating to the subject matter of this Agreement and all past dealing or industry custom. Notwithstanding the foregoing, in the event that Customer has executed a separate Master Services Agreement or License Agreement with Logik apart from this Agreement, then such Master Services Agreement or License Agreement with Logik shall govern over the terms of use of the Service. In the event of any conflict between this Agreement and any of Logik's policies posted online, including without limitation the Privacy Policy and Data Processing Addendum, if applicable, the terms of this Agreement will govern.

e. **Notices; Electronic Communications.** Logik may send notices pursuant to this Agreement to Customer's email contact points provided by Customer, and such notices will be deemed received 24 hours after they are sent. Any notices to be provided to Logik or questions with respect to the terms of this Agreement shall be sent to [legal@logikcull.com](mailto:legal@logikcull.com), and such notices will be deemed received 72 hours after they are sent.

f. **Assignment.** Customer may not assign this Agreement in whole or in part, by

operation of law or otherwise, and any attempt to do so will be null and void. This Agreement shall be binding upon and shall inure to the benefit of Customer and Logik's successors and assigns. Logik may assign its rights, without such consent of Customer and upon 15 days prior written notice to the other party, to (a) one or more of its subsidiaries, or (b) an entity that acquires all or substantially all of the business or assets of such party to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise.

g. Waiver. Failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.

h. Independent Contractors. The parties are independent contractors and shall so represent themselves in all regards. Neither party is the agent of the other, and neither may make commitments on the other's behalf.

i. Third-Party Software. Any use of or access to third-party software shall be subject to the license terms and conditions of such third-party software.

j. Severability. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, the same shall not affect the validity or enforceability of any other provisions of the Agreement.

k. Amendment. Vendor may amend this Agreement from time to time by posting an amended version at its Website or sending Customer written notice thereof. Such amendment will be deemed accepted and become effective 15 days after such notice (the "Amendment Date") unless Customer first gives Vendor written notice of rejection of the amendment. In the event of such rejection, this Agreement will continue under its original provisions, and the amendment will become effective at the start of Customer's next Term following the Amendment Date. Customer's continued use of the Service following the effective date of an amendment will confirm Customer's consent thereto. Logik may revise the Privacy Policy or Terms of Use at any time by posting a new version of either at the Website, and such new version will become effective on the date it is posted.

## PREVIOUS VERSIONS

- [August 9th, 2018](#)
- [May 25th 2018 to August 8th 2018](#)
- [July 7th 2017 to May 24th 2018](#)

## AGREEMENT

**THIS AGREEMENT**, made and entered into this 2nd day of August, 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and ARC Northland, an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:**

**1. Dates of Service.** This Agreement shall be deemed to be effective as of August 2, 2021 and shall remain in effect until August 27, 2021, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.

**2. Performance.** The Contractor will provide Direct Support Professional (DSP) services for [REDACTED] a student enrolled in the Lowell Elementary KEY Zone summer school age care program, as instructed and trained under the direction of the KEY Zone staff. The KEY Zone Program is a collaboration between Duluth Public Schools ISD#709 the Duluth Area Family YMCA.

**3. Background Check.** *(applies to contractors working independent with students)*

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

If Contractor has already completed background checks for their business needs, Contractor stipulates that the background checks are completed, on file, and will be made available for review if the District should request.

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

**4. Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, District hereby agrees to reimburse Contractor for its services and expenses in performing said obligations up to a sum not to exceed \$17.80 hourly and \$2136.00 in total (30 hours per week).

Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.



5. **Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

6. **Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

7. **Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

8. **Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

9. **Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

10. **Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Jay T. Roesler, 215 North 1<sup>st</sup> Avenue East, Duluth, MN 55802.

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to ARC Northland, 424 West Superior Street #500, Duluth MN 55802.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

15. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

16. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

17. **Insurance.** (If applicable) Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract.

18. **Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK**

AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

Laurie Berse 41-6042720 7/20/21  
Contractor Signature SSN/Tax ID Number Date

Jenny Kempert 7/19/21  
Program Director Date

Please note: All signatures *must* be obtained AND the following *must* be completed by the Program Director before submission to the CFO for review and approval.

**This contract is funded by either:**

1. The following budget (include full 18 digit code); or
2. will be paid using Student Activity Funds; or
3. is no cost contract (e.g. Memorandum of Understanding).

**Please check the appropriate line below:**

X Check if the contract will be paid using District funds and enter the budget code in the top line below (enter in blank spots following the example).

04	E	005	570	798	305	000

\_\_\_ Check if the contract will be paid using Student Activity Funds

\_\_\_ Check if the contract is a no-cost contract such as a Memorandum of Understanding

Cathy Elso 7/29/21  
CFO / Superintendent of Schools / Board Chair Date

July 19, 2021

Great Lakes Excavating  
Attn: Kevin Christiansen  
4786 Rice Lake Road  
Duluth, MN 55803

**Re: Homecroft Elementary School Drainage Correction - Great Lakes Excavating**

Dear Mr. Christiansen:

Attached please find a copy of the agreement between ISD 709 and Great Lakes Excavating for the above referenced project. After review and if you concur, please, sign and date the following items where indicated, via DocuSign by July 19, 2021:

- **Agreement**

Provide the following by July 21, 2021 (please email to [laura.smithtremble@isd709.org](mailto:laura.smithtremble@isd709.org)):

- **Insurance Certificate** (ISD 709 must be named as Certificate Holder and Additional Insured on the Policy)

Prior to starting:

- **Written Authorization to Proceed** (Will be issued after the above item is received and fully executed by ISD 709)

Prior to final payment, the following is required:

- **Contractor's Affidavit** (Complete, notarize, and forward to our office)
- **Withholding Affidavit for Contractors (IC 134)** - shall be completed, certified by the Minnesota Department of Revenue and returned to the Facilities Management office.

Once all signatures and requirements have been received by ISD 709, a copy of the Agreement will be sent to you via DocuSign. If you have any questions, please call me at 218-336-8907.

Sincerely,



David Spooner, Manager of Facilities



## AGREEMENT

**THIS AGREEMENT**, made and entered into this 19th day of July, 2021, by and between Independent School District #709, a public corporation, hereinafter called District, and Great Lakes Excavating, an independent contractor, hereinafter called Contractor.

**THE PURPOSE OF THE AGREEMENT** is to set out the terms and conditions whereby Contractor will provide programs or services for the District at the times and locations set forth in this Agreement.

**The terms and conditions of this Agreement are as follows:**

1. **Dates of Service.** This Agreement shall be deemed to be effective upon full execution of this agreement and all requirements and shall remain in effect until completion of the project, unless terminated earlier as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first.
2. **Performance.** Perform all work to **fix the drainage issue at Homecroft Elementary School field as specified in Invoice #1812-S512 Curb, Invoice #1813-Storm Sewer and Invoice #1814-Storm Sewer. This contract award is for the estimated amount of \$34,562.00.**

This Contract consists of the following:

1. Printed Memoranda of Agreement and Title Sheet;
2. Invoice #1812, Invoice #1813, Invoice #1814
3. Fund Contribution Breakdown - Homecroft Parents and Educators United (HPEU)
4. Contractor's Insurance Policy;
5. Contractor's Affidavit; and
6. Any other documents identified by District.

### 3. **Background Check. N/A**

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of the contract until the results of the criminal background check(s) are on file.

If Contractor has already completed background checks for their business needs, Contractor stipulates that the background checks are completed, on file, and will be made available for review if the District should request.

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

**4. Reimbursement.** In consideration of the performance of Contractor of its obligations pursuant to this Agreement, the following entities agree to reimburse Contractor for its services and expenses in performing said obligations for the estimated amount of \$34,562.00 as follows: Invoice #1812-S512 Curb \$9,999.00 ISD 709 Facilities Maintenance, Invoice #1813-Storm Sewer ISD 709 Homecroft Elementary School, Invoice #1814-Storm Sewer Homecroft Parents and Educators United (HPEU) \$19,563.00. Homecroft Parents and Educators United (HPEU) will also reimburse the Contractor for any and all amounts

**that exceed the current estimated amount of \$34,562.00.** Contractor is required by Minnesota Statutes, Section 270.66, subd. 3, to provide their Taxpayer Identification Number (TIN) used in the enforcement of Federal and State tax laws. The TIN will be available to Federal and State tax authorities and State personnel involved in the payment of State obligations. This Agreement will not be approved unless TIN is provided.

**5. Requests for Reimbursement.** The terms of payment under this Agreement are as follows:

- a. Payment shall be made by the District within 30 days of receipt of all required backup documentation and submission of a proper invoice by the Contractor;
- b. Any other terms of payment in the performance of services are incorporated by reference in this Agreement.

**6. Propriety of Expenses.** The fact that the District has reimbursed Contractor for any expense claimed by Contractor shall not preclude District from questioning the propriety of any such item. District reserves the right to offset any overpayment or disallowance of any item or items at any time under this Agreement by reducing future payments to Contractor. This clause shall not be construed to bar any other legal remedies District may have to recover funds expended by Contractor for disallowed costs.

**7. Ownership of Materials.** The District reserves the rights to reproduce the programming in any fashion, or appropriate the contents of the programming, or any portion thereof, to its own use for any and all programs, forms and other materials that Contractor has provided, prepared, or utilized in performance of the terms of this Agreement.

**8. Independent Contractor.** Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

**9. Indemnity and defense of the District.** Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

**10. Notices.** All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: David Spooner, 215 North 1<sup>st</sup> Avenue East, Duluth, MN 55802.

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to Great Lakes Excavating, 4786 Rice Lake Rd, Duluth, MN 55803.

11. **Assignment.** Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

12. **Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

13. **Governing Laws.** This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

14. **Compliance with Laws.** The Contractor shall comply with all governing laws, rules and regulations, whether federal, state, local or those of the District. Those governing laws include but are not limited to Minnesota Statute 16C.05 (5) (formerly 1998 Minnesota Laws Ch. 386, Art. 1 Section 6) which Statute presently provides that the books, records, documents and accounting procedures and practices of the vendor or other party, that are relevant to the Contractor transaction, are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years. The other provisions of the Statute also apply.

The Contractor recognizes that, to the extent that competitive vendor requirements apply to this Contract, those requirements apply to the award and performance of this Contract.

The Regulations of the District are incorporated into this Contract by reference and must be complied with whether or not specifically identified in this Contract.

15. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

16. **Cancellation.** Either party shall have the right to terminate this Agreement, without cause, upon (30) days written notice to the other party as provided for in this Agreement.

17. **Data Practices.** Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

18. **Insurance.** Contractor shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Contractor must provide Worker's Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

**Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss

of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or subcontractor or by anyone directly or indirectly employed under the contract. The District shall be listed as the certificate holder and shall be named an additional insured under said policy and proof of this insurance shall be provided to the District. This insurance shall be in the amount of at least \$1,500,000 per occurrence.

19. **Bonding.** Contractor shall provide such Payment and Performance Bonds as required.

20. **Representatives of District.** The Contractor shall perform work pursuant to this Agreement pursuant to the request and authority of the following persons:

<u>ISD 709 Employee</u>	<u>Position</u>
Cathy Erickson	CFO/Executive Director of Business Services

The Consultant shall report to the following persons regarding its work pursuant to this Agreement, or the designees:

<u>ISD 709 Employee</u>	<u>Position</u>
David Spooner	Manager of Facilities

21. **Protection of District.** To the extent that work by the Contractor or others on behalf of ISD 709 is to be planned, conducted, supervised or reviewed by the Contractor, the Contractor shall advise ISD 709 if such work:

- a. is not being performed pursuant to the plans and specifications, according to the best practice or in accordance with industry standards;
- b. should be rejected or modified;
- c. should be performed in a different manner and whether other work should be performed;
- d. requires ISD 709 to be advised of any other facts or opinions regarding that work.

In all respects, the Contractor shall represent the interests of ISD 709 and act to protect those interests and endeavor to guard ISD 709 against defects, deficiencies and omissions in the performance of the work.

22. **Negotiation, Mediation and Arbitration.** Any disputes between the parties shall first be negotiated. If the parties are not successful in negotiation, they then shall subject the dispute to mediation. If mediation is not successful, then any disputes between ISD 709 and the Consultant shall be resolved through binding arbitration. The arbitration shall be conducted in the State of Minnesota, and Minnesota law shall apply. Unless otherwise agreed by the parties, the arbitration shall be conducted pursuant to the rules of the American Arbitration Association.

At the option of ISD 709, the arbitration shall include in one consolidated arbitration proceeding, all claims and disputes regarding the Contractor and any architects, contractors, subcontractors, material men and other consultants as may be involved in the dispute. Contractor shall include this paragraph in all its subcontracts dealing with the work of ISD 709.



Following the issuance of a demand for arbitration, any party to the arbitration shall be entitled to use all discovery methods permitted in the Minnesota Rules of Civil Procedures for ISD 709 courts. Once selected, the arbitrator shall hear any discovery disputes regarding discovery unless otherwise agreed by the parties.

**23. Conflict of Interest and Fiduciary Duty:** All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK**

**AS EVIDENCE OF THEIR ASSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT**, set forth above, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

DocuSigned by:  
  
920EAD0DD333452  
 Great Lakes Excavating  
 SSN/Tax ID Number 20-246956  
 Date 7/20/2021

DocuSigned by:  
  
0B846251A7494B7  
 Homecroft Parents and Educators United  
 SSN/Tax ID Number 2-3284921umbe  
 Date 7/20/2021

DocuSigned by:  
  
1AFAF2483495423  
 Program Director  
 Date 7/20/2021

**Please note:** All signatures *must* be obtained AND the following *must* be completed by the Program Director before submission to the CFO for review and approval.

**This contract is funded by either:**

1. The following budget (include full 18 digit code); or
2. will be paid using Student Activity Funds; or
3. is no cost contract (e.g. Memorandum of Understanding).

**Please check the appropriate line below:**

Check if the contract will be paid using District funds and enter the budget code in the top line below (enter in blank spots following the example).

01	E	475	810	000	350	000
01	E	475	050	000	305	000

Check if the contract will be paid using Student Activity Funds

Check if the contract is a no-cost contract such as a Memorandum of Understanding

  
 CFO / Superintendent of Schools / Board Chair  
 Date 7/20/21



**GREAT LAKES**  
EXCAVATING

4786 RICE LAKE RD DULUTH, MN 55803

**Contract<sup>99</sup>**

Date	Invoice #
6/24/2021	1812

Bill To
ISD 709 Cathy Erickson 215 N 1st Ave E Duluth, MN 55802

Project Location
Homecroft School

Item/Service	Description	Total
S512 Curb	Saw cut existing black top to allow for new curb Remove and dispose of black top. Prep for new curb. Install 140 lin ft of S512 concrete curb.	9,999.00

<b>Total</b>	\$9,999.00
--------------	------------

<b>Payments/Credits</b>	\$0.00
-------------------------	--------

<b>Balance Due</b>	\$9,999.00
--------------------	------------

\_\_\_\_\_  
Kevin Christiansen Date

**LICENSE NUMBER BC679471**  
**OFFICE 218-724-4225**  
**EMAIL kevin@gleduluth.com**  
**WEBSITE www.greatlakesexcavating.net**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Signature Date



# Contract <sup>100</sup>

Date	Invoice #
6/24/2021	1813

Bill To
ISD 709 Cathy Erickson 215 N 1st Ave E Duluth, MN 55802

Project Location
Homecroft School

Item/Service	Description	Total
Storm Sewer	Install silt fence in disturbance area. Seed and straw all disturbed areas after work is complete. Repair black top next to new curb.	5,000.00

<b>Total</b>	\$5,000.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$5,000.00

\_\_\_\_\_  
Kevin Christiansen Date

**LICENSE NUMBER BC679471**  
**OFFICE 218-724-4225**  
**EMAIL kevin@gleduluth.com**  
**WEBSITE www.greatlakesexcavating.net**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Signature Date



**Contract**<sup>101</sup>

Date	Invoice #
6/24/2021	1814

Bill To
ISD 709 Cathy Erickson 215 N 1st Ave E Duluth, MN 55802

Project Location
Homecroft School

Item/Service	Description	Total
Storm Sewer	Install a new 27" concrete structure with grate in the center or low area of the parking lot. Excavate from new catch basin to daylight at the Eastern side of the field. Install a 15" HDPE pipe from the new catch basin to daylight. Bed pipe in 3/4" rock. Install a apron and rip rap at the end of the pipe. Back fill remainder of trench with native material. Dispose of extra material not used for back fill. Grade all disturbed areas in the field with native material.	19,563.00

<b>Total</b>	\$19,563.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$19,563.00

\_\_\_\_\_  
 Kevin Christiansen Date

**LICENSE NUMBER BC679471**  
**OFFICE 218-724-4225**  
**EMAIL kevin@gleduluth.com**  
**WEBSITE www.greatlakesexcavating.net**

\_\_\_\_\_  
 Signature Date

\_\_\_\_\_  
 Signature Date

Homecroft Parents and Educators United  
4784 Howard Gnesen Rd.  
Duluth, MN 55803  
218-349-2748

RE: Homecroft Elementary School Grass Play Field

To Whom It May Concern:

The estimated amount to fix the drainage issue on Homecroft Elementary School's grass play field is \$34,562.00. ISD 709 has agreed to contribute \$9,999.00 towards the project and Homecroft Elementary has agreed to contribute \$5,000 towards the project. Homecroft Parents and Educators United (HPEU) takes full responsibility for any amount that remains after ISD 709 contributes a total of \$14,999.00.

Please feel free to contact me with any questions you may have.

Sincerely,

Melissa Janzen  
HPEU President



July 29, 2021

Simone Zunich  
Finance Manager  
Duluth Public Schools  
215 N. First Avenue E.  
Duluth, MN 55802-2069

**Re: Engagement Letter for GASB 75 & 16 Actuarial Services – Duluth Public Schools**

Dear Simone:

Thank you for this opportunity to provide GASB 75 & 16 Other Postemployment Benefit (OPEB) actuarial services to Duluth Public Schools (the District). This letter documents the services we will provide for the District's retiree OPEB plans and our fees for those services.

### Scope of the Engagement

The GASB 75 & 16 accounting rules require a "full" actuarial valuation every two years, while a simplified roll-forward report is required in the "off years". Our proposed scope and fees include both the "full" and roll-forward valuation reports.

#### 1. GASB 75 & 16 Actuarial Valuation - retiree health

- For FYE 2022, we will prepare a "full" GASB 75 & 16 actuarial valuation to calculate your OPEB and Severance liability. The report will include all OPEB and Severance results required for your FYE 2022 financial statements, including summaries of participants, plan provisions, and actuarial assumptions and methods.
- For FYE 2023, we will prepare a roll-forward GASB 75 & 16 actuarial valuation to determine your OPEB and Severance liability and financial disclosures. This report will reflect updated assumptions and plan provisions, but does not require us to collect new census data.

We would also be glad to participate in a conference call to review results and ensure you understand what all the numbers mean.

#### 2. Other

We will prepare other actuarial and consulting projects requested by you from time to time such as attending meetings, presentations, and miscellaneous consulting.

### Fees and Hourly Billing Rates

Our proposed engagement fees are outlined below.

Services Provided	Fixed Fee
FYE 2022 "full" GASB 75 & 16 actuarial valuation report	\$12,000
FYE 2023 GASB 75 & 16 roll-forward valuation report	\$3,000

Future actuarial valuations will be completed under this same engagement letter for a fee agreed to by both parties, or we can provide an updated engagement letter if you prefer. We will notify you if any out-of-scope fees are to apply, and will be happy to estimate fees for additional projects as requested.

The proposed fees assume no substantial changes to the plan census, assumptions, plan provisions, or funding arrangement. If any of these factors change significantly, then GASB 75 & 16 rules may require a full actuarial valuation in the off year. In this case, we will provide a separate proposed fee.

Out-of-scope projects are within the District's control, and time for them will be billed at our normal hourly rates. For 2021, our hourly rates are \$95 to \$200 for actuarial analysts and \$300 to \$375 for consulting actuaries. Out-of-scope projects include time spent on:

- meetings and preparation,
- significant changes in your plan, accounting or funding arrangements,
- cleanup of inaccurate data or data not provided in the form requested,
- follow-up for information not provided within 45 days of our request, and
- accounting updates when the District's financials differ from the figures in our previous reports.

Out-of-pocket expenses will be passed on to you without markup. Travel time, if it occurs, is billed at 50% of our normal rates. Bills are sent as often as monthly, and your payment is due within 30 days of the invoice date. Interest will accrue on the unpaid balance at the rate of ½% per month. If we receive your payment within 30 days, the interest will be waived.

You have the right to terminate our services at any time, subject to payment of accrued charges for work we have done through the date we receive notice. We will have the same right of termination (including termination for non-payment of fees and expenses), subject to our obligation to give the District reasonable notice.

We will retain final copies of actuarial work products for seven years after completion of each project. The plan sponsor is responsible for keeping copies of all documents needed for the Plan's permanent records.



**Minnesota Actuarial Disclosure**

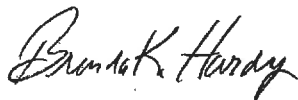
Van Iwaarden Associates is the actuarial advisor to the Minnesota Legislative Commission on Pensions and Retirement (LCPR). In this role, we assist the LCPR in reviewing actuarial valuations, assumptions, and cost estimates for the three statewide retirement systems: TRA, PERA, and MSRS.

Our professional standards require that we disclose any actual or potential conflict of interest to our clients, and that our clients expressly agree to these services. Although the work we prepare for the LCPR does not directly related to your GASB 75 & 16 OPEB reporting, we believe it's prudent to disclose our assignment to all of our Minnesota public sector clients since you probably have members in at least one of the statewide pension plans that we'll be reviewing. Your approval of this engagement letter is an affirmative response that you agree to our OPEB work with the District along with our LCPR assignment.

We trust that this letter satisfactorily outlines our services and fees. If you have any questions, please feel free to contact us. Thank you again for choosing Van Iwaarden Associates to assist you with this project.

Northern Consulting Actuaries, Inc. d/b/a Van Iwaarden Associates

Sincerely,



Brenda K. Hardy, ASA, EA, MAAA  
Consulting Actuary

L/D/C/R: 3/sal/bkh

**Acknowledgement and Consent**

The undersigned authorized representative of Duluth Public Schools (the District) has read this letter from Van Iwaarden Associates, understands its contents, and agrees on behalf of the District to the terms, conditions and fees set forth above. I also expressly agree to Van Iwaarden Associates' ongoing work for us as well as their LCPR assignment.

Date: 7-30, 2021

By Cathryn Elbor

Title CFO

**Contract for Services**  
**Agreement between Independent School District #709**  
**and**  
**Trillium Services Inc.**

This agreement is between Trillium Services Inc, 4629 Airpark Blvd, Duluth MN 55811, *Contractor*, and Duluth Public Schools ISD#709, 215 North 1st Ave East , Duluth MN 55802, a school district.

**Scope of Service**

Contractor shall provide the services described in attached addendum 1

Contractor shall hold appropriate licensure for provision of services. Describe licensure or qualifications of the agency staff if applicable:

*Check all that apply below*

District requires a current copy of assurances for providing Direct Support Professional (DSP) as outlined in MN Statute 245D

Services are consultative with special education staff.

Services are during summer programming including EXCEL and Keyzone.

Contractor shall provide a copy of Criminal Background Report and MCHP Screening for individuals providing services to students in the school system noted above. (*See Paragraph 3 under Compliance*)

Contractor will notify the District of any individual working in our schools with convictions of a gross misdemeanor or felony.

**Site of Service**

Services to be provided at school site(s)

Services to be provided in the student's remote learning setting.

**Payment**

The cost of services shall be as set forth in Addendum 1. Contractor shall submit an invoice to the District for services provided. Payment will be made within 35 days of receipt of detailed invoice. The invoice should be mailed to:

Duluth Public Schools  
Attn: Jackie Ward  
215 N 1st Ave E  
Duluth, MN 55802

**Invoices are required to be sent within 60 days of services.****Term**

This Agreement shall be deemed to be effective as of September 28, 2020 and shall remain in effect until June 30, 2021, unless terminated later as provided for herein, or unless and until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first. This contract does not automatically renew.

**Cancellation Clause**

Either party may terminate this agreement without cause by providing thirty (30) days written notice of such intent to this effect to the other party. District may cancel this agreement for cause by providing written notice to the Contractor.

**Independent Contractor**

For the purposes of this agreement, Contractor is an independent contractor. Nothing contained in this agreement is intended nor shall be construed in any manner to create or establish a relationship of legal co-partners, joint ventures or joint powers between the parties. No statement contained in this agreement shall be construed so as to find the Contractor, its employees, agents or representatives to be employees or agents of District. The District will make no deductions for federal Income Tax, FICA, or state income tax.

**Hold Harmless**

Contractor shall indemnify and hold District harmless for any and all damages, costs and expenses including attorney's fees which District, its officials, employees, or agents may sustain arising from any act or omission of Contractor in the execution, performance or failure to adequately perform the Contractor's obligations under this Agreement.

### **Privacy of Pupil Records**

Pursuant to the District's Protection and Privacy of Pupil Records Policy and consistent with the requirements of the Family Educational Rights and Privacy Act and the Minnesota Government Data Practices Act, the Contractor shall be deemed to be a school official when performing the duties and responsibilities of the District. As such, the Contractor certifies and agrees that all data created, collected, received, stored, used, maintained, or disseminated by the Contractor must comply with the Family Educational Rights and Privacy Act and the Minnesota Government Data Practices Act.

### **Insurance**

Contractor shall, during the life of the Contract, purchase and maintain insurance coverage with the minimum limits as follows:

#### **1. Workers Compensation**

##### **A. Statutory State Coverage**

##### **B. Employee Liability Coverage with the following limits:**

Bodily Injury by Accident 100,000 Each Accident

Bodily Injury by Disease 100,000 Each Employee

Bodily Injury by Disease 500,000 Each Policy Limit

#### **2. General Liability Insurance**

##### **A. Commercial Liability Policy—Occurrence (Form CG 00 01 98 or its equivalent)**

Combined Single Limit: \$1,500,000

Personal Injury Liability \$1,500,000

Products Completed Operations \$1,500,000

General Aggregate \$1,500,000

##### **B. Duluth Public Schools shall be added to the policy as additional insured using ISO form CG 2026.**

#### **3. Automobile Liability Insurance including hired/ non-owned Auto.**

#### **4. Professional Liability Insurance with limits of \$1,500,000 each occurrence / \$1,500,000 aggregate.**

Contractor will provide the District with proof of insurance of an Accord Certificate form. The name of the insured shall match the name on the Contract. The certificate holder shall be Duluth Public Schools, 215 N. 1st. Ave E., Duluth, MN 55802. The certificate will provide the district with 30 days' notice of cancellation, non-renewal or material change in the coverage.

*The school district does not represent that the required coverage and limits are adequate to protect the contractor and such coverage limits will not be deemed as a limitation of the*

*Contractor's liability to the District under this contract.*

### **Compliance**

The Contractor agrees to comply with all federal, state and local laws or ordinances, and all applicable rules, regulations, and standards established by any agency of such governmental units, which are now or hereafter promulgated insofar as they relate to the Contractor's performance of the provisions of this Agreement. It shall be the obligation of the Contractor to apply for, pay for and obtain all permits and/or licenses required by any governmental agency for the provision of those services contemplated herein.

All of the data created, collected, received, stored, used, maintained, or disseminated by the contractor in performing his duties pursuant to this contract is subject to the requirements of Chapter 13 of the Minnesota Statutes and the contractor must comply with the requirements of Minnesota Statute as if it were a government entity.

Agency must perform a background study for each employee or contractor who will provide services to students. If any service provider does not pass the background study, agency will not allow the service provider to have direct contact with the student. Copy of background studies will be provided upon request to the Duluth Public Schools. The agency will also check each service provider to make sure they are not on the Minnesota Health Care Programs (MHCP) Excluded Provider List in the LEIE downloadable database at start of service and a minimum of monthly. If the provider is on the MHCP and/or Federal Office of Inspector General list, they will not be allowed to continue to provide service to the student. Questions can be answered by the Minnesota Department of Human Services provider call center at 651-431-2700.

This agreement shall be reviewed and authorized by the Director of Student Support Services and shall be supervised by the Director or Designee.

### **Modification or Amendment**

No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

### **Governing Laws**

This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

**Contractor**

Signed: 

Title: CEO / PRESIDENT TRILUM Services, Inc.

Date: 7/13/21

**Duluth Public Schools**

Signed:  Signed: 

Title: Asst. Director of Spec Title: CFO

Date: 7/13/21 Date: 7/13/21

**Budget Code**

01	E	005	416	419	303	000
XX	X	XXX	XXX	XXX	XXX	XXX

**Addendum 1**  
**Agreement between Duluth Public Schools ISD#709**  
**And**  
**Trillium Services Inc.**

This agreement is between Trillium Services Inc, 4629 Airpark Blvd, Duluth MN 55811, Contractor, and Duluth Public Schools, 215 North 1st Ave East, Duluth, MN 55802, a school district.

**Services**

The Contractor will provide Direct Support Professional (DSP) services and special education paraprofessional duties as instructed and trained under the direction of Duluth Public Schools staff, to [REDACTED]. The responsibility for determining the quantity and frequency of DSP services shall rest with the school district.

The Contractor will complete any clinical documentation of cares delivered as required by the School District and consistent with DSP standards.

The Contractor will orient DSP staff to the Vulnerable Children and Adult Act, infection control and universal precautions, and student plan of care.

The School District will notify the provider in a timely manner of any changes in the time schedule or hours of service.

The School District will furnish Contractor with all records and information relevant to the client for purposes of service being provided.

The School District will furnish Contractor with any relevant school policies.

**Fees**

The date of service will begin *July 12, 2021* and shall not extend beyond *August 27, 2021*, the contract not to exceed *31 days* and *8 hours per day*. The district agrees to reimburse Residential Services Inc. *\$39.72* per hour for a sum not to exceed *\$9,850.56* for the time worked with [REDACTED] while participating in school activities at Lester Park Elementary School.

**STATE OF MINNESOTA**

**MINNESOTA STATE COLLEGES AND UNIVERSITIES**

**CONCURRENT ENROLLMENT CONTRACT**

This contract is by and between *Duluth Public Schools, 215 N. 1st Avenue East, Duluth MN 55802* (hereinafter DISTRICT) and the State of Minnesota acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of *Lake Superior College, 2101 Trinity Road, Duluth, MN 55811* (hereinafter MINNESOTA STATE, LAKE SUPERIOR COLLEGE).

WHEREAS, the DISTRICT has a need for a specific service; and

WHEREAS, MINNESOTA STATE, is empowered to enter into contracts pursuant to Minnesota Statutes, Chapter 136F; and

WHEREAS, The Concurrent Enrollment or College in the Schools (CITS) program is available as part of the Post-Secondary Enrollment Option program in accordance with Minn. Stat. § 124D.09 and Minnesota State Board Policy 3.5 which governs the implementation of the Post-Secondary Enrollment Options program by system colleges and universities. Concurrent Enrollment allows high school students to earn both high school and college credit for classes offered through a high school and taught by a high school teacher; and.

NOW, THEREFORE, it is agreed:

1. **DUTIES OF MINNESOTA STATE.** The MINNESOTA STATE agrees to provide the following:

**Lake Superior College (LSC) CITS Staff shall:**

- Lake Superior College will work cooperatively and in partnership with high school personnel and students to process registrations, validate course competencies, and transcribe grades.
- Adhere to all Minnesota State, Higher Learning Commission (HLC), and National Alliance of Concurrent Enrollment Partnerships (NACEP) policies and standards.
- Complete credential review process of high school instructors according to guidelines from Minnesota State Colleges and Universities Policy 3.32 found on the MinnState website: <https://www.minnstate.edu/system/asa/academicaffairs/cfc/>
- Communicate student eligibility requirements to the school district.
- Process CITS registrations and send class lists to high school as soon as the registrations are complete.
- Adjust records for student in accordance with add/drop and withdrawal policies.
- Maintain registration, waiver, and grade records for all completed CITS classes.
- Work with each high school to ensure that CITS class lists are correct and that all grades are submitted and transcribed.
- Provide to CITS students and partners access to online information to include information on LSC's student conduct code, academic and student support services, registration policies, transcript requests, and more.

**Lake Superior College Instructor Mentors shall:**

- Collaborate with the high school CITS instructor to clarify approved college course outline and outcomes, to create a syllabus for each course, and to verify the syllabus meets college criteria.
- Extend invitations to CITS teachers to participate in appropriate campus-based faculty development activities.



- Meet regularly (face-to-face, email, telephone or via other technology) with high school CITS instructor and monitor assignments, exams, projects, and instructional effectiveness to ensure course meets the learning outcomes in the LSC course outline.
- Make at least one visit per course if requested by the high school instructor.
- Provide current college text information, course outlines, sample syllabi, sample exams, assignments, and exercises for the high school CITS teacher's use.
- Provide instructors who have taught the course previously with copies of new course outlines, new calendars, schedules, or other information as courses change.
- Create records of site visits and course evaluations per NACEP accreditation requirements.
- Support CITS instructors, giving additional time and attention to instructors new to the program.

2. DUTIES OF DISTRICT. The DISTRICT agrees to provide the following:

**High School Instructors, Administrators, and Staff shall:**

- Ensure students meet minimum CITS eligibility requirements as stated in Lake Superior College policy 3.5: <https://www.lsc.edu/policies/3-5-post-secondary-enrollment-option/>
- Provide qualified faculty to teach concurrent courses at the high school.
- Provide all needed books, supplies and materials for each course.
- Abide by the policies and procedures (e.g. add/drop, withdraw, course alignment) detailed in the CITS handbooks available at [www.lsc.edu/cits](http://www.lsc.edu/cits).
- Notify parents/students of CITS course offerings and student eligibility.
- To the extent possible, provide counseling services to students and their parents/guardian before students enroll in CITS courses to ensure awareness of risks and possible consequences of enrollment.
- Collaborate with LSC staff to administer Accuplacer test to potential CITS students and/or provide relevant test scores or GPA to assure compliance with PSEO eligibility requirements.
- Ensure completion of LSC registration forms and verify class rosters.
- Assign final, whole letter grades to each student on the class rosters provided by LSC's CITS staff and share grades with LSC CITS staff for recording.
- Meet regularly (face-to-face, email, telephone or via other technology) with LSC faculty mentor.
- Collaborate with LSC faculty to align course syllabi, assignments, grading, and assessments and ensure each course meets the LSC learning outcomes.
- Provide LSC CITS staff with a copy of each course's syllabus for transfer purposes.
- Assist LSC staff in administering course evaluations for each CITS course in keeping with NACEP accreditation requirements.
- Participate in professional development opportunities offered by LSC in keeping with NACEP accreditation requirements.

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 DISTRICT as follows: The DISTRICT shall pay Three thousand and 00/100 dollars (\$3,000.00) per course per teacher. If one teacher teaches multiple sections, it is one fee; if more than one teacher is assigned to separate sections of the same course, there is an additional fee to be paid by the DISTRICT of Three thousand and 00/100 dollars (\$3,000.00) per teacher. The billing date for courses is October 30, 2021 with payment by the DISTRICT due 30 days later. (See attachment A for course and cost details).  
*There is no cost to the student.*

- b. Terms of Payment. LAKE SUPERIOR COLLEGE will bill for courses on October 30, 2021 with payment by DISTRICT due 30 days later.

4. TERM OF CONTRACT. This contract shall be effective on *April 1, 2021, or upon the date that the final required signature is obtained by MINNESOTA STATE*, whichever occurs later, and shall remain in effect until *June 30, 2022* or until all obligations set forth in this contract have been satisfactorily fulfilled, whichever occurs first.

1. CANCELLATION. This contract may be canceled by the DISTRICT 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.

2. AUTHORIZED REPRESENTATIVES.

- a. The DISTRICT'S Authorized Representative for the purposes of administration of this contract is:

Name: Cathy Erickson  
 Title: CFO/Executive Director of Business Services  
 Address: 215 N. 1st Avenue East, Duluth MN 55802  
 Telephone: (218) 336-8704  
 E-Mail: cathy.erickson@isd709.org

- b. MINNESOTA STATE 'S Authorized Representative for the purposes of administration of this contract is:

Name: Sanna Shields  
 Title: College in the Schools Coordinator  
 Address: 2101 Trinity Road, Duluth MN 55811  
 Telephone: 218-733-6910  
 E-Mail: sanna.shields@lsc.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.

3. ASSIGNMENT. Neither the DISTRICT nor MINNESOTA STATE shall assign or transfer any rights or obligations under this contract without the prior written approval of the other party.
4. LIABILITY. Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof. The STATE's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes sections 3.732 and 3.736, *et seq.*, and other applicable law.
5. AMERICANS WITH DISABILITIES ACT COMPLIANCE (hereinafter "ADA"). The DISTRICT 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.

6. 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.
  
7. GOVERNMENT DATA PRACTICES ACT. The requirements of Minnesota Statutes § 13.05, subd. 11 apply to this contract. The DISTRICT 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 DISTRICT 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 DISTRICT or MINNESOTA STATE. In the event the DISTRICT receives a request to release the data referred to in this clause, the DISTRICT must immediately notify MINNESOTA STATE. MINNESOTA STATE will give the DISTRICT instructions concerning the release of the data to the requesting party before the data is released.  
  
The parties additionally acknowledge that the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and 34 C.F.R. 99, apply to the use and disclosure of education records that are created or maintained under this agreement.
  
8. 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.
  
9. STATE AUDITS. The books, records, documents, and accounting procedures and practices of the DISTRICT relevant to this contract shall be subject to examination by the contracting department and the Legislative Auditor.
  
10. FORCE MAJEURE. No party to this Contract shall be responsible for any delays or failure to perform any obligation under this Contract due to acts of God, strikes or other disturbances, including, without limitation, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, and any other cause beyond the control of such party. During an event of force majeure the parties' duty to perform obligations shall be suspended.
  
11. OTHER PROVISIONS. (Attach additional page(s) if necessary): 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**

**Lake Superior College**

By (authorized signature)
<small>DocuSigned by:</small> <i>Linda Kingston</i>
<small>Title</small> <i>VP Academic and Student Affairs</i>
<small>Date</small> 6/9/2021   8:45:08 PM CDT

**2. DISTRICT: Duluth Public Schools, ISD 709**

**DISTRICT certifies that the appropriate person(s) have executed the contract on behalf of DISTRICT as required by applicable articles, by-laws, resolutions, or ordinances.**

By (authorized signature)
<i>[Signature]</i>
<small>Title</small> <i>CTO</i>
<small>Date</small> <i>6/25/21</i>

By (authorized signature)
<i>[Signature]</i>
<small>Title</small> <i>Director of Secondary TLE</i>
<small>Date</small> <i>6/24/21</i>

**3. AS TO FORM AND EXECUTION: Lake Superior College**

By (authorized college/university/system office initiating agreement)
<small>Title</small>
<small>Date</small>

*01-E-005-211-000-394-200*

**Attachment A - 2021-2022 LSC CITS COURSES**

**Cost: \$24,000 (8 x \$3,000)**

The following courses will be covered under this Concurrent Enrollment agreement:

School	Course	Course Title	Credits	HS Instructor	Term (s)
AEO	MATH 1150	Pre-Calculus	5	Jenny Ahern	AY
Denfeld	BIOL 1005**	Introduction to Cell Biology	1	Andrew Nissen	AY
Denfeld	BIOL 1140**	Human Anatomy & Physiology	4	Andrew Nissen	AY
Denfeld	MATH 1150	Pre-Calculus	5	Tim White	AY
Denfeld & East	ALTH 1400**	Intro to Allied Health (D&E)	2	Kimberly Olson	Fall
Denfeld & East	ALTH 1410**	Medical Terminology (D&E)	1	Kimberly Olson	Fall
Denfeld & East	NUNA 1420	Nursing Assistant/HHA(D&E)	4	Kimberly Olson	Spring
Duluth East	BIOL 1005**	Introduction to Cell Biology	1	James Kyes	AY
Duluth East	BIOL 1140**	Human Anatomy & Physiology	4	James Kyes	AY
Duluth East	MATH 1150	Pre-Calculus	5	Peter Graves	AY
Duluth East	MATH 1150	Pre-Calculus	5	Bill Garnett	AY

\*\*Indicates courses that are considered one course for one fee.

**Duluth Public Schools**

**District Name** Duluth Public Schools  
**District #** 709  
**District Contact** Joan Lancour  
**District Contact Email** joan.lancour@isd709.org  
**AEO CITS Contact** Paula Williams  
**AEO CITS Contact Email** paula.williams@isd709.org  
**AEO Principal** Adrian Norman  
**AEO Principal Email** Adrian.Norman@isd709.org  
**East CITS Contact** Jamie Savre  
**East CITS Contact Email** jamie.savre@isd709.org  
**East Principal** Danette Seboe  
**East Principal Email** danette.seboe@isd709.org  
**Denfeld CITS Contact** Leah Hamm  
**Denfeld CITS Contact Email** leah.hamm-digatono@isd709.org  
**Denfeld Principal** Tom Tusken  
**Denfeld Principal Email** Thomas.Tusken@isd709.org  
**Curriculum and Instruction Dir.** Jennifer Larva  
**Curriculum & Inst Director Email** Jennifer.Larva@isd709.org  
**Superintendent** John Magas  
**Superintendent Email** superintendent@isd709.org

Location ID 31684133601

**PARTICIPATING ADDENDUM  
UNDER THE  
NASPO VALUEPOINT  
WIRELESS COMMUNICATION SERVICES AND EQUIPMENT  
MASTER AGREEMENT NUMBER: MA149**

**PARTICIPANT:** Independent School District #709

This Participating Addendum (this "PA") is made this 13 day of July, 2021 (the "PA Effective Date"), between Independent School District #709 ("Participant"), and AT&T Corp. ("Contractor" or "AT&T") (Participant and Contractor are, at times, referred to individually as a "Party" or together as the "Parties").

**Section 1. Recitals.**

**1.1** Contractor and the State of Utah, acting through its Department of Administration, Purchasing Division, and the participating members of the NASPO ValuePoint, a division of the National Association of State Procurement Officials ("NASPO"), are parties to that certain wireless communication services and equipment contract #MA149, dated, December 6, 2019 (as now or hereafter amended, restated or otherwise modified, the "Contract" or "Master Agreement").

**1.2** Participant wants to participate in the Contract pursuant to the terms and conditions of the PA.

**Section 2. Agreement.** In consideration of the recitals set forth in §1 above, which are hereby restated and agreed to by the Parties, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, Participant and Contractor hereby agree to the terms and conditions of the PA (the Contract and the PA, together with all valid Purchase Orders submitted to Contractor by Participant, collectively, the "Agreement"). Unless otherwise defined, capitalized terms in the PA have the meanings ascribed to them in the Master Agreement.

**Section 3. Authorized Purchasing Entities.** Subject to Exhibit A hereto, Participant hereby designates Participant as the only authorized Purchasing Entity under the Agreement

**Section 4. Purchase Orders.** Except as set forth herein, Purchase Orders must reference both Master Agreement #MA149 and the PA to be valid. Upon acceptance of any such valid Purchase Order, the corresponding Purchasing Entity will be bound by the terms and conditions of the Agreement including, without limitation, the obligation to pay Contractor for Service, Equipment, and related Products provided. Notwithstanding the foregoing, any Purchase Order submitted that does not properly reference the Master Agreement number and/or the PA may be accepted, at Contractor's sole discretion, if Contractor can reasonably ascertain that such Purchase Order was properly authorized and intended for use with the PA. In such instances, the corresponding Purchase Order will be similarly valid and binding. Terms and conditions inserted into a Purchase Order by a Purchasing Entity that are inconsistent with, contrary to, or in addition to the terms and conditions of the Agreement will not be added to or incorporated into the Agreement. Any such attempts to add or incorporate such terms and conditions are hereby rejected and such inconsistent, contrary, and/or additional terms are void.

**Section 5. Primary Contacts.****Participant:**

Name: Cathy Erickson  
 Title: Chief Financial Officer  
 Address: 215 N 1<sup>st</sup> Ave E Room 215  
 Duluth, MN 55802  
 Telephone: (218) 336-8704  
 Fax Number: (218) 336-8773  
 E-Mail: catherine.erickson@isd709.org

**Lead State:**

Name: Christopher Jennings  
 Title: Assistant Director  
 Address: 3140 State Office Bldg.  
 Salt Lake City, UT 84114  
 Telephone: 801-538-3157  
 Fax Number: 801-538-3882  
 E-Mail: [ctjennings@utah.gov](mailto:ctjennings@utah.gov)

**Contractor Account Team:**

Name: Brandon McLaughlin  
 Title: Client Solutions Executive  
 Executive  
 Address: 7900 Xerxes Ave S  
 Bloomington, MN 55431  
 Telephone: (612) 300-7992  
 Fax Number: n/a  
 E-Mail: [jm472a@att.com](mailto:jm472a@att.com)

**Contractor Main:**

Name: Bethani Cross  
 Title: Client Solutions  
 Address: 311 S Akard St.  
 Dallas, TX 75202  
 Telephone: 214-679-9053  
 Fax Number: N/A  
 E-Mail: [bethani.cross@att.com](mailto:bethani.cross@att.com)

**Section 6. Authority.** By signing below, the corresponding Party's representative represents that he or she is duly authorized by Contractor or Participant, as applicable, to execute the PA on behalf of the respective Party, and that the Contractor and Participant agree to be bound by the provisions hereof. In addition, Participant represents that it has received the requisite approvals from the applicable Chief Procurement Official and NASPO to participate in the Master Agreement.

**Section 7. Miscellaneous.**

**7.1 Employee Benefit Program.** Participant will participate with Contractor in efforts to obtain eligible Employees' participation in the Employee Benefit Program.

**7.2 Student Program.** The Parties acknowledge and agree that Students may receive wireless service in connection with the Agreement in accordance with the terms and conditions set forth in Exhibit "A" hereto and incorporated herein by reference.

**Section 8. Notice of Administrative Fees.** All Participating Entities are hereby on notice of the following charges being paid by Contractor under the Contract.

**8.1 Contract Fees Under the Master Agreement,** Contractor is being charged an Administrative Fee of: (i) 0.25% of all CRUs' Total Wireless Spend; and (ii) 0.10% of all IRUs' Total Wireless Spend of the Total Wireless Spend, pursuant to the schedule of payments set forth in the Contract.

**Section 9. Student eLearning Offer.** Provided Participant remains in full compliance with the terms and conditions of the Agreement, and subject to all corresponding restrictions set forth in this §9, AT&T will provide Purchasing Entities and their eligible CRUs the Student eLearning Offer described herein (the "Student eLearning Offer"). The Student eLearning Offer is comprised of the AT&T Special DataConnect for Education Plan (the "Education Plan"), a choice of two content filtering products, and a Moxee mobile hotspot device (a "Moxee"), all as more fully described below. In accordance with the Agreement, the Student eLearning Offer is

subject to its underlying offer's corresponding Sales Information, which is incorporated herein by reference. The Student eLearning Offer is available for a limited time and is subject to equipment availability. The Student eLearning Offer is NOT eligible for the Service Discount, any other discount provided under the Agreement, nor any other discounts or promotions otherwise available to AT&T's customers including, without limitation, prior iterations of the offer. The Student eLearning Offer is not available to IRUs. To the extent of any material conflict between the terms and conditions of this §9 and the applicable Sales Information, this §9 will control. Notwithstanding the foregoing, the Student eLearning Offer is only available if Participant's account is active and in good standing with respect to the applicable CRU.

**9.1 12-Month Equipment Installment Plan Version ("12-Month Version").** If Purchasing Entity selects the 12-Month Version, then Purchasing Entity: (a) will purchase the Moxee mobile hotspot device (the "Moxee") under a twelve-month Equipment Installment Plan (see §10 below); (b) will purchase the AT&T Special DataConnect for Education Plan (the "Education Plan"); and (c) must select and purchase either the Enterprise Traffic Protector or AccessMyLan content filtering product. The 12-Month Version prices listed in Table 9.1 are achieved through various bill credits.

**Table 9.1  
Student eLearning Offer Purchasing Moxee on the 12-Month Version**

<b>PLAN</b>	
AT&T Special DataConnect for Education Plan	\$11.00 Monthly Service Charge
<b>CONTENT FILTERING PRODUCT [CHOICE OF ONE]</b>	
Enterprise Traffic Protector	\$1.00/month
AccessMyLan™	\$6.00/month
<b>MOBILE HOTSPOT DEVICE</b>	
Moxee	No Cost*

\*Purchasing Entity is still responsible for all taxes and fees associated with the full price of the Moxee.

**9.2 24-Month Equipment Installment Plan Version ("24-Month Version").** If Purchasing Entity selects the 24-Month Version, then Purchasing Entity: (a) will purchase the Moxee mobile hotspot device (the "Moxee") under a twenty-four-month EIP; (b) will purchase the Education Plan; and (c) must select and purchase either the Enterprise Traffic Protector or AccessMyLan content filtering product. The 24-Month Version prices listed in Table 9.2 are achieved through various bill credits.

**Table 9.2  
Student eLearning Offer Purchasing Moxee on the 24-Month Version**

<b>PLAN</b>	
AT&T Special DataConnect for Education Plan	\$11.00 Monthly Service Charge
<b>CONTENT FILTERING PRODUCT [CHOICE OF ONE]</b>	



Enterprise Traffic Protector	\$1.00/month
AccessMyLan™	\$6.00/month
<b>MOBILE HOTSPOT DEVICE</b>	
Moxee	No Cost*
<b>ADDITIONAL BILL CREDIT</b>	
	(-\$1.00)

\*Purchasing Entity is still responsible for all taxes and fees associated with the full price of the Moxee.

**9.3 Students Provide Device Version (“BYOD Version”).** If Purchasing Entity selects the BYOD Version, then Purchasing Entity: (a) must activate or migrate at least one hundred (100) eligible lines on the Education Plan; (b) will purchase the Education Plan for a \$12.00 MSC; and (c) must select and purchase either the Enterprise Traffic Protector or AccessMyLan content filtering product. The BYOD Version prices listed in Table 9.3 are achieved through various bill credits. The Student eLearning Offer will not apply until Purchasing Entity achieves the 100-line minimum described in this §9.3.

**Table 9.3  
Student eLearning Offer on the BYOD Version**

<b>PLAN</b>	
AT&T Special DataConnect for Education Plan	\$11.00 Monthly Service Charge
<b>CONTENT FILTERING PRODUCT [CHOICE OF ONE]</b>	
Enterprise Traffic Protector	\$1.00/month
AccessMyLan™	\$6.00/month
<b>ADDITIONAL BILL CREDIT</b>	
	(-\$1.00)

**9.4 Promotional No-Charge Teacher Lines.** AT&T will provide each eligible Purchasing Entity one line of the Student eLearning Offer for every twenty-four (24) K-12 Students or College Students, as applicable, that are activated on or migrated to the Student eLearning Offer. Under this promotion, such teachers will receive the version of the Student eLearning Offer set forth in Table 9.3.

**Section 10. Equipment Installment Program.**

**10.1 EIP.** AT&T offers installment payment options for certain Equipment that require its customers to execute a corresponding installment payment agreement. In the event Participant or any Purchasing Entity opts to use one of these installment payment options then: (a) Participant or the applicable Purchasing Entity will be required to execute such an installment payment agreement; and (b) Participant or the applicable Purchasing Entity represents, acknowledges and agrees that its participation in the installment payment option: (i) does not violate any applicable procurement rules in effect as of the PA Effective Date;

and/or (ii) will not disqualify AT&T from any future procurements with Participant or the applicable Purchasing Entity; and (iii) it has fully appropriated funds to pay the total amount charged over the complete term of the installment payment agreement.

**10.2 IRUs.** IRUs under the Agreement may opt to use an available installment payment option (if any). Their use of that program will be governed by the applicable installment payment agreement and is not affected by §10.1.

**Section 11. Order of Precedence.** Notwithstanding the Order of Precedence set forth in the Master Agreement, the Parties acknowledge and agree that in the event of a conflict between the terms contained in the various documents comprising the Agreement, the following order of precedence will control: (a) the PA; (b) the Master Agreement; and (c) any valid Purchase Order issued in connection therewith.

**Section 12. Entire Agreement.** The Master Agreement and this Participating Addendum set forth the entire agreement between the Parties with respect to its subject matter, and it supersedes all previous communications, representations or agreements, whether oral or written, with respect thereto.

IN WITNESS WHEREOF, the Parties have executed the PA as of the PA Effective Date.

**AT&T CORP.**

Independent School District #709

By: \_\_\_\_\_  
\_\_\_\_\_, duly authorized

By: Catherine Erickson  
\_\_\_\_\_, duly authorized

Name: \_\_\_\_\_

Name: Catherine A. Erickson

Title: \_\_\_\_\_

Title: CFO

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

Date: 7/16/21

01 E 012 108 311 305 000

## EXHIBIT A

### STUDENT PROGRAM

**1. Student Participation in Program.** Pursuant to the terms and conditions of the Agreement, and subject to the terms and conditions of this Exhibit A, Contractor authorizes K-12 Students and College Students to participate in the Agreement as CRUs. At times, both K-12 Students and College Students may be referred to herein as "Students". Students may not receive the Student eLearning Offer as IRUs.

**1.1 K-12 Student.** The term "K-12 Student" means an individual currently enrolled as a full-time kindergarten through twelfth grade student in Purchasing Entity's state at: (a) a government-funded kindergarten through twelfth grade public school; or (b) an accredited privately funded school or charter school.

**1.2 College Student.** The term "College Student" means an individual currently enrolled as a student in Purchasing Entity's state at an accredited two or four-year university, college or community college.

**2. Internet Safety Policy.** Each Purchasing Entity hereunder represents and warrants that it has, and will maintain during the term of the Agreement, an Internet Safety Policy that addresses the following: (a) access by minors to inappropriate matter on the Internet and the World Wide Web; (b) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications; (c) unauthorized access including "hacking" and other unlawful activities by minors online; (d) unauthorized disclosure, use and dissemination of personal information regarding minors; and (e) measures designed to restrict minors' access to materials harmful to minors.

**3. Consents and Notices.**

**3.1 Parental Consents.** Each Purchasing Entity hereunder is responsible for obtaining from each Student's legal guardian any and all consents necessary for access to and use of the Equipment and Service by the Student.

**3.2 Additional Notices.**

**3.2.1 Notices Regarding Service and Equipment.** Each Purchasing Entity hereunder will advise the legal guardian of each Student that the legal guardian must read all Sales Information concerning Service and use of the Equipment, including, without limitation, the Welcome Guide, Plan and feature brochures, coverage maps, Contractor's Privacy and Acceptable Use policies, and other materials related to Equipment and accessories. Purchasing Entity will also provide to the legal guardian of each such Student, and advise the legal guardian to read, any additional materials and consumer information reasonably requested by Contractor from time to time to be so provided.

**3.2.2 Notices Regarding Location-Based Services.** Each Purchasing Entity hereunder will advise the legal guardian of each of its Students that (a) the Equipment used by such Student may be location-enabled, and (b) the legal guardian must read the Sales Information and the associated privacy policy for each Location-Based Service to learn how the location information will be used and protected. Applications offered by Contractor or third parties may allow Equipment used by Students to be tracked. In the event a Purchasing Entity or one of its K-12 Students downloads any such tracking application to Equipment used by a Student, that Purchasing Entity will provide clear and conspicuous notice to the legal guardian of such Student. Purchasing Entities will also ensure that their Students are not able to download such tracking applications themselves.

**4. E-Rate Funding.** If a Purchasing Entity intends to seek E-Rate funding for the Service made the basis of the Agreement, such Purchasing Entity is solely responsible for determining the proportion of the Service that is eligible for E-Rate discounts. To the extent Purchasing Entity relies upon Contractor to invoice USAC for the discounted portion of the Service, Purchasing Entity is responsible for providing the correct cost allocation information to Contractor for purposes of properly invoicing the Service.

## Spectrum Enterprise

# Ethernet Service Level Agreement

This document outlines the Service Level Agreement (“SLA”) for fiber-based Spectrum Enterprise Ethernet Service and Spectrum Enterprise Cloud Connect Service (individually the “Service” and collectively the “Services”). Capitalized words used, but not defined herein, shall have the meanings given to them in the Agreement.

This SLA is a part of, and hereby incorporated by reference into the Spectrum Enterprise Service Agreement (including the terms and conditions, attachments, and Service Orders described therein, the “Agreement”). To the extent any provision of this SLA conflicts with the Agreement, this SLA shall control. Performance tier goals (“SLA Targets”) are set forth in the table(s) below.

Ethernet Services SLA Targets presented below are measured end to end (i.e. from any two applicable Customer’s edge or network interface devices at the Service Location) at the individual circuit or service level, and any applicable credits are issued for the affected circuit or service (the “Affected Service”).

The Cloud Connect Service SLA Target for Availability is measured between Spectrum Enterprise’s network interface device (NID) located at the Customer location and the point of physical handoff of the Service to the Cloud Service Provider (the “Gateway Point”).

### I. SLA Targets for Ethernet and Cloud Connect Services:

Spectrum Enterprise Ethernet Services SLAs			
Performance Tier	Metro <sup>1</sup>	Regional <sup>1</sup>	National <sup>1,2</sup>
Miles <sup>3</sup>	0 - 155	>155 - 746	> 746
Kilometers <sup>3</sup>	0 - 250	>250 - 1200	> 1200
Latency	≤ 10ms	≤ 25ms	≤ 60ms
Jitter	≤ 2ms	≤ 4ms	≤ 8ms
Frame Loss	≤ 0.01%	≤ 0.01%	≤ 0.01%
Availability	≥ 99.99%	≥ 99.99%	≥ 99.99%
MTTR	4 hrs.	4 hrs.	4 hrs.

<sup>1</sup> “Metro”, “Regional”, and “National” includes circuits that are provided by Spectrum Enterprise to Service Locations directly from the Spectrum Enterprise Network.

<sup>2</sup> “National” also includes all circuits provided by third party service providers, regardless of distance.

<sup>3</sup> Miles and Kilometers are measured by fiber router miles.

Spectrum Enterprise Cloud Connect Gateway Point SLAs	
Availability	≥ 99.99%

**II. Priority Classification:**

“Excluded Disruptions” means (i) planned outages, (ii) routine or urgent maintenance, (iii) time when Spectrum Enterprise is unable to gain access to Customer’s premises to troubleshoot, repair or replace equipment or the Service, (iv) service problems resulting from acts of omissions of Customer or Customer’s representatives or agents, (v) Customer equipment failures, (vi) Customer is not prepared to release the Service for testing, and (vii) Force Majeure Events. Notwithstanding anything to the contrary in the Agreement, any service issues beyond the connectivity to the Cloud Service Provider is not covered by this SLA.

A “Service Disruption” is defined as an outage, disruption, or severe degradation, other than an Excluded Disruption, that interferes with the ability of a Spectrum Enterprise network hub to transmit and receive network traffic between Customer’s A and Z Service Locations. The Service Disruption period begins when Customer reports a Service Disruption using Spectrum Enterprise’s trouble ticketing system by contacting Customer Care, Spectrum Enterprise acknowledges receipt of such trouble ticket, Spectrum Enterprise validates that the Service is affected, and Customer releases the Service for testing. The Service Disruption ends when the affected Service has been restored.

“Service Degradation” means a degradation of the Service that is not a Service Disruption or a result of an Excluded Disruption, such as failure of the Service to achieve the SLA Targets for Latency / Frame Delay, Jitter / Frame Delay Variation, or Packet / Frame.

Spectrum Enterprise will classify Service problems as follows:

Priority	Criteria
Priority 1	<ul style="list-style-type: none"> <li>Service Disruption resulting in a total loss of Service; or</li> <li>Service Degradation to the point where Customer is unable to use the Service and is prepared to release it for immediate testing (each a “Priority 1 Outage”).</li> </ul>
Priority 2	<ul style="list-style-type: none"> <li>Service Degradation where Customer is able to use the Service and is not prepared to release it for immediate testing.</li> </ul>
Priority 3	<ul style="list-style-type: none"> <li>A service problem that does not impact the Service; or</li> <li>A single non-circuit specific quality of Service inquiry.</li> </ul>

**III. Service Availability:**

“Service Availability” is calculated as the total number of minutes in a calendar month less the number of minutes that the Service is unavailable due to a Priority 1 Outage (“Downtime”), divided by the total number of minutes in a calendar month.

The following table contains examples of the percentage of Service Availability translated into minutes of Downtime for the 99.99% Service Availability Target:

Percentage by Days Per Month	Total Minutes / Month	Downtime Minutes
99.99% for 31 Days	44,640	4.5
99.99% for 30 Days	43,200	4.3
99.99% for 29 Days	41,760	4.2
99.99% for 28 Days	40,320	4

**IV. Mean Time to Restore (MTTR):**

The MTTR measurement for Priority 1 Outages is the average time to restore Priority 1 Outages during a calendar month calculated as the cumulative length of time it takes Spectrum Enterprise to restore a Service following a Priority 1 Outage in a calendar month divided by the corresponding number of trouble tickets for Priority 1 Outages opened during the calendar month for the Service.

MTTR per calendar month is calculated as follows:

$$\frac{\text{Cumulative length of time to restore Priority 1 Outage(s) per Service}}{\text{Total number of Priority 1 Outage trouble tickets per Service}}$$

**V. Latency / Frame Delay:**

Latency or Frame Delay is the average roundtrip network delay, measured every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, to adequately determine a consistent average monthly performance level for frame delay for each Service. The roundtrip delay is expressed in milliseconds (ms).

Latency / Frame Delay is calculated as follows:

$$\frac{\text{Sum of the roundtrip delay measurements for a Service}}{\text{Total \# of measurements for a Service}}$$

**VI. Packet Loss / Frame Loss Ratio:**

Packet Loss or Frame Loss Ratio is defined as the percentage of frames that are not successfully received compared to the total frames that are sent in a calendar month, except where any packet or frame loss is the result of an Excluded Disruption. The percentage calculation is based on frames that are transmitted from a network origination point and received at a network destination point.

**Packet Loss / Frame Loss Ratio is calculated as follows:**

$\text{Packet Loss / Frame Loss (\%)} = 100 (\%) - \frac{\text{Frames Received}}{\text{Total Frames Sent}} \times 100 (\%)$
---

**VII. Jitter / Frame Delay Variation:**

Jitter or Frame Delay Variation is defined as the variation in delay for two consecutive frames that are transmitted (one-way) from a network origination point and received at a network destination point. Spectrum Enterprise measures a sample set of frames every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, and determines the average delay between consecutive frames within each sample set. The monthly Jitter / Frame Delay Variation is calculated as the average of all of the frame delay variation measurements during such calendar month and is expressed in milliseconds (ms).

$\frac{\text{Sum of the Frame Delay Variation measurements for a Service}}{\text{Total \# of measurements for a Service}}$
--

**VIII. Network Maintenance:**

**Maintenance Notice:**

Customer understands that from time to time, Spectrum Enterprise will perform network maintenance for network improvements and preventive maintenance. In some cases, Spectrum Enterprise will need to perform urgent network maintenance, which will usually be conducted within the routine maintenance windows. Spectrum Enterprise will use reasonable efforts to provide advance notice of the approximate time, duration, and reason for any urgent maintenance outside of the routine maintenance windows.

**Maintenance Windows:**

Routine maintenance may be performed Monday – Friday 12 a.m. – 6 a.m. Local Time.

**IX. Remedies Service Credit:**

If the actual performance of a Service during any calendar month is less than the SLA Targets, and Customer is in compliance with the terms of the Agreement and this SLA, then Customer may request credit equal to the corresponding percentage of the monthly recurring charges for the Affected Service as set forth in the table below. Any credit to be applied will be off-set against any amounts due from Customer to Spectrum Enterprise in the billing cycle following the date Spectrum Enterprise makes its credit determination. Credit requests must be submitted to Spectrum Enterprise within thirty (30) days of the calendar month in which the SLA Target was missed. Spectrum Enterprise will exercise commercially reasonable efforts to respond to such credit requests within 30 days of receipt thereof.

Service Availability	Mean Time To Restore ("MTTR")		Latency / Frame Delay (Roundtrip)	Jitter / Frame Delay Variation	Packet / Frame Loss
30%	> 4 hours ≤ 7:59:59 hours	4%	5%	5%	5%
	> 8 hours	10%			

All SLA Targets are monthly measurements, and Customer may request only one credit per SLA Target per month for the Affected Service. Should one event impact more than one SLA hereunder, Customer shall receive the single highest of the qualifying credits only. Except as set forth below, the credits described in this SLA shall constitute Customer's sole and exclusive remedy, and Spectrum Enterprise's sole and exclusive liability, with respect to any missed SLA Targets. Service Credits hereunder shall not be cumulative per Service.

**X. Chronic Priority 1 Outages:**

If Customer experiences and reports three (3) separate Priority 1 Outages where the Downtime exceeds four (4) hours during each Priority 1 Outage within three (3) consecutive calendar months, then Customer may terminate the Affected Service without charge or liability by providing at least thirty (30) days written notice to Spectrum Enterprise; provided, however, that (i) Customer may only terminate the Affected Service; (ii) Customer must exercise its right to terminate the Affected Service by providing written notice to Spectrum Enterprise within thirty (30) days after the event giving rise to Customer's termination right; (iii) Customer shall have paid Spectrum Enterprise all amounts due at the time of such termination for all Services provided by Spectrum Enterprise pursuant to the Agreement, and (iv) the foregoing termination right provides the sole and exclusive remedy of Customer and the sole and exclusive liability of Spectrum Enterprise for chronic Priority 1 Outages and Customer shall not be eligible for any additional credits. Termination will be effective forty-five (45) days after Spectrum Enterprise's receipt of such written notice of termination.





### Ethernet Intrastate-Only Traffic Certification

Customer Name (Legal Entity): ISD 709 DULUTH PS - INVOLTA FIBER

Billing Address: \_\_\_\_\_  
215 N 1ST AVE E  
DULUTH MN 55805-19

Charter Communications Operating, LLC and its subsidiaries providing the Services ("Spectrum"), presumes that more than 10% of the traffic carried on the WAN/Ethernet services that we provide to you over any circuit will be interstate in nature, and that therefore by Federal Communications Commission regulation each such circuit must be treated as jurisdictionally interstate in its entirety. If you expect that 10% or less of the traffic to be carried over any circuit will be interstate in nature, please complete the certification form below to identify the relevant circuit(s) and specify the expected jurisdictional allocation of your traffic associated with such circuit(s). Please note that all Internet-related traffic is presumptively interstate. Also, please note that you must provide this certification annually and whenever there is a material change in the actual or expected jurisdictional nature of your traffic. In the event that you fail to provide this certification in accordance with procedures specified by Spectrum, Spectrum reserves the right to again presume that more than 10% of the traffic carried over each circuit is interstate in nature and calculate the fees applicable to that usage accordingly.

#### CERTIFICATION

I certify that the traffic carried by Spectrum in its provision of WAN/Ethernet services on the circuits listed on the attached Service Order is jurisdictionally intrastate and will contain no more than 10% interstate traffic.

DocuSigned by:  
Cathy Erickson 7/23/2021  
C441FF187FF2416...  
(Authorized Customer Signature) (Date Signed)

Cathy Erickson CFO  
(Printed Name) (Title)

*01-ET012-108-000-320-000*

Authorized Customer Contact Information:

Phone: **(218) 336-8716** Email: **simone.zunich@isd709.org**

### SERVICE ORDER

THIS SERVICE ORDER ("Service Order"), is executed and effective upon the date of the signature set forth in the signature block below ("Effective Date") and is by and between Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ("Spectrum") and Customer (as shown below) and is governed by and subject to the Spectrum Enterprise Commercial Terms of Service posted to the Spectrum Enterprise website, <https://enterprise.spectrum.com/> (or successor url) or, if applicable, an existing services agreement mutually executed by the parties (each, as appropriate, a "Service Agreement"). Except as specifically modified herein, all other terms and conditions of the Service Agreement shall remain unamended and in full force and effect.

Spectrum Enterprise Contact Information	
Spectrum Enterprise 12405 Powerscourt Drive St. Louis, MO 63131	Contact: Chris Crawford Telephone: 7153014074 Email: chris.crawford@charter.com

Customer Information		
Customer Name ISD 709 DULUTH PS - INVOLTA FIBER	Order # 12661173	
Address 215 N 1ST AVE E DULUTH MN 55805-1966		
Telephone (218) 336-8700	Email: Simone.zunich@isd709.org	
Contact Name Simone Zunich	Telephone (218) 336-8700	Email: Simone.zunich@isd709.org
Billing Address 215 N 1ST AVE E DULUTH MN 55805-1966		
Billing Contact Name Bart Smith	Telephone (218) 336-8700	Email: Bart.smith@isd709.org

NEW AND REVISED SERVICES AT 421 N 6TH AVE E , DULUTH MN 55805				
Service Description	Contract Term	Quantity	Sales Price	Monthly Recurring Charges
1 GBPS OPTICAL ETHR INTRA	60 Months	1	\$ 355.00	\$ 355.00
Ethernet-Service Upgrade within the term	60 Months	1	\$ 0.00	\$ 0.00
<u>TOTAL*</u>				\$355.00

NEW AND REVISED SERVICES AT 4316 Rice Lake Rd , Duluth MN 55811				
Service Description	Contract Term	Quantity	Sales Price	Monthly Recurring Charges
1 GBPS OPTICAL ETHR INTRA	60 Months	1	\$ 355.00	\$ 355.00
Ethernet-Service Upgrade within the term	60 Months	1	\$ 0.00	\$ 0.00
<u>TOTAL*</u>				\$355.00

ONE TIME FEES AT 421 N 6TH AVE E , DULUTH MN 55805			
Service Description	Quantity	Sales Price	Install One Time Charge
Ethernet - Installation (Per UNI)	1		\$ 0.00
<u>TOTAL*</u>			\$0.00

ONE TIME FEES AT 4316 Rice Lake Rd , Duluth MN 55811			
Service Description	Quantity	Sales Price	Install One Time Charge
Ethernet - Installation (Per UNI)	1		\$ 0.00
<u>TOTAL*</u>			\$0.00



1. **TOTAL FEES.** Total Monthly Recurring Charges and Total One-Time Charges are due in accordance with the monthly invoice.
2. **TAXES.** Prices for Services do not include taxes, surcharges, or other fees.
3. **NO UNTRUE STATEMENTS.** Customer represents and warrants to Spectrum that neither this Service Order, nor any other information, including without limitation, any schedules or drawings furnished to Spectrum contains any untrue or incorrect statement of material fact or omits or fails to state a material fact.
4. **SPECIAL TERMS.**

Spectrum hereby agrees the Service ordered hereunder is an upgrade to existing Service at the Service (Location/Address) and, in this case, will not require an extension to the initial Term. Therefore, the Term of this upgrade Order shall end on the expiration of the initial Term and shall then be subject to any renewal terms set forth herein or in the Agreement.

#### **E-RATE FUNDING CONTINGENCY.**

Customer may submit this Service Order and the Agreement to the Schools and Libraries Division of the Universal Service Administrative Company, (i.e., the entity appointed by the Federal Communications Commission to administer the Universal Service Program with respect to Schools and Libraries (E-Rate) funding) as part of any application seeking a federal subsidy or funding.

Customer is responsible for notifying Charter of its election of either the Service Provider Invoice (SPI) or Billed Entity Applicant Reimbursement (BEAR) discount method by May 15th prior to the applicable funding year. Customer must complete and return an E-Rate Discount Election Form to Charter prior to such date, or Customer will be deemed to have chosen the BEAR discount method for the funding year.

Upon Charter's receipt of appropriate notice that Customer is an approved E-Rate program participant for a Service, Charter will invoice Customer for the Service in accordance with E-Rate guidelines and/or rules. If Charter invoices Customer for a Service pursuant to any E-Rate program rates, discounts or credits in advance of receiving such notice and Customer's request for E-Rate program funding is denied, limited or reduced, Charter will invoice Customer and Customer will pay the difference between such invoiced amount(s) and the actual amount of the charges for the Service as described in this Service Order. Notwithstanding anything herein to the contrary, Customer's obligations under this Service Order shall remain in full force and effect in the event Customer withdraws or is removed from the E-Rate program, receives E-Rate program funding that is less than Customer's requested funding amount, or is denied E-Rate program funding for any Service described in this Service Order. For the avoidance of doubt, Customer is solely responsible for all charges for services, as described in this Service Order, that were installed prior to the E-Rate program funding year start date.

The Parties have caused their duly authorized representatives to execute this Service Order.

<b>CUSTOMER</b>	<b>Charter Communications Operating, LLC</b>
	<b>By: Charter Communications, Inc., its Manager</b>
<p>DocuSigned by: <i>Cathy Erickson</i> C441FF167FF2415...</p>	<p>DocuSigned by: <i>John Trodden (Vp)</i> 904E0D59548E45C...</p>
Signature: _____	Signature: _____
Cathy Erickson	John Trodden (vp)
Printed Name: _____	Printed Name: _____
CFO	Director
Title: _____	Title: _____
7/23/2021	7/23/2021
Date: _____	Date: _____

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**No Cost Contracts Signed  
July 2021**

For your information, the Superintendent or the Executive Director of Business Services has signed the following no cost contracts during the above timeframe:

<b>Name</b>	<b>Contract Source</b>	<b>Description</b>
Minnesota State High School League (MSHSL)	Asst Superintendent	Facilities use agreements for Denfeld and East
Robert W. Baird & Co.	Finance	Underwriter for General Obligation Bonds, Series 2021C
CDW Government, LLC	Technology	Amendment to vCISO agreement to include Sourcewell wording



## Appendix W -- Region 7AA Facilities Use Agreement – 2021-2022

Return Electronically to: Tom Lenarz, 7AA Executive Secretary Email: tlenarz@isd 94.org

137

This Agreement is entered into on \_\_\_\_\_ (Date) by and between Minnesota State High School League and Region 7AA, and \_\_\_\_\_ Denfeld High School \_\_\_\_\_ (Host School).

**The term of this agreement is August 1, 2021 through July 31, 2022.**

WHEREAS, Region conducts playoff contests in various interscholastic athletic and arts activities and Host wishes to conduct and administer such contests.

NOW, THEREFORE, in consideration for the promises contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. When applicable, Host agrees to provide reasonable and necessary facilities (the “Facilities”) to conduct Region contests at a date, time, and location to be determined once sub-section/section contest sites are determined. A specific contest facilities agreement shall be executed as soon as reasonably possible after sub-section/section contests sites are determined based on the usual and customary practice regarding fees, including but not limited to information from the Region 7AA Tournament Report Form. Host is responsible to comply with all federal, state, and local laws and regulations, including those relating to public health, safety, and welfare.
2. Host understands and acknowledges that during Region 7AA contests the Facilities are to be used exclusively for Region contests and are not to be shared with other events. Host agrees to comply with all MSHSL and Region bylaws, policies, and guidelines, including but not limited to those relating to media credentials, ticket pricing, passes, program/merchandise sales, televising, videotaping, audiotaping, web streaming, and any other electronic recording. MSHSL and Region reserves and retains the exclusive rights to any and all advertising, copyright, broadcast and other similar or related rights to the contests.
3. When applicable, Region shall be responsible for obtaining and compensating game officials and the tournament director/manager for the contest.
4. Subject to Paragraph 3, Host shall provide, manage, pay, and supervise all other personnel reasonably necessary to safely and properly conduct the contest, including for illustrative purposes only, ticket sellers/takers, announcers, concession workers, statisticians, time-clock/scoreboard operators, security personnel, custodial workers, and others deemed necessary to safely and properly conduct the contest. Host shall be solely responsible for compliance with all laws and regulations regarding payment for the labor and/or services of individuals hired by Host as part of its management responsibilities, including without limitation, compliance with IRS and Minnesota Department of Revenue regulations regarding income tax, FICA and other withholdings, the issuance of tax reports, and any and all other applicable federal, state, and local laws and regulations.
5. This Agreement cannot be transferred or assigned by Host to any other party without the express written consent of the Region.
6. Host agrees to indemnify, defend and hold harmless Region and its officers, agents, employees, board members, contractors, and volunteers from and against any and all claims, damages or allegations arising from or relating to this Facilities Use Agreement except for claims that arise from the gross negligence or intentional misconduct of Region 7AA or its agents. Region 7AA agrees to indemnify, defend and hold harmless Host and its officers, agents, employees, board members, contractors, and volunteers from and against any and all claims, damages or allegations arising from or relating to this Facilities Use Agreement except for claims that arise from the gross negligence or intentional misconduct of Host or its agents.

(37-38)

7. Region may terminate this agreement immediately at any time it reasonably determines the Facilities are not adequate, safe, or otherwise suitable for the contests. Region may terminate this agreement by written notice if Host materially breaches this Agreement and such breach has not been cured within five (5) days of written notification.

8. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements or discussions. No changes to this Agreement will be valid or enforceable unless in writing and signed by all parties. The undersigned warrants and represents that he/she is authorized to enter into this agreement for and on behalf of Host.

9. The parties understand and agree that the invalidity or partial invalidity of any portion of this Agreement shall not invalidate the remainder of it, and the remainder shall remain in full force and effect. This Agreement is to be interpreted and enforced in accordance with the laws of the State of Minnesota.

10. This agreement will terminate on July 31, 2022.

This agreement is signed by the member school designee acting on the authority of the local school board.

School Name Denfeld High School

Authorized Signer Name *Arthur Eber*

Title *CFO*

Date *7/20/21*

**Return Electronically to: Tom Lenarz, 7AA Executive Secretary Email: [tlenarz@isd94.org](mailto:tlenarz@isd94.org)**

MSHSL Region 7AA

Authorized Signer Name *Tom Lenarz*

Title Executive Secretary/Treasurer

Date \_\_\_\_\_

## **Appendix W -- Region 7AA Facilities Use Agreement – 2021-2022**

**Return Electronically to: Tom Lenarz, 7AA Executive Secretary Email: tlenarz@isd 94.org**

139

This Agreement is entered into on \_\_\_\_\_ (Date) by and between Minnesota State High School League and Region 7AA, and \_\_\_\_\_ Duluth East High School \_\_\_\_\_ (Host School).

**The term of this agreement is August 1, 2021 through July 31, 2022.**

WHEREAS, Region conducts playoff contests in various interscholastic athletic and arts activities and Host wishes to conduct and administer such contests.

NOW, THEREFORE, in consideration for the promises contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. When applicable, Host agrees to provide reasonable and necessary facilities (the “Facilities”) to conduct Region contests at a date, time, and location to be determined once sub-section/section contest sites are determined. A specific contest facilities agreement shall be executed as soon as reasonably possible after sub-section/section contests sites are determined based on the usual and customary practice regarding fees, including but not limited to information from the Region 7AA Tournament Report Form. Host is responsible to comply with all federal, state, and local laws and regulations, including those relating to public health, safety, and welfare.
2. Host understands and acknowledges that during Region 7AA contests the Facilities are to be used exclusively for Region contests and are not to be shared with other events. Host agrees to comply with all MSHSL and Region bylaws, policies, and guidelines, including but not limited to those relating to media credentials, ticket pricing, passes, program/merchandise sales, televising, videotaping, audiotaping, web streaming, and any other electronic recording. MSHSL and Region reserves and retains the exclusive rights to any and all advertising, copyright, broadcast and other similar or related rights to the contests.
3. When applicable, Region shall be responsible for obtaining and compensating game officials and the tournament director/manager for the contest.
4. Subject to Paragraph 3, Host shall provide, manage, pay, and supervise all other personnel reasonably necessary to safely and properly conduct the contest, including for illustrative purposes only, ticket sellers/takers, announcers, concession workers, statisticians, time-clock/scoreboard operators, security personnel, custodial workers, and others deemed necessary to safely and properly conduct the contest. Host shall be solely responsible for compliance with all laws and regulations regarding payment for the labor and/or services of individuals hired by Host as part of its management responsibilities, including without limitation, compliance with IRS and Minnesota Department of Revenue regulations regarding income tax, FICA and other withholdings, the issuance of tax reports, and any and all other applicable federal, state, and local laws and regulations.
5. This Agreement cannot be transferred or assigned by Host to any other party without the express written consent of the Region.
6. Host agrees to indemnify, defend and hold harmless Region and its officers, agents, employees, board members, contractors, and volunteers from and against any and all claims, damages or allegations arising from or relating to this Facilities Use Agreement except for claims that arise from the gross negligence or intentional misconduct of Region 7AA or its agents. Region 7AA agrees to indemnify, defend and hold harmless Host and its officers, agents, employees, board members, contractors, and volunteers from and against any and all claims, damages or allegations arising from or relating to this Facilities Use Agreement except for claims that arise from the gross negligence or intentional misconduct of Host or its agents.

**(37-38)**

7. Region may terminate this agreement immediately at any time it reasonably determines the Facilities are not adequate, safe, or otherwise suitable for the contests. Region may terminate this agreement by written notification if Host materially breaches this Agreement and such breach has not been cured within five (5) days of written notification.

8. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements or discussions. No changes to this Agreement will be valid or enforceable unless in writing and signed by all parties. The undersigned warrants and represents that he/she is authorized to enter into this agreement for and on behalf of Host.

9. The parties understand and agree that the invalidity or partial invalidity of any portion of this Agreement shall not invalidate the remainder of it, and the remainder shall remain in full force and effect. This Agreement is to be interpreted and enforced in accordance with the laws of the State of Minnesota.

10. This agreement will terminate on July 31, 2022.

This agreement is signed by the member school designee acting on the authority of the local school board.

School Name Duluth East High School

Authorized Signer Name *Cathryn Edson*

Title *CEO*

Date *7/20/21*

**Return Electronically to: Tom Lenarz, 7AA Executive Secretary Email: tlenarz@isd 94.org**

MSHSL Region 7AA

Authorized Signer Name *Tom Lenarz*

Title Executive Secretary/Treasurer

Date \_\_\_\_\_

**7A Region Facilities Use Agreement**  
**Return electronically to cstoskopf@esko.k12.mn.us**

This Agreement is entered into on \_\_\_\_\_ by and between Minnesota State High School League Region 7A and Dunfeld High School ("Host School").

WHEREAS, Region conducts playoff contests in various interscholastic athletic and arts activities and Host wishes to conduct and administer such contests.

NOW, THEREFORE, in consideration for the promises contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. When applicable, Host agrees to provide reasonable and necessary facilities (the "Facilities") to conduct Region contests at a date, time, and location to be determined once sub-section/section contest sites are determined. A specific contest facilities agreement shall be executed as soon as reasonably possible after sub-section/section contests sites are determined based on the usual and customary practice regarding fees, including but not limited to information from the Region 7A Tournament Report Form. Host is responsible for compliance with all federal, state, and local laws and regulations, including those relating to public health, safety, and welfare.
2. Host understands and acknowledges that during Region contests the Facilities are to be used exclusively for Region contests and are not to be shared with other events. Host agrees to comply with all MSHSL and Region bylaws, policies, and guidelines, including but not limited to those relating to media credentials, ticket pricing, passes, program/merchandise sales, televising, videotaping, audiotaping, webstreaming, and any other electronic recording. MSHSL and Region reserves and retains the exclusive rights to any and all advertising, copyright, broadcast and other similar or related rights to the contests.
3. When applicable, Region shall be responsible for obtaining and compensating game officials and the tournament director/manager for the contest.
4. Subject to Paragraph 3, Host shall provide, manage, pay, and supervise all other personnel reasonably necessary to safely and properly conduct the contest, including for illustrative purposes only, ticket sellers/takers, announcers, concession workers, statisticians, time-clock/scoreboard operators, security personnel, custodial workers, and others deemed necessary to safely and properly conduct the contest. Host shall be solely responsible for compliance with all laws and regulations regarding payment for the labor and/or services of individuals hired by Host as part of its management responsibilities, including without limitation, compliance with IRS and Minnesota Department of Revenue regulations regarding income tax, FICA and other withholdings, the issuance of tax reports, and any and all other applicable federal, state, and local laws and regulations.
5. This Agreement cannot be transferred or assigned by Host to any other party without the express written consent of the Region.

**7A Region Facilities Use Agreement**  
**Return electronically to cstoskopf@esko.k12.mn.us**

6. Host agrees to indemnify, defend and hold harmless Region and its officers, agents, employees, board members, contractors, and volunteers from and against any and all claims, damages or allegations arising from or relating to this Facilities Use Agreement except for claims that arise from the gross negligence or intentional misconduct of Region or its agents. Region agrees to indemnify, defend and hold harmless Host and its officers, agents, employees, board members, contractors, and volunteers from and against any and all claims, damages or allegations arising from or relating to this Facilities Use Agreement except for claims that arise from the gross negligence or intentional misconduct of Host or its agents.

7. Region may terminate this agreement immediately at any time it reasonably determines the Facilities are not adequate, safe, or otherwise suitable for the contests. Region may terminate this agreement by written notice if Host materially breaches this Agreement and such breach has not been cured within five (5) days of written notification.

8. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements or discussions. No changes to this Agreement will be valid or enforceable unless in writing and signed by all parties. The undersigned warrants and represents that he/she is authorized to enter into this agreement for and on behalf of Host.

9. The parties understand and agree that the invalidity or partial invalidity of any portion of this Agreement shall not invalidate the remainder of it, and the remainder shall remain in full force and effect. This Agreement is to be interpreted and enforced in accordance with the laws of the State of Minnesota.

This agreement is signed by the member school designee acting on the authority of the local school board.

School Name Denfeld High School  
Authorized Signer Name Chad Stoskopf  
Title CTO  
Date 7/20/21

MSHSL Region 7A

Authorized Signer Name: Chad Stoskopf  
Title: Executive Secretary

Date: 8/1/21

July 8, 2021

Independent School District No. 709, Duluth Public Schools, MN  
Attention: Ms. Cathy Erickson, CFO/Executive Director of Business Services  
Historic Old Central High School  
215 N. 1st Avenue East, Rm 215  
Duluth, MN 55802

Ms. Cathy Erickson:

On behalf of Robert W. Baird & Co. Incorporated (“we” or “Baird”), we wish to thank you for the opportunity to serve as sole managing underwriter for Independent School District No. 709, Duluth Public Schools, MN (“you” or “the “Issuer”) on its proposed offering and issuance of approximately \$31,500,000 General Obligation Bonds, Series 2021C (Capital Appreciation Bonds) (the “Securities”). This letter will confirm the terms of our engagement; however, it is anticipated that this letter will be replaced and superseded by a bond purchase agreement to be entered into by the parties (the “Purchase Agreement”) if and when the Securities are priced following successful completion of the offering process. The Purchase Agreement will set forth the terms and conditions on which Baird will purchase or place the Securities.

1. Services to be Provided by Baird. Baird is hereby engaged to serve as managing underwriter, and not as financial advisor or municipal advisor, of the proposed offering and issuance of the Securities, and in such underwriter capacity Baird agrees to provide the following services:

- Review and evaluate the proposed terms of the offering and the Securities
- Develop a marketing plan for the offering, including identification of potential purchasers of the Securities
- Assist in the preparation of the preliminary official statement and final official statement and other offering documents
- Contact potential purchasers of the Securities and provide them with copies of the offering materials and related information
- Respond to inquiries from potential purchasers and, if requested, coordinate their due diligence calls and meetings
- If the Securities are to be rated, assist in the preparation of information and materials to be provided to securities rating agencies and in the development of strategies for meetings with the rating agencies
- Consult with counsel and other service providers about the offering and the terms of the Securities
- Inform the Issuer of the marketing and offering process
- Negotiate the pricing, including the interest rate, and other terms of the Securities
- Obtain CUSIP number(s) for the Securities and arrange for their DTC book-entry eligibility
- Submit documents and other information about the offering to the MSRB’s EMMA website

Robert W. Baird & Co.  
777 East Wisconsin Avenue  
Milwaukee WI 53202 5391  
Main 414 765-3500  
Toll Free 800 RW BAIRD

[www.rwbaird.com](http://www.rwbaird.com)

- Plan and arrange for the closing and settlement of the issuance and the delivery of the Securities
- Such other usual and customary underwriting services as may be requested by the Issuer

In addition, as part of our underwriting services, Baird may provide advice concerning the structure, timing, terms and other similar matters about the offering.

2. Fees and Expenses. Baird's underwriting fee/spread will be determined by mutual agreement of the Issuer and Baird and will be reflected in the Purchase Agreement. The underwriting fee/spread will represent the difference between the price that Baird pays for the Securities and the public offering price stated on the cover of the final official statement. The underwriting fee/spread will be contingent upon the closing of the proposed offering and the amount of the fee/spread will be based on the principal or par amount of the Securities.

The Issuer shall be responsible for paying or reimbursing Baird for all costs of issuance, including without limitation, CUSIP, DTC, IPREO (electronic book-running/sales order system), a day loan charge (currently at the rate of 1% per annum of the par amount); official statement printing and mailing/distribution charges; bond counsel, disclosure counsel and underwriter's counsel fees; municipal advisory and other consultant fees; ratings agency fees and expenses and travel expenses directly related thereto; auditor and other expert fees; trustee, registrar and paying agent fees; and all other expenses incident to the performance of the Issuer's obligations under the proposed offering. However, Baird will be responsible for paying any fees to the MSRB in connection with the issuance of the Securities.

3. Conflicts of Interest and Disclosures Pursuant to MSRB Rules. Baird is registered with the Municipal Securities Rulemaking Board ("MSRB") and the SEC. The MSRB website is [www.msrb.org](http://www.msrb.org). Two investor brochures, Information for Municipal Securities Investors and Information for Municipal Advisory Clients, describe the protections that may be provided by the MSRB's rules. The brochures are available on the MSRB website. The MSRB website also contains information about how to file a complaint with an appropriate regulatory authority.

Baird makes the following conflict of interest and other disclosures as required by MSRB Rule G-17.

- Disclosures Concerning the Underwriters' Role:
  - MSRB Rule G-17 requires an underwriter to deal fairly at all times with both issuers and investors.
  - The underwriters' primary role is to purchase the Bonds with a view to distribution in an arm's-length commercial transaction with the Issuer. The underwriters have financial and other interests that differ from those of the Issuer.
  - Unlike a municipal advisor, an underwriter does not have a fiduciary duty to the Issuer under the federal securities laws and is, therefore, not required by federal law to act in the best interests of the Issuer without regard to its own financial or other interests.
  - The Issuer may choose to engage the services of a municipal advisor with a fiduciary obligation to represent the Issuer's interest in this transaction.
  - The underwriters have a duty to purchase the Securities from the Issuer at a fair and reasonable price, but must balance that duty with their duty to sell the Securities to investors at prices that are fair and reasonable.
  - The underwriters will review the official statement for the Securities in accordance with, and a part of, their respective responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction.
- Disclosures Concerning the Underwriters' Compensation:



The underwriters will be compensated by a fee and/or an underwriting discount that will be set forth in the bond purchase agreement to be negotiated and entered into in connection with the issuance of the Securities. Payment or receipt of the underwriting fee or discount will be contingent on the closing of the transaction and the amount of the fee or discount may be based, in whole or in part, on a percentage of the principal amount of the Securities. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest since the underwriters may have an incentive to recommend to the Issuer a transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

- Baird-Specific Conflicts of Interest Disclosures:

Baird is a full-service securities firm and as such Baird and its affiliates may from time to time provide advisory, brokerage, consulting and other services and products to municipalities, other institutions, and individuals including the Issuer, certain Issuer officials or employees, and potential purchasers of the Securities for which Baird may receive customary compensation; however, such services are not related to the proposed offering. Baird has previously served as underwriter, placement agent or financial advisor on other bond offerings and financings for the Issuer and expects to serve in such capacities in the future. Baird may also be engaged from time to time by the Issuer to manage investments for the Issuer (including the proceeds from the proposed offering) through a separate contract that sets forth the fees to be paid to Baird. Baird may compensate its associates for any referrals they have made that resulted in the Issuer's selection of Baird to serve as underwriter on the proposed offering of the Securities. Baird manages various mutual funds, and from time to time those funds may own bonds and other securities issued by the Issuer (including the Securities). Additionally, clients of Baird may from time to time purchase, hold and sell bonds and other securities issued by the Issuer (including the Securities).

In the ordinary course of fixed income trading business, Baird may purchase, sell, or hold a broad array of investments and may actively trade securities and other financial instruments, including the Securities and other municipal bonds, for its own account and for the accounts of customers, with respect to which Baird may receive a mark-up or mark-down, commission or other remuneration. Such investment and trading activities may involve or relate to the offering or other assets, securities and/or instruments of the Issuer and/or persons and entities with relationships with the Issuer. Spouses and other family members of Baird associates may be employed by the Issuer.

Baird has not identified any other actual or potential material conflicts of interest.

- Disclosures of Material Financial Characteristics and Material Financial Risks.

- Accompanying this letter is a disclosure document describing the material financial characteristics and material financial risks of the Securities as required by MSRB Rule G-17.

4. Term and Termination. The term of this engagement shall extend from the date of this letter to the closing of the offering of the Securities. Notwithstanding the forgoing, either party may terminate Baird's engagement at any time without liability of penalty upon at least 30 days' prior written notice to the other party. If Baird's engagement is terminated by the Issuer, the Issuer agrees to reimburse Baird for its out-of-pocket expenses incurred until the date of termination.

5. Indemnification; Limitation of Liability. The Issuer agrees that neither Baird nor its employees, officers, agents or affiliates shall have any liability to the Issuer for the services provided hereunder except to the extent it is judicially determined that Baird engaged in gross negligence or willful misconduct. In addition, to the extent permitted by applicable law, the Issuer shall indemnify, defend and hold Baird and its employees, officers, agents and affiliates harmless from and against any losses claims, damages and liabilities that arise from or otherwise relate to this Agreement, actions taken or omitted in connection

herewith, or the transactions and other matters contemplated hereby, except to the extent such losses, claims, damages or liabilities are judicially determined to be the result of Baird's gross negligence or willful misconduct.

6. Miscellaneous. This letter shall be governed and construed in accordance with the laws of the State of Minnesota. This Agreement may not be amended or modified except by means of a written instrument executed by both parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party. The Issuer acknowledges that Baird may, at its option and expense and after announcement of the offering, place announcements and advertisements or otherwise publicize a description of the offering and Baird's role in it on Baird's website and/or other marketing material and in such financial and other newspapers and journals as it may choose, stating that Baird has acted as underwriter for the offering. The Issuer also agrees that Baird may use the Issuer's name and logo or official seal for these purposes.

If there is any aspect of this Agreement that requires further clarification, please do not hesitate to contact us. In addition, please consult your own financial and/or municipal, legal, accounting, tax and other advisors as you deem appropriate. We understand that you have the authority to bind the Issuer by contract with us, and that you are not a party to any conflict of interest relating to the proposed offering. If our understanding is not correct, please let us know.

Please evidence your receipt and agreement to the foregoing by signing and returning this letter.

Again, we thank you for the opportunity to assist you with your proposed financing and the confidence you have placed in us.

Very truly yours,

**ROBERT W. BAIRD & CO. INCORPORATED**

By: Michael R Hoheisel  
Michael Hoheisel, Managing Director

By: Matt Rantapaa  
Matt Rantapaa, Senior Vice President

Acknowledged and accepted this 10<sup>th</sup> day of July, 2021

**INDEPENDENT SCHOOL DISTRICT NO. 709, DULUTH, MN**

By: Cathy Erickson  
Cathy Erickson, CFO/Executive Director of Business Services

**Disclosures of Material Financial Characteristics  
and Financial Risks of Proposed Offering of Fixed Rate Bonds**

Robert W. Baird & Co. Incorporated (“Baird”) has been engaged as underwriter or placement agent for the proposed offering by you (or the “Issuer”) of fixed rate bonds, notes, certificates of participation or other debt securities (“Fixed Rate Bonds”), to be sold on a negotiated basis. The following is a general description of the financial characteristics and security structures of Fixed Rate Bonds, as well as a general description of certain financial risks that you should consider before deciding whether to issue Fixed Rate Bonds.

This document is being provided to an official of the Issuer who has the authority to bind the Issuer by contract with Baird, who does not have a conflict of interest with respect to the offering.

If the Fixed Rate Bonds proposed to be issued are “conduit revenue bonds,” you will be a party to the bond purchase agreement and certain other legal documents to be entered into in connection with the issuance, but the material financial risks described below will be borne by the borrower or obligor, as set forth in those legal documents.

**Financial Characteristics**

**Maturity and Interest.** Fixed Rate Bonds are interest-bearing debt securities issued by state and local governments, political subdivisions and agencies or authorities, such as the Issuer. Maturity dates for Fixed Rate Bonds will be fixed at the time of issuance and may include serial maturities (specified principal amounts are payable on the same date in each year until final maturity) or one or more term maturities (specified principal amounts are payable on each term maturity date) or a combination of serial and term maturities. Maturity dates, including the final maturity date, are subject to negotiation and will be reflected in the official statement. At each maturity, the scheduled principal or par amount of the Fixed Rate Bonds will have to be repaid.

Fixed Rate Bonds will pay fixed rates of interest typically semi-annually on scheduled payment dates, although some Fixed Rate Bonds may accrue interest to be paid at maturity. Such bonds are often referred to as capital appreciation or zero-coupon bonds. The interest rates to be paid on Fixed Rate Bonds may differ for each series or maturity date. The specific interest rates will be determined based on market conditions and investor demand and reflected in the official statement for the Fixed Rate Bonds. Fixed Rate Bonds with longer maturity dates will generally have interest rates that are greater than securities with shorter maturity dates.

**Redemption.** Fixed Rate Bonds may be subject to optional redemption, which allows the Issuer, at its option, to redeem some or all of the Fixed Rate Bonds on a date prior to scheduled maturity, such as in connection with the issuance of refunding bonds to take advantage of lower interest rates. Fixed Rate Bonds may be subject to optional redemption only after the passage of a specified period of time from the date of issuance, and upon payment of the redemption price set forth in the official statement for the Fixed Rate Bonds, which typically is equal to the par amount of the Fixed Rate Bonds being redeemed (plus accrued interest) but may include a redemption premium. The Issuer will be required to send out a notice of optional redemption to the holders of Fixed Rate Bonds, usually a certain period of time prior to the redemption date. Fixed Rate Bonds with term maturity dates also may be subject to mandatory sinking fund redemption, which requires the Issuer to redeem specified principal amounts of the Fixed Rate Bonds annually in advance of the term maturity date. The mandatory sinking fund redemption price is 100% of the principal amount of the Fixed Rate Bonds to be redeemed. Fixed Rate Bonds may also be subject to extraordinary or mandatory redemption upon the occurrence of certain events, authorizing or requiring you to redeem the Fixed Income Bonds at their par amount (plus accrued interest).

Credit Enhancements. Fixed Rate Bonds may feature credit enhancements, such as an insurance policy provided by a municipal bond insurance company that guarantees the payment of principal of an interest on the bonds when due in the event of default. Other credit enhancements could include a letter of credit provided by a financial institution, or financial support from a state agency.

Tax Status. If Fixed Rate Bonds are intended to be tax-exempt, counsel will provide an opinion that interest on the Fixed Rate Bonds will be excluded from gross income for federal income tax purposes. Certain Fixed Rate Bonds may also be exempt from state personal income tax.

Some Fixed Rate Bonds (or a portion of those being issued) may be taxable, meaning that interest on the Fixed Rate Bonds will be included in gross income for federal income tax purposes.

### Security

Payment of principal of and interest on a municipal security, including Fixed Rate Bonds, may be backed by various types of pledges and forms of security, some of which are described below. The security for Fixed Rate Bonds will vary, depending on whether they are general obligation bonds, revenue bonds, conduit bonds or other types.

### General Obligation Bonds

“General obligation bonds” are debt securities to which your full faith and credit is pledged to pay principal and interest. If you have taxing power, generally you will pledge to use your ad valorem (property) taxing power to pay principal and interest. Ad valorem taxes necessary to pay debt service on general obligation bonds may not be subject to state constitutional property tax millage limits (an unlimited tax general obligation bond). The term “limited” tax is used when such limits exist. General obligation bonds constitute a debt and, depending on applicable state law, may require that you obtain approval by voters prior to issuance. In the event of default in required payments of interest or principal, the holders of general obligation bonds have certain rights under state law to compel you to impose a tax levy.

### Revenue Bonds

“Revenue bonds” are debt securities that are payable only from a specific source or sources of revenues that are generated from a particular enterprise or service you offer, such as water, electricity, sewer, health care, housing, transportation, toll roads and bridges, parking, parks and recreation fees, and stadiums and entertainment facilities. Revenue bonds are not a pledge of your full faith and credit and you are obligated to pay principal and interest on your revenue bonds only from the revenue source(s) specifically pledged to the bonds. Revenue bonds do not permit the bondholders to compel you to impose a tax levy for payment of debt service. Pledged revenues may be derived from operation of the financed project or system, grants, license or user fees, or excise or other specified taxes. Generally, subject to state law or local charter requirements, you are not required to obtain voter approval prior to issuance of revenue bonds. If the specified source(s) of revenue become inadequate, a default in payment of principal or interest may occur. Various types of pledges of revenue may be used to secure interest and principal payments on revenue bonds. The nature of these pledges may differ widely based on state law, the type of issuer, the type of revenue stream and other factors. Some revenue bonds may be backed by your full faith and credit or moral obligation. A moral obligation is a non-binding covenant by you to make a budget recommendation to your legislative body to appropriate moneys needed to make up any revenue shortfall in order to meet debt service obligations on the revenue bonds, but the legislative body is not legally obligated to make such appropriation.

Certain revenue bonds may be structured as certificates of participation, which are instruments evidencing a pro rata share in a specified pledged revenue stream, usually lease payments that are typically subject to annual appropriation. With certificates of participation, the lessor or party receiving payments assigns those

payments to a trustee that distributes them to the certificate holders. Certificates of participation do not constitute general obligation indebtedness of the issuer or municipality and are not backed by a municipality's full faith and credit or taxing power. Certificates of participation are payable solely from specific revenue sources.

#### Tax Increment or Tax Allocation Bonds

"Tax increment" or "tax allocation" bonds are a form of revenue bonds that are payable from the incremental increase in taxes realized from any appreciation in property values resulting from capital improvements benefitting the properties located in a particular location such as a tax incremental district. They are commonly used to redevelop, add infrastructure or otherwise improve a blighted, neglected or under-utilized area to encourage development in that area. Tax increment bonds may also be payable from increased sales taxes generated in a designated district. The proceeds of an issuance of tax increment or tax allocation bonds are typically applied to pay the costs of infrastructure and other capital improvements in the designated district. The incremental taxes or other revenues may not be sufficient to meet debt service obligations on the tax increment or tax allocation bonds. Some tax increment or tax allocation bonds may also be backed by an issuer's full faith and credit or moral obligation.

#### Conduit Bonds

Conduit revenue bonds may be issued by a governmental issuer acting as conduit for the benefit of a private sector entity or a 501(c)(3) organization (the "borrower" or "obligor"). Industrial revenue bonds are a form of conduit revenue bonds. Conduit revenue bonds commonly are issued for not-for-profit hospitals, health care facilities, educational institutions, single and multi-family housing, airports, industrial or economic development projects, corporations, and student loan programs, among other borrowers or obligors. Principal and interest on conduit revenue bonds normally are paid exclusively from revenues pledged by the borrower or obligor. Unless otherwise specified under the terms of the bonds, you are not required to make payments of principal or interest if the borrower or obligor defaults.

#### Charter School Bonds

Fixed Rate Bonds issued for the benefit of charter schools are a form of conduit revenue bonds. They are issued by a government entity acting as a conduit for the benefit of a charter school. The charter school is the borrower or obligor for the bonds. Principal and interest on charter school bonds normally are paid exclusively from revenues pledged by the charter school. Unless otherwise specified under the terms of the bonds, you are not required to make payments of principal or interest if the charter school defaults.

#### Financial and Other Covenants

Issuers of Fixed Rate Bonds (and/or obligors) may be required to agree to certain financial and other covenants (such as debt service coverage ratios) that are designed to protect bond holders. Covenants are a form of additional security. The failure to continue to meet covenants may trigger an event of default or other adverse consequences to you and/or the obligor giving bond holders certain rights and remedies.

The description above regarding "Security" is only a brief summary of certain possible security provisions for the Fixed Rate Bonds and is not intended as legal advice. You should consult with your bond counsel for further information regarding the security for the Bonds.

#### Financial Risk Considerations

Certain risks may arise in connection with your issuance of Fixed Rate Bonds, including some or all of the following (generally, the borrower or obligor, rather than you, will bear these risks for conduit revenue bonds):

#### Issuer Default Risk

You (or the obligor) may be in default if the funds pledged to secure Fixed Rate Bonds are not sufficient to

pay debt service on the bonds when due. The consequences of a default may be serious for you (and/or the obligor) and, depending on applicable state law and the terms of the authorizing documents, the holders of the bonds may be able to exercise a range of available remedies against you (or the obligor). For example, if Fixed Rate Bonds are secured by a general obligation pledge, you may be ordered by a court to raise taxes. Other budgetary adjustments also may be necessary to enable you to provide sufficient funds to pay debt service on the bonds. If the Fixed Rate Bonds are revenue bonds, you (or the obligor) may be required to take steps to increase the available revenues that are pledged as security for the bonds. A default may negatively impact your (or the obligor's) credit ratings and may effectively limit your (or the obligor's) ability to publicly offer bonds or other securities at market interest rate levels. Further, if you (or the obligor) are unable to provide sufficient funds to remedy the default, subject to applicable state law and the terms of the authorizing documents, you (or the obligor) may find it necessary to consider available alternatives under state law, including (for some issuers) state-mandated receivership or bankruptcy. A default also may occur if you (or the obligor) are unable to comply with covenants or other provisions agreed to in connection with the issuance of the Fixed Rate Bonds.

This description is only a brief summary of issues relating to defaults and is not intended as legal advice. You should consult with your bond counsel for further information regarding defaults and remedies.

#### Redemption Risk

Your (or the obligor's) ability to redeem Fixed Rate Bonds prior to maturity may be limited, depending on the terms of any optional redemption provisions. In the event that interest rates decline, you (or the obligor) may be unable to take advantage of the lower interest rates to reduce debt service. In addition, if Fixed Rate Bonds are subject to extraordinary or mandatory redemption, you (or the obligor) may be required to redeem the bonds at times that are disadvantageous.

#### Refinancing Risk

If your (or the obligor's) financing plan contemplates refinancing some or all of the Fixed Rate Bonds at maturity (for example, if there are term maturities or if a shorter final maturity is chosen than might otherwise be permitted under the applicable federal tax rules), market conditions or changes in law may limit or prevent you (or the obligor) from refinancing those bonds when required. Further, limitations in the federal tax rules on advance refunding of bonds (an advance refunding of bonds occurs when tax-exempt bonds are refunded more than 90 days prior to the date on which those bonds may be retired) may restrict your (or the obligor's) ability to refund the Fixed Rate Bonds to take advantage of lower interest rates.

#### Reinvestment Risk

You (or the obligor) may have proceeds of the Fixed Rate Bonds to invest prior to the time that you (or the obligor) are able to spend those proceeds for the authorized purpose. Depending on market conditions, you (or the obligor) may not be able to invest those proceeds at or near the rate of interest that you (or the obligor) are paying on the bonds, which is referred to as "negative arbitrage".

#### Tax Compliance Risk (applicable if the Fixed Rate Bonds are tax-exempt bonds)

The issuance of tax-exempt bonds is subject to a number of requirements under the United States Internal Revenue Code, as enforced by the Internal Revenue Service (IRS), and, if applicable, state tax laws. You (and the obligor) must take certain steps and make certain representations prior to the issuance of tax-exempt bonds. You (and the obligor) also must covenant to take certain additional actions after issuance of the tax-exempt bonds. A breach of the representations or a failure to comply with certain tax-related covenants may cause the interest on the Fixed Rate Bonds to become taxable retroactively to the date of issuance of the bonds, which may result in an increase in the interest rate that you (or the obligor) pay on the bonds or the mandatory redemption of the bonds. The IRS also may audit you (or the obligor) or the Fixed Rate Bonds or your (or the obligor's) other bonds, in some cases on a random basis and in other cases targeted to specific types of bond issues or tax concerns. If the Fixed Rate Bonds are declared taxable, or if

you (or the obligor) are subject to audit, the market price of the Fixed Rate Bonds and/or your (or the obligor's) other bonds may be adversely affected. Further, your (or the obligor's) ability to issue other tax-exempt bonds also may be limited.

This description of tax compliance risks is not intended as legal advice and you should consult with your bond counsel regarding tax implications of issuing Fixed Rate Bonds.

Continuing Disclosure Risk.

In connection with the issuance of Fixed Rate Bonds, you (and/or the obligor) may be subject to continuing disclosures which require dissemination of annual financial and operating information and notices of material events. Compliance with these continuing disclosure requirements is important and facilitates an orderly secondary market. Failure to comply with continuing disclosure requirements may affect the liquidity and marketability of the Fixed Rate Bonds, as well as your (and/or the obligor's) other outstanding securities. Because instances of material non-compliance with previous continuing disclosure requirements must be disclosed in an official statement, failure to comply with continuing disclosure requirements may also make it more difficult or expensive for you (or the obligor) to market and sell future bonds.

## CHANGE ORDER

<b>Project Name:</b>	Duluth Public Schools 2021.06-vCISO	<b>Project Manager:</b> Dave Donarski 847-465-6000 davedon@cdwg.com
<b>Customer Name:</b>	Duluth Independent School District No. 709 (MN)	
<b>CDW Affiliate:</b>	CDW Government LLC	<b>Requesting Party:</b> Sourcewell
<b>Effective Date:</b>	July 16, 2021	
<b>Change ID:</b>	REQ#34161-01	

This change order ("Change Order" or "CO") is made and entered into this July 16, 2021 (the "Effective Date") by and between the undersigned, CDW Government LLC ("Seller" and "we"), and Duluth Independent School District No. 709 (MN) ("Customer" and "you"), and amends that certain Duluth Public Schools 2021.06-vCISO Statement of Work made effective June 11, 2021

### CHANGE DESCRIPTION

This Change Order modifies the SOW and any previous Change Orders. The changes are detailed below:

This Change order will change the original Governing Terms that were on signed off on to the below information provided.

This SOW shall be governed by that certain Sourcewell Vendor Agreement 081419#CDW between CDW Government LLC and Sourcewell effective December 1, 2019 (the "Agreement"). If there is a conflict between this SOW and the Agreement, then the Agreement will control, except as expressly amended in this SOW by specific reference to the Agreement.

### SIGNATURES

In acknowledgement that the parties below have read and understood this Change Order and agree to be bound by it, each party has caused this Change Order to be signed and transferred by its respective authorized representative.

#### CDW Government LLC

By: \_\_\_\_\_  
signature **Chris** Digitally signed by  
Name: **Chris Schroeder** Chris Schroeder  
Title: **Schroeder** Date: 2021.07.22  
Date: **14:19:36 -05'00'**

#### Duluth Independent School District No. 709 (MN)

By: *Catherine Erickson*  
signature  
Name: Catherine A. Erickson  
Title: CFO  
Date: 7/20/21

The following PSM has given approval:



**Revenue Contracts Signed  
July 2021**

For your information, the Superintendent or the Executive Director of Business Services has signed the following revenue contracts during the above timeframe:

<b>Name</b>	<b>Amount or Estimated Amount*</b>	<b>Contract Source</b>	<b>Description</b>
SOAR Career Solutions (SOAR)	\$7,050.00	Adult Basic Education	Train and support low-to-mod-income residents to gain the skills necessary to obtain entry-level employment as Computer Support Specialists
Harbor City School for Meals	\$31,520.00	Child Nutrition	FY22 agreement to provide meals for Harbor City International School
U Got Class by LERN	TBD	Community Education	Partnership with U Got Class for online class registration
Lifetouch	TBD	Lakewood	Yearbook sales



## MEMORANDUM OF UNDERSTANDING

WHEREAS, **SOAR Career Solutions (SOAR), Adult Basic Education (ABE), Lake Superior College (LSC) and Duluth Workforce Development - CareerForce (DWD)** have come together to implement the Computer Support Specialist Job Training which is funded by the City of Duluth Community Development Block Grant funding through U.S. Department of Housing and Urban Development.

WHEREAS the partners listed below have agreed to enter into a collaborative agreement; and

WHEREAS, the partners herein desire to enter into a Memorandum of Understanding setting forth the services to be provided by the collaborative; and

### I) Description of Partner Agencies

**SOAR Career Solutions (SOAR)** is a 501(c)3 organization based in Duluth, MN whose mission is to inspire personal transformation through career development. SOAR provides innovative programming that moves people to sustainable employment, contributing to a prosperous community. Comprehensive, relationship-based services allow clients to achieve goals of overcoming barriers, integrating into the community and obtaining education and/or getting a job. SOAR was founded in 1980 as Project SOAR of NE MN and changed its name in 2005. Since inception, over 12,000 individuals have received services.

**Duluth Adult Basic Education (ABE)** – offers educational opportunities for adults to prepare for GED or adult diploma, transition into college, prepare for job training, increase English language skills and increase computer literacy and basic reading, writing and math skills.

**Duluth Workforce Development – CareerForce** – has over 50 years of experience serving the Duluth community with quality employment and training services. CareerForce is a key part of Minnesota’s career development and talent matching resource offering a variety of programs and services to career seekers and employers.

**Lake Superior College (LSC)** is a two-year community and technical college in northeastern Minnesota. LSC provides 90 programs and services including technical programs and customized training for business and industry partners.

### II) Purpose and Scope:

Utilizing MN DEED’s Pathways to Prosperity training model, SOAR will partner with Adult Basic Education, Lake Superior College and Duluth CareerForce to train and support low-to-mod-income residents to gain the skills necessary to obtain entry-level employment as Computer Support Specialists.

**Success Measures:**

Recruit, intake and assess 30 low-to-moderate income Duluth residents.

Enroll 20 participants into Computer Support Specialist training.

16 (80%) graduate training and obtain certificate of completion (certificate obtained)

12 (60%) will obtain and retain employment as a help desk technician, IT generalist or IT support specialist positions. (Paystub as proof of employment)

Successful participants will obtain a certificate of completion and will be qualified to gain employment as a Help Desk Technician, IT Generalist, or IT Support Specialist with a median wage of \$17.99/hour.

Participants can advance in the IT field by obtaining additional certifications to work as PC Support Tech, Network Admin and Security, or Cyber Security. With a 2-year degree, participants can work in Network Admin, Cyber Security or Computer Technology, and/or continue onto a 4-year degree in the IT field.

**III) Roles and Responsibilities**

NOW, THEREFORE, it is hereby agreed by and between the partners as follows:

**SOAR will:**

- Serve as the fiscal host and grant administrator;
- Coordinate partner meetings.
- Coordinate with Community Action Duluth's Community Computer Program to provide refurbished PC's and internet access for participants in need.
- Recruit participants and implement intake, and skills/interest assessments, and provide individualized employment/education services based on participants individualized needs (i.e. transportation assistance, obtainment of ID cards, childcare, rent assistance, etc.), work readiness training, build soft skills & job search skills, develop resumes/applications and provide job retention support.

**Duluth Adult Learning Center - Adult Basic Education (ABE) will:**

- Participate in partner meetings.
- Refer participants.
- Assess participants' reading and math skill level to identify the level of educational support needed for each participant.
- Assess participants' technology skill level to identify level of support needed.
- Develop customized curriculum and instruct participants to prepare participants for college level coursework.



- Provide 32 hours of bridge instruction - designed to build the foundational skills of individuals whose academic skills do not meet the minimum requirements of the certificate program.
- Provide 18 hours of integrated instruction support during Computer Support Specialist training.

**Duluth Workforce Development – Duluth CareerForce will:**

- Participate in partner meetings.
- Identify technology-focused career pathway and engage employers.
- Refer participants.
- Coordinate creation of paid work experience opportunities for graduates.
- Develop connections with employers to match workforce talent with job openings.

**Lake Superior College (LSC) will:**

- Participate in partner meetings.
- Develop customized curriculum for Computer Support Services.
- Provide 80 hours of job training instruction focused on informational resources and technical tools needed to function effectively in a support position. Learn to handle troubleshooting and problem solving, successfully communicate with clients, determine client's specific need, and train end-user and other management priorities. Prepare to work with the latest developments in web and email based support for Windows and cloud computing.

**Financial involvement/commitment:**

Payment to partner agencies is contingent upon receipt of City of Duluth Community Development Block Grant funding. Payments will be made at the conclusion of the IT Training. Payment will not be made without proper documentation.

Please send invoices via email or USPS by October 7, 2021 to Ann Miller, Finance Director, [amiller@soarcareers.org](mailto:amiller@soarcareers.org) or

SOAR Career Solutions  
Attn: Ann Miller  
205 W. 2<sup>nd</sup> Street, Suite 101  
Duluth, MN 55802

**Maximum payment made to each agency:**

Adult Basic Education: \$7,050  
Duluth Career Force: \$0  
Lake Superior College: \$10,870



#### IV) Timeline

Responsibilities under this Memorandum of Understanding will coincide with the IT Training period of July 12, 2021 – September 8, 2021.

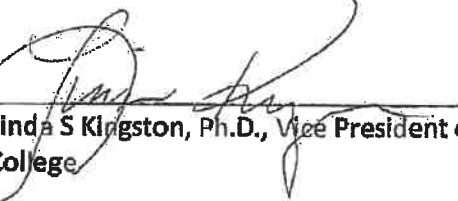
#### V) Signatures

SOAR, ABE, Duluth Workforce Development and LSC agree to collaborate and provide services as detailed above in Section III to participants of the Computer Support Specialist Job Training project.

BY:  DATE: 6.25.21  
Emily Edison, Executive Director, SOAR Career Solutions

BY:  DATE: 7/2/2021  
Patty Fleege, Adult Education Manager, Duluth Adult Basic Education

BY:  DATE: 7/16/21  
Elena Foshay, Director, Duluth Workforce Development

BY:  DATE: 6-28-21  
Linda S Kingston, Ph.D., Vice President of Academic and Student Affairs, Lake Superior College

  
Catherine Erickson, CFO

## **School Nutrition Programs**

### **Agreement for Vended Meals Provided by a School Food Authority**

**School Year 2021-2022**

This agreement is for a School Food Authority (SFA) that participates in School Nutrition Programs (SNP) to obtain reimbursable SNP meals from another SFA, which is referred to in this contract as the "Vendor". An Agreement for Vended Meals Provided by a School Food Authority must be completed each school year that the Vendor will provide meals to the SFA. This agreement template may not be used to obtain SNP meals from a commercial vendor.

Meal charges are based on the Vendor recouping at least the estimated costs of providing the meals or snacks. If actual costs are not available, the charge may be based on the total federal reimbursement that could be received for the meal or snack including the value of USDA Foods if applicable. — -- — —

Competitive quotes are not needed when SNP meals will be obtained from another SFA. The Vendor and SFA may directly negotiate meal prices without additional, competitive quotes.

#### **I. Purpose and Term**

"School Food Authority" or "SFA" means the school food authority that will receive the meals and claim the meals for SNP reimbursements under the SFA's agreement with the Minnesota Department of Education (MDE).

"Vendor" means the school food authority that will provide the SNP meals.

This contract, between School Food Authority (SFA):

Harbor City International School

SFA's Cyber-Linked Interactive Child Nutrition System (CLICS) Sponsor Identification Number:

and Vendor :

Duluth School District/ ISD # 709

SFA's Cyber-Linked Interactive Child Nutrition System (CLICS) Sponsor Identification Number: 1000003456

authorizes that the Vendor will provide meals, snacks or milk in accordance with this agreement and the federal regulations and policies applicable to the U.S. Department of Agriculture (USDA) Child Nutrition program(s) identified in Section II of this contract.

The contract is effective for the period of: 09/07/2021 through 06/09/2022 .

Vendor will provide meals to SFA site(s) listed below or on an attached list.

Site Name	Site Address	CLICS Number (if known)
Harbor City International School		

SFA will notify Vendor SFA with 1 days' notice of changes to sites.

If all sites do not receive the same types of meals, describe differences between sites here:

**II. Meal Requirements**

A. Vendor will provide meals, snacks and/or milk that meet applicable School Nutrition Programs requirements, including revised requirements from the Healthy, Hunger-Free Kids Act of 2010 (check all programs that apply):

- Lunches meeting National School Lunch Program requirements,\* 7 Code of Federal Regulations (CFR) 210. — *Currently Running Seamless Summer Option, Requirements are the same as National School Lunch*
- Breakfasts meeting School Breakfast Program requirements, 7 CFR 220.
- Snacks meeting Afterschool Care Snacks requirements, 7 CFR 210.
- Milk meeting Special Milk Program requirements, 7 CFR 215 / Minnesota Kindergarten Milk Program.
- Other (describe):

B. Vendor will provide meals to SFA in the following manner:

- Unitized meals.
- Bulk quantities accompanied by written instructions regarding the planned portion size for each food component.

C. Vendor will also provide (check all that apply):

- Eating Utensils.
- Condiments.
- Paper Items.

- Extra Milk.
- Transportation Containers.
- Other, describe:

### III. Meal Charges and Billing

- A. SFA will pay the following fixed prices for meals that meet program requirements and are delivered in accordance with the agreement. The fixed prices are the total amount due from SFA for each meal type; Vendor will not charge other fees, or request reimbursement of any costs, in addition to the fixed meal prices.

Meal charges are based on the use of all commercial foods. Meal prices have *not* been reduced to reflect the value of SFA's USDA Foods. SFA will receive credit for its USDA Foods entitlement value as described in Section V.

Breakfast \$

Snack \$

Lunch \$ **3.33**

Meals (check one):  include milk  do not include milk

If applicable, describe other charges such as for extra milk, adult meals, and adjustments to meals to accommodate special dietary needs:

If Adult Meals are needed, the adult meal price would be \$4.50 per meal

Vendor SFA will bill SFA as described (include frequency of billing):

The Duluth School District will bill Harbor City International School on a monthly basis for meals.

NOTE: Neither the Minnesota Department of Education (MDE) nor USDA assumes any liability for meal payments.

### IV. Substitutions and Modifications for Medical or Special Dietary Needs

Vendor will substitute or modify food or beverage items as requested by SFA for students with medical or special dietary needs as specified by SFA. SFA is responsible to obtain and maintain any documentation required for SFA to claim program reimbursements.



If Vendor incurs additional costs for substitutions specified by SFA that exceed the regular meal payments, Vendor may request reimbursement from SFA for the additional costs. Neither SFA nor Vendor may charge any additional amounts to students who qualify for substitutions.

**A. Substitutions or Modifications for Students with Disability – Federal Requirement**

Vendor will provide substitutions or modifications to meals, as specified by SFA, for students with a disability that restricts their diet so that they are unable to consume the regular program meals. SFA is responsible to obtain the *Special Diet Statement* for the student that is required for SFA to claim program reimbursement for the meals.

**B. Lactose-Reduced Milk for Students with Lactose Intolerance – State Requirement**

Vendor will make available at least one of the following types of lactose-reduced milk specified in Minnesota Statutes section 124D.114 for lactose-intolerant students whose parents have submitted written requests: lactose-reduced milk; milk fortified with lactase in liquid, tablet, granular, or other form; or milk to which lactobacillus acidophilus has been added. A portion of a lactose-reduced milk product may be poured or served from a large container. SFA is responsible to maintain the written requests on file.

**C. Meal Substitutions for Students without Disability (Optional)**

If this box is checked, SFA has established a policy as allowed by School Nutrition Programs to offer meal substitutions that are within the meal pattern on a case-by-case basis for *students who do not have a disability but who have special dietary needs*. SFA will specify the required substitutions to Vendor.

**D. Non-Dairy Fluid Milk Substitutes (Optional)**

If this box is checked, SFA has established a policy as allowed by School Nutrition Programs to offer one or more *non-dairy fluid milk substitutes that are nutritionally equivalent to cow's milk* to students with a medical or other special dietary need. Vendor will provide non-dairy fluid milk substitute(s) in accordance with SFA's policy. SFA will maintain the written requests that are required to claim program reimbursement for non-dairy fluid milk substitutes.

**V. USDA Foods**

SFA's USDA Foods entitlement value for the school year is \$ \_\_\_\_\_ . SFA will permit MDE to transfer SFA's entitlement value for the school year to Vendor. Vendor will credit SFA for SFA's USDA Foods based on SFA's entitlement value.

Vendor will provide credits for USDA Foods to SFA at this frequency (check one):

On the monthly invoice, in the set monthly credit amount based on SFA's entitlement value shown above divided by SFA's number of operating months.

SFA's number of operating months:

Monthly credit that will be provided by Vendor (total entitlement divided by the number of operating months): \$

- Other frequency
- At the end of the contract year.

## VI. Ordering and Delivering

### A. SFA or sites will notify Vendor in advance of the number of meals needed.

Vendor will use an organized system for receiving orders for delivery adjustments; documenting orders for delivery adjustments; adjusting production levels, if necessary; ensuring that delivery receipts are changed to reflect adjusted meal orders; and ensuring that adjusted meal orders for each site are correctly packaged and loaded for delivery.

Indicate deadline(s) for SFA or sites to send meal orders (such as by a set time on the previous day or the same day of the meal service) and how notice will be provided, by e-mail, telephone or in person. Indicate timeline(s) for increasing and decreasing an order that has been made. If more than one site, indicate any differences between sites. Describe here, or reference here to attached information:

### B. Vendor will deliver meals as described. Include time(s) for each site.

(For each meal service, indicate time that meal will be delivered or picked up by SFA. If more than one site, indicate for each site.) Describe here, or reference here to attached information:  
Harbor City will pick up the meals at the assigned Production School.

### C. Responsibility for transport containers:

(Indicate whether Vendor or SFA will be responsible for cleaning transport containers and, if applicable, schedule for Vendor to pick up or SFA/Site to return transport containers. If more than one site, indicate any differences between sites.)

Describe here, or reference here to attached information: Harbor City School has food carriers

### D. Other:

## VII. Recordkeeping and Availability of Records

A. Vendor agrees to maintain full and accurate records, which are required for SFA to claim reimbursements through School Nutrition Programs. Required records include: 1) daily menu records; 2) daily quantities of food prepared, by type of meal; 3) daily number of meals furnished, by type of meal.

B. Vendor and SFA agree that books and records pertaining to Vendor SFA's food service fund will be made available to SFA upon request and agrees to retain all records for inspection and audit by representatives of

SFA, MDE, USDA, and U.S. General Accounting Office, at any reasonable time and place for a period of three (3) years after the final payment for the contract, except that in circumstances where audit findings have not been resolved the records must be retained beyond the three-year period until resolution of the audit.

## **VIII. Health and Sanitation**

- A. All food will be properly stored, prepared, packaged and transported free of contamination and at appropriate temperatures.
- B. SFA will not pay for meals or snacks that are unwholesome or spoiled at time of delivery.

## **IX. SFA Control of Food Service**

SFA will maintain overall responsibility for administration of the food service, in accordance with SNP regulations and policies.

SFA will:

- A. Retain control of the quality, extent and general nature of the food service, including counting the numbers of reimbursable meals and claiming SNP reimbursement from MDE.
- B. Retain control of the nonprofit food service account, overall financial responsibility for the nonprofit food service operation, and meal prices.
- C. Ensure that the food service operation is in conformance with SFA's agreement with MDE to participate in SNP.
- D. Maintain all applicable health certifications for SFA site(s).
- E. Monitor vended meals to ensure the food service is in conformance with program regulations.

## **X. Termination**

Either party may terminate this contract for cause by notice in writing as described:

(The number of days required for notice of termination, not to exceed 60 days, must be stated.)

The contract may be terminated for convenience (no cause) if the parties mutually agree to terminate for convenience.

## **XI. Additional Provisions at Option of SFA and Vendor**

Describe additional provisions here, or reference here to additional attached nonfinancial provisions:

**Agreement for Vended Meals Provided by a School Food Authority**

**Signatures**

**SFA Name:** Harbor City International School

**Authorized Representative:** *Tim Tydlacke*

**Title:** *Executive Director*

**Signature of Authorized Representative:** 

**Date:** *7/19/21*

**Vendor Name:** Duluth School District/ ISD # 709

**Authorized Representative:** Catherine Erickson *Catherine Erickson*

**Title:** CFO/Director of Business Services

**Signature of Authorized Representative:**

**Date:** *7/20/21*



### PARTNER AGREEMENT

THIS PARTNER AGREEMENT is entered into on this 15<sup>th</sup> day of July, 2021, by and between **LEARNING RESOURCES NETWORK, INC.**, a Kansas corporation with a mailing address of P.O. Box 9, River Falls, Wisconsin 54022 and an email address of info@lern.org ("LERN") and Duluth Public Schools with a mailing address of 215 N. 1st Ave E Duluth, MN 55802 and an email address of \_\_\_\_\_ (the "Partner").

**WHEREAS**, LERN has developed UGotClass™, an online course platform designed to support asynchronous, teacher-led, noncredit online education; and

**WHEREAS**, the Partner desires to make UGotClass™ online courses available to its students; and

**WHEREAS**, subject to the terms of this Agreement, LERN is willing to make UGotClass™ online courses available,

**NOW, THEREFORE**, the parties agree as follows:

Party Responsibilities for Registration and Revenue Share. Party Responsibilities for .  
Registration shall be selected here with the corresponding revenue share noted:

Partner a LERN Member and takes Registrations. Partner revenue share is 50% of the student fees for 2021.

Partner a LERN Member and has LERN take Registrations. Partner revenue share is 40% for 2021.

Partner not a LERN Member. Partner revenue is 30% for 2021, regardless of whether the Partner takes the registrations, or has LERN take the registrations.

The Partner may choose to switch registration responsibilities at any time, whereby the revenue share also changes at the same time as referenced above. Should a Partner become a LERN

member, or expire as a LERN member, the revenue share changes at the date of membership or expiration.

A. Educational Services Provided Exclusively by LERN. During the term of this Agreement, LERN, at its sole expense, shall do the following:

A1. Provide the Partner with a listing of UGotClass™ course titles and content descriptions from which the Partner may select one or more to offer to students;

A2. Provide the Partner with a schedule containing the tuition and other fees, including amounts payable to LERN, associated with each course title;

A3. Be responsible for the online delivery of and provide qualified online instructors to teach the UGotClass™ courses selected by the Partner;

A4. Provide certificates of completion to each student who satisfactorily completes a UGotClass™ certificate; and transcripts for each student who satisfactorily completes an individual course without obtaining a certificate; and

A5. Submit invoices and/or statements to the Partner on a monthly basis for an amount equal to the appropriate percentage of the revenue share due to the Partner for registration/tuition fees during the preceding month for UGotClass™ courses.

B. Services Provided Exclusively by the Partner. During the term of this Agreement, the Partner, at its sole expense, shall do the following:

B2. Be responsible for marketing the availability of the UGotClass™ courses and certificates selected by the Partner.

C. For Partners Taking UGotClass Registrations. The Partner agrees to:

C1. Be responsible for the registration and enrollment of students and handling of all student inquiries regarding enrollment and tuition payments;

C2. Collect all registration/tuition and other fees from students enrolled in UGotClass™ courses and certificates selected by the Partner;

C3. Notify LERN of the names and email addresses of all registered students, subject to modification on the basis of the drop/add system utilized by the Partner; and

C4. Pay all LERN invoices within thirty (30) days following receipt thereof.

D. For Partners Choosing LERN to Take Registrations. LERN agrees to:

D1. Be responsible for the registration and enrollment of students and handling of all student inquiries regarding enrollment and tuition payments; LERN will issue a check to the partner for each month in which registrations are generated.

D2. Remit to the Partner the appropriate percentage of the registration/tuition fees collected by LERN during the preceding month for UGotClass™ courses selected by the Partner.

E. Term. The term of this Agreement commences on the date hereof and will remain in effect unless and until terminated by either party by providing the other party with written notice of termination not less than thirty (30) days prior to the proposed termination date. In such event, the Partner shall pay all outstanding LERN invoices and make a final payment to LERN of any registration/tuition fees collected by the Partner not yet invoiced by LERN. Notwithstanding the foregoing, if, on the proposed termination date, a UGotClass™ course has not been completed, LERN shall complete the course and the Partner shall not interfere with the completion thereof.

F. Intellectual Property. To the extent not in the public domain or the property of others, as between LERN and the Partner, LERN shall be the sole owner of all right, title, and interest in and to all UGotClass™ course materials, including syllabae, agendas, lesson plans, and other instructor-prepared materials and LERN reserves all rights thereto. LERN reserves all rights in the UGotClass™ trademark and all goodwill connected thereto. The Partner shall never dispute LERN's ownership of the UGotClass™ trademark.

G. Relationship of Parties. The relationship between LERN and the Partner is that of independent contractor. Except as specifically provided herein, neither party shall have the authority to create any obligations on behalf of or otherwise bind the other.

H. Confidentiality. LERN shall be considered a school official, as such term is defined under the Family Educational Rights and Privacy Act of 1974, as amended. As such, LERN may have access to the educational records and personally identifiable information about students registered/enrolled in UGotClass™ courses. LERN shall treat all such information as confidential, use the same only in connection with the course or courses taken by such students, and not disclose any such information to third parties except as may be required by law. Notwithstanding the foregoing, LERN shall be entitled to generate and use statistical information about UGotClass™ course enrollment and student profiles for any purpose provided such information does not include any personally identifiable information about students or the Partner.

I. Indemnification. Each party shall indemnify, defend, and hold the other harmless from and against any and all claims, liabilities, damages, costs, and expenses (including reasonable counsel fees) incurred by a party arising out of the negligence, intentional wrongful acts, or breach of this Agreement by the other party. This indemnification obligation shall survive the termination of this Agreement.

J. Miscellaneous.

J1. Assignment. Neither party may assign this Agreement without the written consent of the other party.

J2. This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns.

J3. This Agreement may be amended only in a writing executed by LERN and the Partner.

J4. This Agreement shall be governed by the laws of the state or province of the Partner; otherwise the Agreement shall be governed by the laws of the State of Wisconsin, without regard to its rules concerning conflict of laws.

J5. Any disputes arising between the parties that cannot be resolved by the parties shall be resolved by litigation initiated and maintained in the courts located \_\_\_\_\_.

J6. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be modified to the extent necessary for it to be valid and enforceable and all other provisions shall remain in full force and effect.

J7. Any notice required or permitted to be given pursuant to this Agreement shall be in writing and sent, prepaid, by recognized overnight courier such as Federal Express or Express Mail or by email (with written electronic receipt of successful transmission) to the mailing or email addresses in the preamble of this Agreement and shall be deemed to be effective upon receipt.

**IN WITNESS WHEREOF**, the parties have caused their authorized representatives to execute this Agreement as of the date first above written.

LEARNING RESOURCES NETWORK, INC.

By: William A. Ditz




Name: William A. Draves

Title: President

Duly Authorized

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By:   
Name: Catherine A. Erickson  
Title: CFO  
Duly Authorized 7/14/21

PY22 Yearbook Sales Agreement				(B)	Contract Years:	2022	New/Renew	Renew	Job #:	10543322		
Account Name:				Lakewood Elementary		LID #:		35711				
Address:		5207 N Tischer Rd		City:		Duluth		State:		MN	Zip Code:	55804
Phone #:		Enrollment:		School Year Open Date:		9/7/2021		Adviser Name:		Jody Peck		
School Year Close Date:		6/9/2022		Adviser Email:		jody.peck@isd709.org						
Ship Yearbooks To:		Account		Adviser Phone:								
Send Invoice To:		Account		Contact Address Name:								
School Purchase Order Number:				Contact Street Address:								
YEARBOOK SPECIFICATION INFORMATION:				Contact City, State, Zip:								
Size:		7		YEARBOOK DATES:		Cover Deadline:		01-03-2022				
Number of Pages:		24		Final Quantity Deadline:		03-28-2022						
Number of Copies:		76		Requested Arrival Date:		05-13-2022						
101-125 copies @ \$15.13		School		Consumer		Cover and page deadlines will vary based on what enhancements are applied and based on the number of pages within your book. Exact deadline dates will be reflected on the Lifetouch Yearbook website dashboard upon enrollment.						
Yearbook Price:		\$ 16.45		\$ 17.00								
PACKAGE SELECTION:		School Price		Consumer Price		Website Activation Date:		08-06-2021				
Package:		Student Names 1 Line - H		\$ - \$ -		YBPay: (Type)		Direct				
COVER & BINDING TYPE		School Price		Consumer Price		Activate YBPay On:		Yes		Date:	10/1/2021	
Cover:		Soft Cover		Included \$ -		Sales Flyer Need by Date:		10/1/2021				
Binding Type:		Saddle Stitch		\$ - \$ -		**Additional flyer information should be included on the Merchandising Form**						
Design:		Signature Design		\$ - \$ -								
Printed School Name & Year:		Yes (1 or 2 lines)		\$ - \$ -		PORTRAIT INFORMATION:		Photographed by Lifetouch:			Yes	
Personalization (Student Names):		Student Names 1 Line		\$ 5.00 \$ 5.00		Associated Picture Days APO ID(s):						
Icon:		No										
Endsheets (Hardcovers Only):		\$ - \$ -										
CONSUMER ENHANCEMENTS:		School Price		Consumer Price		SIGNING INCENTIVES:						
Zoom:		Zoom - Taped (Diff Qty)		\$ 3.00 \$ 3.00		Signing Info:		5 Free Books				
Auto Inserts:		4 - Page Autograph Insert (Diff Qty)		\$ 2.00 \$ 2.00								
Yearbook Stickys:		Yes		\$ 2.00 \$ 2.00		PACKAGE PRICING:						
SHIPPING/FREIGHT:		Price				A la Carte Items		School Price *		Consumer Price:		
Estimated Freight:		\$ -				Book Price:		\$16.45		\$17.00		
Freight Model:		Actual Cost		TBD		MYPC:						
*Estimated Total:		\$ -				Student Name 1 line:		\$5.00		\$5.00		
Per Copy:		\$ -				Icons:						
Deposit Rate:		75%				Zoom:		\$3.00		\$3.00		
* School Price excludes any applicable taxes. Lifetouch is required by State Law to apply the appropriate tax on the final invoice. If tax exempt, please supply official documentation. Changes to the estimated total will be documented for approval prior to finalization.						4-Pg Auto Insert:		\$2.00		\$2.00		
						YB Stickys:		\$2.00		\$2.00		
SPECIAL OFFERS/COMMENTS/ADDITIONAL APO ID(s):						Hard Cover Upgrade:						
						Package Config:		*Minimum of 76 Copies Required				
						Packages:		School Price *		Consumer Price:		
						Package A:		\$25.20		\$25.75		
						Package B:		\$23.70		\$24.25		
						Package C:		\$22.20		\$22.75		
						Package D:		\$18.45		\$19.00		
Lifetouch Representative		Area Code:		Rep Code:		The School, by its authorized representative, designates Shutterfly Lifetouch, LLC (Lifetouch) as the School's yearbook publisher for the Agreement years and authorizes and directs Lifetouch to print the materials as specified during the terms of this Agreement. This Agreement is subjected to the terms and conditions on the reverse side and final approval by Lifetouch sales management.						
Sarah Wise		MI		G1								
Lifetouch Representative Phone #:		Email Address:		Authorized School Representative (Print)		Title						
612-219-3303		sarah.wise@lifetouch.com		Catherine A. Erickson		CFO						
Lifetouch Representative (Signature)				Authorized School Representative (Signature)		Date						
Sarah Wise				Catherine Erickson		7/1/24						

# Terms of the Publication Agreement

**THIS PUBLICATION AGREEMENT** includes the Terms on the front and back of this form and cannot be changed except in writing, signed by the School and Shutterfly Lifetouch, LLC ("Lifetouch").

**LIFETOUCH** will provide materials in the form of yearbook kits, layouts, envelopes, instructions and a production schedule for the programs selected to enable the School to prepare its yearbook for printing. The School agrees to prepare and submit all materials, including photographs, graphics and clip art in accordance with the instructions and deadline schedules.

**INTERNET-BASED APPLICATION:** Some of the Lifetouch products and services are provided through an Internet-based application ("Application"). By selecting an Application, the School authorizes Lifetouch to transmit information, including images, to and from the School and Lifetouch, its affiliated companies, their employees, agents and representatives. The School agrees to comply with the security features of the Application and to protect and control access to the Application, including without limitation, user access credentials.

**EMAIL COMMUNICATIONS:** Many yearbook communications between Lifetouch and the School will be by email. The Yearbook Adviser email address designated on the front of this Agreement, or such other email address as provided by the School, will be an agreed communication address and communication method. The School agrees to regularly monitor and keep secure the email address and advise Lifetouch promptly of any changes.

**PHOTOGRAPHS AND GRAPHICS:** Lifetouch reserves the right to crop photographs, graphics, clip art and other materials as deemed necessary by Lifetouch and is not liable for their loss or damage. Lifetouch will make a reasonable effort to return original materials but does not guarantee their return.

**PROOFS:** So that production will not be delayed, the School agrees to check proofs and return them in the envelope provided or approved via the Web site within 48 hours after receipt. Delay in returning proofs will delay delivery of the yearbooks.

**DELIVERY:** For on-time delivery, Lifetouch must receive the materials for the correct pages (including cover selection and final order quantity) on or before the deadline dates indicated on the front of this Agreement as may be updated via the Web site. Lifetouch is excused from meeting the requested ship date if pages are not in the plant by the specified deadline date. Handwork in the book or on the cover will require the final deadline to be one week earlier. Books will be shipped to the School.

**ADDITIONAL CHARGE ITEMS:** The School agrees to pay for artwork provided by Lifetouch, corrective work on School material and non-standard composition or layout. All artwork and custom design work provided by Lifetouch, including any embossing or debossing dies and designs developed at the School's expense, are provided to the School on a nonexclusive basis, and Lifetouch retains all copyrights therein. Charges will be discussed with a School Representative and appear on the final invoice. If the School misses deadline dates and desires to maintain originally-scheduled ship date, the request will be considered based on available capacity. If capacity is available, the School agrees to pay the then current weekly fee.

**END USER BOOK SALES:** As a convenience to the School, Lifetouch may collect yearbook deposits/payments from end users (parents and students) on the school's behalf. In all cases, the Seller of the yearbook to end users is the School or associated School organization, not Lifetouch. Sales tax may or may not apply depending on applicable state and local laws. The School is solely responsible for collecting and remitting any taxes applicable to yearbook sales to end users.

**PAYMENT PLAN:** The School is the purchaser of the books. The School agrees to pre-sell all books. The School agrees to pay a minimum deposit of 75% at the time final pages are submitted to Lifetouch's plant. A deposit notice will be sent at the later of on or about October 1 or 30 days after this Agreement has been signed. The deposit must be remitted to Shutterfly Lifetouch, LLC, Accounts Receivable, P.O. Box 46993, Eden Prairie, MN 55344-9728. A final invoice will be sent to the School approximately three days after book shipment. Full payment is due (to above address) within 10 days after books are received at the School. The School agrees to pay a 1% monthly service fee for late payment. If during the manufacturing process overruns are printed, Lifetouch may offer to sell extra yearbooks to the School.

**PAYING BY CHECK:** When the School pays by check, the School authorizes Lifetouch to process the payment as a check transaction, or to use information from the check to make a one-time electronic fund transfer from the School's checking account. Funds may be withdrawn from the account on the day Lifetouch receives payment, and the financial institution will not return the check. A service fee may be charged on returned checks.

**THE SCHOOL** grants to Lifetouch and its related companies permission to reproduce, distribute and otherwise use reproductions of the School's materials, including without limitation the cover design and production materials, in sales and promotional literature and as samples, without compensation to the School.

**MISC:** Lifetouch may assign its rights and obligations hereunder. This Agreement binds and benefits the parties and their respective successors and assigns.

**LIFETOUCH** reserves the right to refuse to print any material, which in its opinion is tortious, illegal or violates any copyright or proprietary rights. Lifetouch assumes no obligation for reviewing or editing materials submitted by or on behalf of the School.

**THE SCHOOL** is responsible for the content of the book and materials submitted to Lifetouch for printing. Upon request, the School agrees to obtain such authorizations as considered necessary by Lifetouch. The School releases Lifetouch and, to the extent permitted by applicable law, will indemnify and hold harmless Lifetouch, its affiliated companies, employees, agents and representatives from any and all claims, demands, actions, losses, costs, expenses and reasonable attorney fees arising out of or in connection with the printing of any materials submitted by the School, its faculty, administrators, students, employees, representatives, agents or breach of the School's obligations for Applications.

**CANCELLATION:** This Agreement is not subjected to cancellation by either party during the term of this Agreement except by written consent of both the School and Lifetouch.

**NEITHER PARTY** is liable for delays or losses as a result of strikes, accidents, government restrictions, acts of God, acts of war, or other causes beyond its control, and such delays will not constitute a breach of contract.

Remit Payment To:  
Shutterfly Lifetouch, LLC  
Accounts Receivable  
PO Box 46993  
Eden Prairie, MN 55344-9728

Yearbook Adviser Support  
Email: [yearbookadvisersupport@lifetouch.com](mailto:yearbookadvisersupport@lifetouch.com)  
Phone: 1.800.736.4761

**THIS LEASE AGREEMENT**, made and entered into this 29<sup>th</sup> day of June, 2021, by and between Infotel Investments, L.L.C. (hereinafter referred to as "Lessor"), and ISD 709 (hereinafter referred to as "Lessee", whether one or more).

**WITNESSETH:**

1. **PREMISES & TERMS:** In consideration of the obligation of Lessee to pay rent as herein provided, and in consideration of the other terms, provisions and covenants hereof, Lessor hereby demises and leases to Lessee, and Lessee hereby takes from Lessor, certain premises (hereinafter referred to as the "Leased Premises" or "premises") situated within the County of St. Louis, State of Minnesota, identified as Suite 310 in the building commonly known as the Arvig Building, consisting of approximately 4,864 usable square feet, as outlined on the floor plan attached hereto as Exhibit A, (hereinafter referred to as the "Building") located at 325 West First Street, Duluth, together with all rights, privileges, easements, appurtenances and immunities belonging to or in any way pertaining to the Leased Premises, and together with the right to use in common with Lessor and other Lessees in the Building, and its and their employees, agents, representatives and invitees, any common areas and facilities of the Building.

To have and to hold for a term of 5 years and 7 months, commencing on the 1<sup>st</sup> day of October, 2021, and ending on the 30<sup>th</sup> day of April, 2027. Lessee acknowledges that it has inspected the Leased Premises and accepts them in their present condition as suitable for the purpose for which they are leased, and further acknowledges that no representations as to the repair of the Leased Premises nor promises to alter, remodel or improve the Leased Premises have been made by Lessor except Lessor agrees to remodel the space in accordance with the attached plan labeled Exhibit A and further explained in narrative as labeled Exhibit B.

**ACCEPTANCE OF PREMISES:** If Lessor does not complete leasehold improvements, if any are to be completed by Lessor, and deliver possession of the Leased Premises on or before said commencement date, or if Lessor is unable for reasons beyond its control to deliver possession of the Leased Premises by such date, Lessor shall not be deemed to be in default hereunder, and shall not be liable to Lessee for any loss, damage, cost or expense suffered or incurred by Lessee, nor shall the termination date of this Lease be affected or changed thereby, but the commencement date and Lessee's obligation to pay rent shall be delayed until Lessor tenders possession of the Leased Premises to Lessee.

2. **RENT:** Lessee shall pay to the Lessor as a monthly rent for said premises \$8,917.00, said monthly rent to be paid in advance on the first day of each and every month during the initial term and any extension terms to the initial lease, at the office and to the order of ONEIDA REALTY COMPANY at 1605 Alworth Building, Duluth, Minnesota 55802, or payable to such other person or entity or at such other place as may from time to time be designated by the Lessor in writing. A prorated monthly installment shall be paid at the then current rate for any fraction of a month if the term shall begin on any day except for the first day or shall be terminated on any day except the last day of any month.

3. **ADJUSTMENTS TO RENT:** Effective May 1<sup>st</sup> of each year of this Lease, starting May 1, 2025, Lessor shall have the right to increase the rent by the same percentage increase in the CPI-U (Consumer Price Index for all urban consumers and for urban wage earners), or a similar index if the CPI-U has been discontinued, from the preceding calendar year. Lessor shall have the further right, and with sixty (60) days written notice, to increase Lessee's rent on May 1st of each year of this Lease, by a proportionate share of any increase in ad valorem taxes that are payable for the Building and land in such year in excess of the taxes paid in the immediately preceding calendar year. The proportionate share increase shall be an amount determined by a fraction, the numerator of which shall be the square feet of the Leased Premises, and the denominator being the net rentable area of the Building. The result shall be added to the rent otherwise payable hereunder, and shall be paid in twelve (12) equal monthly amounts commencing at May 1<sup>st</sup>.

4. **USE:** The Leased Premises shall be used for the purpose of a general office and school space only. No part of the Leased Premises shall be used for any purpose which constitutes a nuisance or which is illegal, offensive, termed extra hazardous by insurance companies or which may make void or voidable any insurance on the Building or which may increase the premiums therefore, or which will interfere with the general safety, comfort and convenience of the Lessor and other Lessees of the Building. There shall be no sale of food or beverages by any means without the prior written consent of

Lessor. Lessee shall not permit intoxicating liquors to be kept or sold in the Leased Premises. However, Lessee may allow the sale of food and beverages to employees, agents, representatives, students and other invitees of Lessee. 173

5. **BUSINESS HOURS:** Usual business hours as used herein shall mean the hours between 8:00 A.M. and 6:00 P.M., Monday through Friday, holidays excepted. Lessee shall also have access to the Building between the hours of 6:00 P.M. and 8:00 A.M., Monday through Friday, Saturday, Sundays and holidays but may be required to comply with reasonable security precautions imposed by Lessor. Lessee shall have 24/7 access to the building for its employees and shall be given keys and any other necessary keycards or other access equipment to allow such access.

6. **REPAIRS BY LESSOR:** Lessor shall at its expense maintain the roof, foundation and the structural soundness of the exterior walls of the Building and the heating, air conditioning, plumbing, elevator and electrical systems in good repair, reasonable wear and tear excepted. Lessee shall repair and pay for any damage caused by the act or negligence of Lessee or Lessee's employees, agents, representatives or invitees, or caused by Lessee's default hereunder. Lessee shall immediately give Lessor written notice of defect or need for repairs, after which Lessor shall have reasonable opportunity to repair same or cure such defect. Lessor's liability hereunder shall be limited to the cost of such repairs or curing such defect.

7. **REPAIRS BY LESSEE:** Lessee shall at its own cost and expense maintain all other parts of the Leased Premises in good repair, reasonable wear and tear excepted, and shall take good care of the Leased Premises and its fixtures and permit no waste. Lessee will keep the whole of the Leased Premises in a clean, sanitary and safe condition, and will at the expiration of the term of this Lease or other termination of the term of this Lease, surrender the same to Lessor, broom clean, and in the same order and condition as they were in at the commencement of the term of this Lease, reasonable wear and tear excepted.

8. **ALTERATIONS BY LESSOR:** Lessee shall permit Lessor to make such alterations, renovations, improvements, restorations and/or repairs as, in the judgment of Lessor, may be deemed necessary or desirable for the Leased Premises, for any other premises in the Building, or for the Building itself (Including access to distribution systems above the ceiling of the Leased Premises). Lessor shall use reasonable efforts to not unreasonably interfere with the conduct of Lessee's business, but Lessor shall in no event be liable to Lessee for any damages in connection with such entry except to the extent caused by the negligence or willful misconduct of Lessor, its agents or assigns.

9. **ALTERATIONS BY LESSEE:** Lessee shall not make any alterations of, or additions to, the Leased Premises without the prior written consent of Lessor except as shown on the attachments hereto. Lessee will not permit any mechanics', laborers' or materialmen's liens to stand against the Leased Premises or the Building for any labor or material furnished to or for the account of Lessee, or claimed to have been so furnished in connection with any work performed or claimed to have been performed in, on or about the Leased Premises. Lessee is permitted to hang equipment, pictures, and other similar property from the walls and posts in such a manner to be removable and without damaging the walls and posts except for common holes for the attachments.

At the termination of this Lease, Lessee shall, if Lessor so elects, remove all alterations and additions erected by Lessee without Lessor's consent or which were made with consent which was conditioned in writing on such removal, and restore the Leased Premises to their original condition; otherwise such improvements shall be delivered up to the Lessor with the Leased Premises. All movable office furnishings and trade fixtures installed by Lessee may be removed by Lessee at any time if Lessee so elects, and shall be removed at the termination of the Lease if required by Lessor. All such removals and restoration shall be accomplished in a good and workmanlike manner so as not to damage the primary structure or structural qualities of the Leased Premises. Personal property remaining in the Leased Premises at the expiration or termination of the term of this Lease shall be deemed abandoned, and Lessor may dispose of the same as Lessor deems expedient, and at Lessee's expense.

Notwithstanding anything to the contrary contained in this Lease, Lessor shall in all events have the right to prescribe the weight and position of any safes and other heavy equipment placed in or on the Leased Premises by Lessee. Any and all damage or injury to the Leased Premises or the Building caused by moving the property of Lessee in or out of the Leased Premises, or due to the same being in or on the Leased Premises, shall be repaired by Lessee at its sole cost and expense.

10. **SIGNS:** The Lessee shall not display, inscribe, print, maintain, or affix on any place in or about the Building any sign, notice, legend, direction, figure or advertisement, except on the doors of the Leased Premises and on the Building

Directory, and removable signs on the windows, and then only such name(s) and matter, and in such color, size, style, place, and materials, as shall first have been approved by the Lessor. The listing of any name other than that of the Lessee, whether on the doors of the Leased Premises, on the Building Directory, or otherwise, shall not operate to vest any right or interest in this Lease or in the Leased Premises or be deemed to be written consent of the Lessor, it being expressly understood that any such listing is a privilege extended by Lessor revocable at will by written notice to Lessee. The Lessor also reserves the right to name the Building and to change the name or street address of the Building. Provided however, if Lessor shall change the name or street address of the Building without giving Lessee at least ninety (90) days prior written notice, Lessor shall reimburse Lessee for the cost of all printed materials made obsolete by such change. Further, Lessor shall have the right to install and maintain a sign or signs on the exterior or interior of the Building. 174

11. **ACCESS BY LESSOR:** Lessor, its agents and representatives shall be entitled to keep pass keys to the Leased Premises and shall have the right to enter and inspect the Leased Premises on not less than twenty-four (24) hours prior notice for the purpose of ascertaining the condition thereof or in order to make such repairs as may be required to be made by Lessor under the terms of this Lease or as Lessor may deem necessary. During the period that is three (3) months prior to the end of the term hereof, Lessor and Lessor's agents and representatives shall have the right to enter the Leased Premises at reasonable times for the purpose of showing the Leased Premises and shall have the right to erect on the Leased Premises a suitable sign indicating that the Leased Premises are available. Any such entry by Lessor shall never be deemed an eviction or disturbance of Lessee's possession of the Leased Premises, or render Lessor liable to Lessee for damages, or relieve Lessee from the performance of Lessee's obligations under this Lease. The right of entry reserved shall not be deemed to impose any greater obligation on Lessor to clean, maintain, repair or change the Leased Premises than is specifically provided in this Lease. The Lessor, its agents and representatives may at any time in case of emergency enter the Leased Premises and do such acts as Lessor may deem proper in order to protect the Leased Premises, the Building, or any occupants of the Building.

## 12. UTILITIES AND SERVICES

a. **AIR CONDITIONING AND HEAT:** Lessor shall furnish air conditioning and heat for normal purposes only, to provide in Lessor's judgment comfortable occupancy 24/7 in Lessee's leased spaces. Lessee agrees not to use any apparatus or device, in or upon or about the Leased Premises, which in any way may increase the amount of such services usually furnished or supplied to the Leased Premises, and Lessee further agrees not to connect any apparatus or device with the conduits or pipes, or other means by which such services are supplied, for the purpose of using additional or unusual amounts of such services, without written consent of Lessor. Should Lessee use such services to excess or request the use of such services at other than operating hours listed above, Lessor reserves the right to charge for such services. The charge shall be payable as additional rental. Should Lessee fail to make payment upon demand of Lessor, such failure shall constitute a breach of the obligation to pay rent under this Lease and shall entitle Lessor to the rights hereinafter granted for such breach. Nothing contained herein shall be construed to require Lessor to furnish air conditioning to the Leased Premises or any portion of the Building not currently served by air conditioning.

b. **ELECTRICAL SERVICE:** Lessor shall maintain electrical facilities to provide sufficient power for lighting, typewriters and other office machines of similar low electrical consumption, and including electricity required for electronic data processing equipment, but not for any other item of electrical equipment which (singly) consumes more than 1.5 kilowatts per hour at rated capacity and provided that if the installation of said electrical equipment requires additional air conditioning capacity above that provided by the building standard system, then the additional air conditioning installation and Operating Costs will be the obligation of Lessor. Lessee shall pay to Lessor, in addition to the monthly rent, one-twelfth (1/12) monthly of an amount equal to one dollar (\$1.00) per square foot of Lessee's occupied space. At the same time and manner as Lessor may increase the monthly rent the Lessor may also increase this fixed rate charge by an amount not greater than five percent (5%) of the amount in effect immediately prior to the effective date of the increase. It is understood that Lessee will use reasonable judgment in preventing waste. It is understood that Lessor does not warrant that any of the services referred to above will be free from interruption from causes beyond the reasonable control of Lessor. Such interruption of service shall never be deemed an eviction or disturbance of Lessee's use and possession of the Leased Premises or any part thereof or render Lessor liable to Lessee for damages by abatement of rent or otherwise or relieve Lessee from performance of Lessee's obligations under this Lease, unless such interruption is due to the negligence or willful misconduct of Lessor or continues beyond a reasonable correction period.

c. **LIGHTING:** Lessor shall supply all initial and all subsequent lamps, bulbs, starters and ballasts used on the Leased Premises.

- d. **KEYS:** Lessor shall furnish Lessee with up to five (5) keys for each corridor door entering the Leased Premises, and additional keys ordered by Lessee at a charge by Lessor. All such keys shall remain the property of Lessor. No additional locks shall be allowed on any door of the Leased Premises without Lessor's written permission, except as may be shown on the attachments hereto, and Lessee shall not make, or permit to be made, any duplicate keys, except those furnished by Lessor. Upon termination of this Lease, Lessee shall surrender to Lessor all keys to the Leased Premises, and give to Lessor the combination of all locks for safes, safe cabinets and vault doors, if any, in the Leased Premises.
- e. **ELEVATORS:** Lessor shall furnish passenger elevator service whenever the Building is open, including 24/7 use by Lessee if that is required for elevator access to Lessee's leased areas 24/7. Lessor shall have the right to stop the operation of said elevators whenever alterations, improvements or repairs therein or in the machinery or appliances connected therewith shall be necessary or desirable and shall not be liable for damages for any such stoppage of service unless caused by the negligence or willful misconduct of Lessor, its agents or employees.
- f. **JANITORIAL:** Lessee shall furnish such janitor service for Lessee's leased areas.
- g. **WATER:** Lessor shall provide water for lavatory and toilet purposes.
- h. **WASTE:** Lessee shall not waste electricity, water, heat or air conditioning or any other utility, and shall cooperate fully with Lessor to insure the most effective operation of the Building's heating and air conditioning, which shall include closing Venetian blinds and drapes and keeping all windows closed when air conditioning is in use and shall refrain from attempting to adjust any controls other than room thermostats, if any, installed for Lessee's use.
- i. **TEMPORARY INTERRUPTION OF SERVICES:** Lessor shall not be liable to Lessee, its agents, employees, representatives, customers or invitees for any inconvenience, loss or damage or for any injury to any person or property caused by or resulting from any casualties, riots, strikes, picketing, accidents, breakdowns or any cause beyond Lessor's reasonable control, or from any temporary failure or lack of services not due to Lessor's negligence or intentional misconduct and Lessee shall indemnify Lessor and hold Lessor harmless from any claim or damage because of such inconvenience, loss, damage or injury. No variation, interruption or failure of such services incident to the making of repairs, alterations or improvements or due to casualties, riots, strikes, picketing, accidents, breakdowns or any cause beyond Lessor's reasonable control or temporary failure or lack of such services not due to Lessor's negligence or intentional misconduct shall be deemed an eviction of Lessee or relieve Lessee from any of Lessee's obligations hereunder.
13. **ASSIGNMENT AND SUBLETTING:** Lessee shall not have the right to assign this Lease, or to sublet the whole or any part of the Leased Premises without the prior written consent of Lessor. Upon each request made by Lessee to Lessor for Lessor's consent hereunder, Lessee shall pay to Lessor a processing fee not to exceed, in each instance, \$500.00. Notwithstanding any permitted assignment or subletting, Lessee shall at all times remain fully responsible and liable for the payment of the rent herein specified and for compliance with all of its other obligations under the terms, provisions and covenants of this Lease. Lessor shall have the right to assign any of its rights under this Lease, and upon any such assignment, and provided that the assignee assumes all of Lessor's obligations hereunder, Lessor shall be relieved of any and all such obligations. However, Lessee may assign or sublet to other programs of ISD 709, without the permission of Lessor and without cost to Lessee.
14. **FIRE AND OTHER CASUALTY:** If the Building or any part thereof is damaged or destroyed by fire or other casualty, the Lessor shall have the right to terminate this Lease, provided it gives written notice thereof to the Lessee within ninety (90) days after such damage or destruction. Such notice shall state Lessor's intention to terminate this lease not less than thirty (30) days after Lessee's receipt of such notice. If a portion of the Leased Premises is damaged by fire or other casualty and this Lease is not thereby terminated, the Lessor shall, at its expense, restore the Leased Premises, exclusive of any improvements or other changes made to the Leased Premises by the Lessee, to as near the condition which existed immediately prior to such damage or destruction as reasonably possible, and rent shall abate during such period of time as the Leased Premises are untenable in the proportion that the untenable portion of the Leased Premises bears to the entire Leased Premises. The Lessor shall not be responsible to the Lessee for damage to, or destruction of, any furniture, equipment, improvements or other changes made by the Lessee in, on or about the Leased Premises regardless of the cause of the damage or destruction, unless caused by the negligence or intentional misconduct of Lessor.
15. **INSURANCE:**

- a. Lessor covenants and agrees to maintain standard fire and extended coverage insurance covering the Building in an amount not less than eighty percent (80%) of the replacement cost thereof.
- b. Lessee assumes responsibility for protecting the Leased Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Leased Premises closed and secured after normal business hours.

**15. SUBROGATION:**

- a. Lessor and Lessee each hereby release the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage casualties covered by the insurance maintained hereunder, unless prohibited by such insurance. Provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage occurring during such times as the releasor's policies shall contain a clause or endorsement to the effect that any release shall not adversely affect or impair said policies or prejudice the right of the releasor to recover thereunder. Lessor and Lessee each agrees that it will request its insurance carriers to include in its policies such a clause or endorsement.
- b. Lessor covenants and agrees to maintain standard fire and extended coverage insurance covering the Building in an amount not less than eighty percent (80%) of the replacement cost thereof. Lessee covenants and agrees to maintain "All Risk" property insurance covering the full replacement value of all of Lessee's leasehold improvements, trade fixtures and personal property within the Leased Premises.
- c. Lessee assumes responsibility for protecting the Leased Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Leased Premises closed and secured after normal business hours.

**16. LIABILITY:** With the exception of those claims arising out of Lessor's negligence or willful misconduct, Lessor shall not be liable to Lessee, or those claiming through or under Lessee, for injury, death or property damage occurring in, on or about the Building and appurtenances thereto, and Lessee shall indemnify Lessor and hold it harmless from any claim or damage arising out of any injury, death or property damage occurring in, on or about the Leased Premises to Lessee or an employee, customer or invitee of Lessee. Without limiting Lessee's liability hereunder, Lessee agrees, at its own cost and expense to carry public liability insurance protecting Lessor and Lessee in a combined single limit amount of not less than One Million Dollars (\$1,000,000). All policies of insurance shall name both Lessor and Lessee as insured thereunder and shall protect the interests of Lessor. Certificates of said insurance providing for not less than fifteen (15) days notice to Lessor prior to cancellation thereof shall be furnished to Lessor prior to Lessee taking possession of the Leased Premises. Each party agrees to defend, indemnify and hold harmless the other party from claims of third parties of any kind arising out of the indemnifying party's negligence, other misconduct or breach of contract.

**17. EMINENT DOMAIN:** If the entire Building is taken by eminent domain, this Lease shall automatically terminate as of the date of taking. If a portion of the Building is taken by eminent domain, either party shall have the right to terminate this Lease by giving written notice thereof to the other within ninety (90) days after the date of taking. Such notice shall state that party's intention to terminate this lease not less than thirty (30) days after Lessee's receipt of such notice. If a portion of the Leased Premises is taken by eminent domain and this Lease is not thereby terminated, Lessor shall, at its expense, restore the Leased Premises, exclusive of any improvements or other changes made to the Leased Premises by Lessee, to as near the condition which existed immediately prior to the date of taking as reasonably possible, and rent shall abate during such period of time as the Leased Premises are untenable, in the proportion that the untenable portion of the Leased Premises bears to the entire Leased Premises. All damages awarded for a taking under the power of eminent domain, whether for the whole or a part of the Leased Premises, shall belong to, and be the property of, Lessor and Lessee as their respective damages are determined, whether such damages shall be awarded as compensation for diminution in value to the leasehold estate hereby created or to the fee of the Leased Premises provided, however, that Lessor shall not be entitled to any award made to Lessee for loss of business, fair value of, and cost of removal of stock and fixtures. The term "eminent domain" shall include the exercise of any similar governmental power and any purchase or other acquisition in lieu of condemnation.

**18. HAZARDOUS SUBSTANCES:** As used herein, the term "Hazardous Substance" shall mean and include any element, compound, mixture, solution or substance regulated by a federal, state or local law, rule or regulation because of its toxicity, corrosiveness, reactivity, ignitability or carcinogenic effect and shall include petroleum, natural gas and derivatives and synthetics thereof. Lessee shall not cause or permit any Hazardous Substance to be brought upon, kept, or used in or



about the Leased Premises by Lessee, its agents, employees, contractors, or invitees, except for such Hazardous Substance as is necessary to Lessee's business. Any Hazardous Substance permitted on the Leased Premises, as provided in the previous sentence, and all containers therefore, shall be used, kept, stored, and disposed of in a manner that complies with all federal, state and local laws, rules and regulations applicable to the Hazardous Substance and Lessee shall not discharge, leak or emit any Hazardous Substance except in compliance with all federal, state and local laws, rules and regulations applicable to the Hazardous Substance. Lessee hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage and disposal of Hazardous Substance kept or allowed on the Leased Premises by the Lessee and Lessee shall give immediate notice to the Lessor of any violation or potential violation of the provisions of this Article. Lessee shall defend, indemnify and hold Lessor and its agents harmless from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses (including, without limitation, attorneys' fees and consultants' fees, court costs and litigation expenses) of whatever kind or nature arising out of the violation of any provision of this Article. This provision shall survive the termination of this Lease. Lessee is not responsible for any preexisting hazardous substances and shall inform Lessor of any preexisting hazardous substances of which Lessee may be aware.

In the event any material and/or substance is discovered in the Building or premises which is deemed to be hazardous by any local or state law in which the premises is located or by any federal law, the Lessor, its agents, assigns, or employees will assume all liability for the removal and damage caused by the material and/or substance. In addition, upon discovery of the hazardous material and/or substance, Lessee will have a reasonable time in which to exercise the option to remain on the premises for the Lease term or to surrender the premises to the Lessor. In the event the premises are surrendered, Lessee shall pay rent only to time of such surrender and will not be liable for any cost of clean-up or damage to the premises caused by the material and/or substance. The provisions of this paragraph shall not apply if it is determined that the hazardous material and/or substance was introduced into the premises by Lessee.

19. **HOLDING OVER:** Should Lessee, or any of its successors in interest, hold over the Leased Premises or any part thereof, after the expiration of the term of this Lease, such holding over shall constitute and be construed as a tenancy from month to month only. The inclusion of the preceding sentence shall not be construed as Lessor's permission for Lessee to hold over. The monthly rent during any such unauthorized month-to-month tenancy shall be at one and one half (1 1/2) times the amount set forth in Article 2 "Rent" as most recently adjusted in accordance with Article 3. If Lessee holds over with the permission of Lessor, then the rent shall be as most recently adjusted in accordance with Article 3.

20. **QUIET ENJOYMENT:** Lessor represents and warrants that it has full right and authority to enter into this Lease and that Lessee, upon paying the rental herein set forth and performing its other covenants and agreements herein set forth, shall peaceably and quietly have, hold and enjoy the Leased Premises for the term hereof without hindrance or molestation from Lessor, subject to the terms and provisions of this Lease.

21. **EVENTS OF DEFAULT:** The following events shall be deemed to be events of default by Lessee under this Lease:

- a. Lessee shall fail to pay any installment of the rent hereby reserved or any other charge payable hereunder within thirty days after receipt by Lessee of written notice from Lessor that such amount was not delivered by the respective due date.
- b. Lessee shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.
- c. Lessee shall file or have filed against it a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof, or Lessee shall be adjudged bankrupt or insolvent in proceedings filed against Lessee thereunder.
- d. A receiver or trustee shall be appointed for all or substantially all of the assets of Lessee.
- e. Lessee shall desert or vacate any substantial portion of the Leased Premises. Lessee shall not be considered to have deserted or vacated the premises as long as Lessee continues to pay rent and fulfill all other obligations of this Lease, regardless of whether Lessee is actually continuously occupying the space or not.

f. Lessee shall fail to comply with any term, provision or covenant of this Lease (other than the foregoing in this Article 22) and shall not cure such failure within thirty (30) days, after written notice thereof to Lessee.

22. **DEFAULT:** Lessee hereby agrees that in case Lessee shall default in making its payments hereunder or in performing any of the other agreements, terms, and conditions of this Lease, then, in any such event, in addition to all other rights and remedies available to Lessor by law or by other provisions hereof, at Lessor's option, Lessor may annul and cancel this Lease as to all future rights of Lessee. Lessee further agrees that in case of any such termination Lessee will indemnify the Lessor against all loss of rents and other damage which Lessor may incur by reason of such termination, including, but not limited to, costs of restoring and repairing the Leased Premises and putting the same in rentable condition and costs of renting the Leased Premises to another Lessee, loss or diminution of rents and other damage which Lessor may incur by reason of such termination and all reasonable attorneys fees and expenses incurred in enforcing any of the terms of this Lease. Lessor shall use commercially reasonable efforts to mitigate damages resulting from Lessee's default.

23. **SUBORDINATION OF LEASE:** The rights of Lessee under this Lease shall be and are subject and subordinate at all times to all ground leases, and or underlying leases, if any, now or hereafter in force against the Building, and to the lien of any mortgage or mortgages now or hereafter in force against such leases and/or the Building, and to all advances made or hereafter to be made upon the security thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof; provided, however, that Lessee's rights under this Lease and possession of the Leased Premises shall not be disturbed so long as Lessee is not in default hereunder. This Article 23 is self-operative and no further instrument of subordination shall be required. In confirmation of such subordination Lessee shall promptly execute such further instruments as may be reasonably requested by the Lessor. Lessee at the option of any mortgagees, or the Lessor under any such ground lease or underlying lease, agrees to attorn to such mortgagee or Lessor in the event of a foreclosure sale or deed in lieu thereof or termination by the Lessor of any such lease. Failure of the Lessee to execute any of the above instruments within fifteen (15) days of receipt of written request so to do by Lessor, shall constitute a breach of this Lease and the Lessor may, at its option, cancel this Lease and terminate the Lessee's interest therein.

24. **NOTICES:** Each provision of this instrument or of any applicable governmental laws, ordinances, regulations and other requirements with reference to the sending, mailing or delivery of any notice or the making of any payment by Lessor to Lessee or by Lessee to Lessor shall be deemed to be complied with, when and if, the following steps are taken;

a. All rent and other payments required to be made by Lessee to Lessor hereunder shall be payable to Lessor at the address hereinbelow set forth or at such other address as Lessor may specify from time to time by written notice delivered in accordance herewith.

b. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage prepaid, certified or registered mail, addressed to the parties hereto at the respective addresses set out opposite their names below, or at such other address as they have theretofore specified by written notice delivered in accordance herewith. Such notice is not deemed delivered if communicated by telephone or emailed or sent by "texting." If notice is mailed instead of being personally delivered, then 3 days shall be added to the time limit to take any action:

**Lessor:**

Oneida Realty Company  
1605 Alworth Building  
306 West Superior Street  
Duluth, MN 55802

AND TO

InfoTel Investments, L.L.C.  
36227 Fox Hunter Rd  
Pequot Lakes, MN 56472

**Lessee:**

ISD 709  
310 Arvig Building  
325 West 1<sup>st</sup> Street  
Duluth, MN 55802

AND TO

Chief Financial Officer  
ISD 709  
215 N. 1<sup>st</sup> Avenue East  
Duluth, MN 55802

In addition, the preferred telephone numbers and emails for the Lessor and Lessee are as follows:

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**Lessor:**  
218-722-0816

**Lessee:**

25. **RULES AND REGULATIONS:** Lessee shall observe such rules and regulations which from time to time may be put in effect by Lessor for the general safety, comfort and convenience of Lessor, occupants and lessees of said Building.

26. **ENERGY; GOVERNMENTAL ACTION:** Wherever in this Lease any terms, covenants or conditions are required to be kept or performed by the Lessor, the Lessor shall be deemed to have kept and performed such terms, covenants and conditions notwithstanding any action taken by the Lessor, if such action is pursuant to any governmental regulations, requirements, directives or requests, or if the Lessor deems such action to be for the benefit of our national interest or the general public. However, the Lessor may not reduce the quantity and quality of all utility and other services and impose such regulations as the Lessor deems necessary in order to conserve energy, and change the normal hours of operation of the Building, without the permission of Lessee. Utility in the sense of this paragraph includes, but is not limited to heating, cooling, electricity, water and all the sources of energy needed to provide such.

a. Throughout the Term of this Lease, Lessee shall observe and comply with all governmental codes, laws, requirements, rules, orders, ordinances and regulations, and orders or recommendations of insurance carriers or fire insurance rating organizations applicable to the Leased Premises or the business conducted therein, hereinafter called "Legal Requirements", whether or not any work necessary to be done in order to comply with such Legal Requirements by ordinary, extraordinary or otherwise, is required by any existing or future Legal Requirement, or is within the present contemplation of Lessor and Lessee, including, but not limited to, any demolition, reconstruction, alteration or repair of any part of the Leased Premises. It is the intention of the parties that Lessee shall and does hereby assume the entire responsibility of complying with all Legal Requirements which affect the Leased Premises, except for work relating to the Landlord's responsibilities under this Lease, such as structural, HVAC, and other matters which are the responsibility of Landlord. If any alterations are required, they shall be completed in accordance with Article 9.

27. **LIGHT, AIR & VIEW:** Lessee has no right to light, air, or view over any premises adjoining the Building.

28. **LESSOR'S USE:** It is understood that Lessor may occupy portions of the Building in the conduct of the Lessor's business. In such event, all references herein to other lessee's of the Building shall be deemed to include Lessor as an occupant or lessee.

29. **MISCELLANEOUS TAXES:**

a. Lessee shall pay prior to delinquency all taxes assessed against or levied upon its occupancy of the Leased Premises, but not on the real property which is leased, upon the fixtures, furnishings, equipment and personal property of Lessee located in the Leased Premises, and when possible, Lessee shall cause said fixtures, furnishings, equipment and personal property to be assessed and billed separately from the property of Lessor. In the event any or all of Lessee's fixtures, furnishings, equipment and personal property, or Lessee's occupancy of the Leased Premises, but not the real property which is leased, shall be assessed and taxed with the property of Lessor, Lessee shall pay to Lessor its share of such taxes within ten (10) days after delivery to Lessee by Lessor of a statement in writing setting forth the amount of such taxes applicable to Lessee's fixtures, furnishings, equipment or personal property, or occupancy of the Leased Premises.

30. **ESTOPPEL CERTIFICATE:** Lessee agrees, within ten (10) days after receipt by Lessee of request of Lessor, to deliver to Lessor, or Lessor's designee, including without limitation, the present or any future holder of any mortgage(s) and/or deed(s) of trust and/or ground lease(s) and/or underlying lease(s) on the Leased Premises, or any prospective purchaser of the Leased Premises, an estoppel certificate stating that this Lease is in full force and effect, the date to which rent and other charges have been paid, the unexpired term of this Lease, whether or not Lessor is in default hereunder, and the nature of any such default, and such other matters pertaining to this Lease as may be reasonably requested by Lessor.

31. **MISCELLANEOUS:**

a. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

b. The terms, provisions and covenants and conditions contained in this Lease shall apply to, inure to the benefit of, and be binding upon, the parties hereto and upon their respective heirs, legal representatives, successors, permitted sublessees, and permitted assigns, except as otherwise herein expressly provided.

c. Failure of either party to insist, in any one or more instances, upon strict performance of any term, covenant or condition of this Lease, or to exercise any option herein contained shall not be construed as a waiver, or a relinquishment for the future, of such term, covenant, condition or option, but the same shall continue and remain in full force and effect. The receipt by Lessor of rents with knowledge of a breach in any of the terms, covenants or conditions of the Lease to be kept or performed by Lessee shall not be deemed waiver of such breach. Neither Lessor nor Lessee shall be deemed to have waived any provision of this Lease unless expressed in writing and signed by such party.

d. The captions of this Lease are for convenience and reference only, and in no way define, limit or describe its scope or content.

e. All preliminary and contemporaneous negotiations are merged and incorporated into this Lease. This Lease contains the entire understandings between Lessor and Lessee and shall not be modified or amended in any manner except by an instrument in writing executed by Lessor and Lessee.

f. Time is of the essence.

g. This lease is governed by the laws of the State of Minnesota.

h. Venue for any action involving the interpretation or enforcement of this lease shall be in the Minnesota State District Court in Duluth, MN.

32. **INVALIDITY OF PARTICULAR PROVISIONS:** If any Article or provision of this Lease is or becomes illegal, invalid, or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, effective during its term, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby unless such illegality, invalidity, or unenforceability is essential to the rights of both parties in which event the parties shall negotiate in good faith to replace such provision with mutually acceptable terms and conditions which are not illegal, invalid or unenforceable.

33. **PARKING:** During the initial term of this lease and during any and all extensions thereof, included in this lease are two (2) parking spaces. The parking spaces are located behind the building in an open air parking lot and could accommodate up to four (4) cars if parked two (2) deep.

34. **BROKERAGE FEES:** Lessee represents and warrants that it has dealt with no broker other than Follmer Commercial Real Estate and Oneida Realty Company, and Lessee hereby indemnifies and holds Lessor harmless from and against any claims by any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with Lessee with regard to this Lease.

IN WITNESS WHEREOF, the Lessor and Lessee have duly signed and sealed these presents the day and year first hereinbefore written.

ISD 709 , LESSEE

By: Jill Lofall  
Its: Board Chair

Date: 7/20/21

INFOTEL INVESTMENTS, L.L.C., LESSOR,

By: [Signature]  
Greg Arvig, President

Date: 7)22/21

The following narrative will go along with the floor plan and proposed work labeled Exhibit A & B

The scope of work will include:

- a) Demolition of walls. (See plan for walls to be demolished)
- b) All new interior walls and doors. (See plan for new walls)
- c) Electrical outlets in all new walls
- d) All walls will be painted.
- e) All new lighting.
- f) All new commercial grade carpeting.
- g) Installation of a water/sink and counter in a mutually agreed to location within the space.

**PURCHASE AGREEMENT**  
**[Central High School Site-Phased Closings]**

This Purchase Agreement (“**Agreement**”) is made by and between **INDEPENDENT SCHOOL DISTRICT #709**, a public corporation and political subdivision of the State of Minnesota (“**Seller**”), and **SATURDAY CENTRAL HEIGHTS LLC**, a Minnesota limited liability company (“**Buyer**”), or its permitted assigns and is effective as of August \_\_\_\_, 2021 (the “**Effective Date**”).

**RECITALS**

A. Seller is the owner of the real property commonly referred to as the Central High School Campus in Duluth, St. Louis County, Minnesota (the “**Central Campus**”). The Central Campus is more particularly described on **Exhibit A(1)** attached to this Agreement and is depicted on the survey (the “**Existing Survey**”) prepared by LHB Inc. dated 4/22/2015, consisting of two sheets, and attached to this Agreement as **Exhibit A(2)**.

B. As more fully described in this Agreement Seller has agreed to sell to Buyer and Buyer has agreed to purchase from Seller the “**Property**” as described below.

C. As used in this Agreement following are collectively referred to as the “**Property**”:

(a) **Land**. The “**Land**” is the portion of the Central Campus depicted as Lots 2 and 3 on the Preliminary Plat of Central Overlook attached to this Agreement as **Exhibit C(a)**. As a part of the preparation and approval of a Preliminary Master Plan described below, the Land will be divided into six parcels (each a “**Site**”) and identified as Site 1 (“**Residential Site 1**”), Site 2 (“**Residential Site 2**”), Site 3 (“**Residential Site 3**”), and Site 4 (“**Residential Site 4**” and, collectively, with Residential Site 1, Residential Site 2, and Residential Site 3, the “**Residential Sites**”), a parcel including the Vo-Tech Building (“**Vo-Tech Building Site**”), and a parcel including the Central High School Building (“**Central High School Site**”). Definitive legal descriptions for each Site will be developed as provided in Section 4. The Land includes all rights, privileges, easements and appurtenances of the Land.

(b) **Improvements**. All improvements, structures and fixtures now existing on the Land (the “**Improvements**”), except the improvements, structures and fixtures located on the Central High School Site.

D. The Property does not include any tangible personal property.

E. Seller intends to retain and develop the portion of the Central Campus not included within the Land (the “**Seller Retained Site**”).

**AGREEMENT**

In consideration of the Agreement, Seller and Buyer agree as follows:

1. **Purchase and Sale.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, all of Seller's right, title and interest in and to the Property, all according to the terms and provisions of this Agreement.

2. **Purchase Price and Manner of Payment.** The total purchase price ("**Purchase Price**") to be paid by Buyer to Seller for the Property shall be Seven Million Four Hundred Thousand Dollars (\$7,400,000), and shall be payable by Buyer as follows:

(a) within in one (1) business day after the Effective Date, earnest money of \$50,000.00 (the "**Earnest Money**") to be paid by cash or cash equivalent check or wire to the escrow account of Arrowhead Abstract & Title Co. ("**Title**"), as escrow agent;

(b) on or before the earlier of (i) day two (2) business days after the satisfaction or Buyer's written waiver of the Public Approvals contingency set forth in Section 5.3.3, or (ii) the end of the Public Approvals Period (defined below), \$50,000.00 as additional earnest money (the "**Additional Earnest Money**") to be paid by cash or cash equivalent check or wire to the escrow account of Title, as escrow agent;

(c) once deposited, the Additional Earnest Money will be included in the Earnest Money;

(d) the Purchase Price for each Site set forth on **Exhibit 2(d)** shall be paid by cash, cashier's check, wire transfer or other immediately available funds at the Closing for that Site;

(e) the Purchase Price is subject to adjustment as provided in Section 7.1;

(f) the Earnest Money also includes any additions to the Earnest Money described in Section 24 because of a draw on the Letter of Credit;

(g) except as provided herein, the Earnest Money shall be applied to the Purchase Price of the final Site to be purchased.

The Earnest Money shall be non-refundable and no Earnest Money will be returned to Buyer unless this Agreement is terminated pursuant to and as permitted in Section 5.1, Section 5.2.2, Section 5.2.4, Section 5.3.2, Section 5.3.3, Section 5.6, Section 9.8, Section 10, or Section 19.2. Attached as Exhibit 2(d) is an allocation of the Purchase Price among the Sites. Exhibit 2(d) is currently blank. Seller and Buyer must agree upon the allocation of the Purchase Price among the Parcels and amend this Agreement to substitute a new, completed Exhibit 2(d) for the attached Exhibit 2(d) as a part of the approval of the Preliminary Master Plan (defined below) to reflect such allocation. Two Million Dollars (\$2,000,000.00) of the Purchase Price shall be allocated to the Central High School Site.

3. **Preparation and Approval of a Preliminary Master Plan.**

3.1 **Preliminary Master Plan, Preliminary Infrastructure Development Schedule,**

and Infrastructure Construction Budget. Buyer shall engage and pay Cunningham Group Architecture, Inc. (“Cunningham”) and, if necessary, other third parties such as a surveyor to prepare a master plan for the Central Campus (the “**Preliminary Master Plan**”), a schedule, including a critical path schedule, for the construction of the Infrastructure (the “**Preliminary Infrastructure Development Schedule**”), and a budget showing the anticipated cost for the construction of the Infrastructure and potential funding sources for such costs (the “**Infrastructure Budget**”) and shall direct Cunningham to provide copies of the Preliminary Master Plan, Preliminary Infrastructure Development Schedule, and Infrastructure Budget to Seller and Buyer on or before the date forty-five (45) days after the Effective Date. Buyer shall pay all fees, costs, charges and other expenses for (a) the preparation of the Preliminary Master Plan, the Preliminary Infrastructure Development Schedule, the Infrastructure Budget; (b) any modifications to the Preliminary Master Plan, the Preliminary Infrastructure Development Schedule, or the Infrastructure Budget made before the City of Duluth (the “City”) grant’s final approval of the rezoning and subdivision of the Central Campus in accordance with the Preliminary Master Plan; (c) related services associated with the acquisition of those City approvals; and (d) any application fees Buyer pays pursuant to Section 4. Seller shall reimburse Buyer for up to \$185,000.00 of fees, charges and other expenses Buyer pays to third parties in connection with (a) through (d) in the immediately preceding sentence. Buyer may on one or more occasions, submit to Seller a written request for reimbursement along with copies of all invoices showing the costs for which reimbursement is sought. Within thirty (30) days after receipt of a reimbursement request from Buyer, Seller shall wire transfer the amount of the reimbursement to Buyer’s bank account pursuant to wire instructions provided by Buyer. The Preliminary Master Plan shall meet the requirements of the City’s Uniform Development Code which are applicable to the intended zoning for the Project. The Preliminary Master Plan must include: (a) the location, type, and intensity of proposed development of the Seller Retained Site and each Site which, to the extent applicable, must conform with the information set forth on the attached **Exhibit 3.1**, and (b) a description of and preliminary plan for all infrastructure necessary for the development and use of the Seller Retained Site and each Site including, without limitation, all public and, if applicable, private, roadways and sidewalks, and curbs; all public and, if applicable, private water, sanitary sewer, and fire service mains, lines and, if applicable, lift stations; all public and, if applicable, private, storm water collection, retention, and detention facilities; and all natural gas, electricity and cable utilities (the “**Infrastructure**”).

3.2 Approval of the Preliminary Master Plan and Preliminary Infrastructure Development Schedule. Following Cunningham’s completion and distribution of the Preliminary Master Plan, the Preliminary Infrastructure Development Schedule, and the Infrastructure Budget, Seller and Buyer will negotiate in good faith in an attempt to reach agreement on a mutually acceptable Preliminary Master Plan, Preliminary Infrastructure Development Schedule, and Infrastructure Budget on or before the Initial Plan Approval Date set forth in Section 5.1.

3.3 Revisions and Updates to the Preliminary Master Plan and Preliminary Infrastructure Development Schedule. After Seller and Buyer have approved the Preliminary Master Plan, neither Seller nor Buyer may change the Preliminary Master Plan nor consent



to the City staff's modification of the Master Plan that will be submitted to the City Council for final approval or the Preliminary Infrastructure Development Schedule without the written consent of both Seller and Buyer. Buyer shall cause Cunningham to propose periodic revisions and updates to the Preliminary Infrastructure Development Schedule to reflect evolving events and circumstances, including actual dates of commencement and completion and shall cause Cunningham to supplement the Preliminary Infrastructure Development Schedule with detailed schedules for submissions and responses of necessary deliverables associated with tasks covered by the Preliminary Infrastructure Development Schedule, taking into account appropriate scheduling for submission, review and approval by Seller and Buyer. A proposed, updated Preliminary Infrastructure Development Schedule will be provided to Seller and Buyer quarterly, and additionally when deemed necessary by Buyer or when requested by Seller. Proposed revisions to the Preliminary Infrastructure Development Schedule will be subject to Seller's and Buyer's mutual approval. Seller and Buyer will promptly review all such proposed revisions which, upon approval by both Seller and Buyer, shall be deemed to constitute the Preliminary Infrastructure Development Schedule. Seller and Buyer shall use the Preliminary Master Plan that Seller and Buyer approve as the proposed master plan for submission of an application or applications to the City for zoning and subdivision approvals for the Project. Neither Seller nor Buyer may seek or accept final zoning approval from the City unless such final zoning approval is based on the Approved Preliminary Master Plan and, if applicable, changes to the Approved Preliminary Master Plan that both Seller and Buyer have approved in writing as provided in this Section 3.3. The master plan the City approves as a part of its zoning approvals for the Project is referred to herein as the "**Approved Master Plan.**" The development of the Central Campus in accordance with the Approved Master Plan is referred to herein as the "**Project.**"

3.4 Additional Provisions Relating to the Central High School Site. Seller shall complete the demolition of the existing buildings on the Central High School Site (the "**High School Building**") (a) no earlier than the earliest of (i) the date ninety (90) days after the date Buyer enters into the Buyer TIF Agreement or (ii) one year after the Effective Date and (b) no later than three years after the Effective Date (the "**Demolition Completion Date**"). Demolition by Seller will include removal of all improvements from the Center High School Site including, without limitation, all foundations and other below grade improvements, if any, and debris removal to as to result in a "pad ready" building site.

3.5 Ownership and Use of Plans. Seller and Buyer shall each own and have the right to use (i) all plats, drawings, plans, studies, surveys, and specifications provided with respect to the Infrastructure, the Preliminary Master Plan, and the Approved Master Plan (including, without limitation any "Plans" and "Reports" with respect to the Infrastructure, the Preliminary Master Plan, and the Approved Master, (ii) the Preliminary Master Plan, any modifications or updates to the Preliminary Master Plan, the Approved Master Plan, any modifications or updates to the Approved Master Plan, and (iii) the ideas, designs, and concepts contained in the (i) and (ii), EXCLUDING, HOWEVER, plats, drawings, plans, studies, surveys, and specifications that relate solely to (a) the development of the Retained Site by the Seller or (b) the development of the Residential Sites, the Vo-Tech Building Site, or the Central High School Site by Buyer. As a condition to reimbursement under Section 3.1, Buyer will include a provision in its contracts with

Cunningham and any other party providing plats, drawings, plans, studies, surveys, and specifications with respect to the Infrastructure, the Preliminary Master Plan, and the Approved Master Plan confirming Seller's ownership and right of use.

4. Acquisition of Subdivision and Zoning Approvals. Within sixty (60) days after Seller and Buyer have approved a Preliminary Master Plan pursuant to Section 3.2 above, Seller and Buyer must jointly execute and submit an application or applications for all governmental subdivision, zoning and infrastructure approvals, other than site plan approvals for the development of the Seller Retained Site and the individual Sites and building permits for the construction of improvements on the Seller Retained Site and individual Sites, necessary to permit Seller and Buyer to develop and use the Central Campus in accordance with the approved Preliminary Master Plan including, without limitation, all governmental subdivision, zoning and infrastructure approvals necessary to permit Seller to develop and use the Seller Retained Site as an administrative center or as otherwise provided in the approved Preliminary Master Plan, to permit Buyer to develop and use each of the Residential Sites for multi-family, residential, market rate rental housing at the density levels set forth in the Approved Preliminary Master Plan (defined below), and to permit Buyer to develop and use the Vo-Tech Building Site and the Central High School Site for the uses described in the Approved Preliminary Master Plan (defined below) (the "**Required Governmental Approvals**"). Notwithstanding anything else in this Agreement to the contrary, "Required Governmental Approvals" do not include site plan approvals for the development of the Seller Retained Site or the individual Sites or building permits for the construction of improvements on the Seller Retained Site or the individual Sites. Seller and Buyer must use commercially reasonable efforts to obtain all Required Governmental Approvals before the expiration of the Public Approvals Period. Buyer is responsible for the payment of all application fees and other fees or charges the City imposes in connection with the application for and acquisition of the Required Governmental Approvals. Seller is responsible for the payment of all application fees, fees in lieu of park land dedication, sewer, water or other utility access charges, and other charges, fees or impositions of every kind and nature imposed or required by agreement or otherwise by any governmental entity or utility company in connection with or at the time of the acquisition of additional governmental approvals for the development of the Seller Retained Site except for those, if any, that relate to the cost of providing the Infrastructure and will indemnify, defend (with counsel reasonably satisfactory to Buyer), and hold Buyer harmless from and against any claim, liability or expense of any kind or nature arising out of or relating to any such assessment, charge, fee, or imposition. Buyer is responsible for the payment of all application fees, fees in lieu of park land dedication, sewer, water or other utility access charges, and other charges, fees or impositions of every kind and nature imposed or required by agreement or otherwise by any governmental entity or utility company in connection or at the time of the acquisition of additional governmental approvals for the development of the Sites and will indemnify, defend (with counsel reasonably satisfactory to Seller), and hold Seller harmless from and against any claim, liability or expense of any kind or nature arising out of or relating to any such assessment, charge, fee, or imposition. Buyer will be the primary contact with the City in pursuit of the Required Governmental Approvals; provided that Buyer is not authorized to and shall not execute any applications for or on behalf of Seller or bind Seller or the Property to any contracts or other agreements or obligations. Buyer acknowledges that Seller may be developing and seeking site plan approvals for the development of the Seller Retained Site or

building permits for the construction of improvements on the Seller Retained Site contemporaneously with the efforts of Buyer and Seller to obtain the Required Governmental Approvals. Buyer shall keep Seller informed about the progress of its efforts to obtain the Required Governmental Approvals by facilitating regularly scheduled progress calls (at least monthly) and by promptly responding to requests for information by Seller. Buyer will advise Seller two (2) days in advance of the dates of any material meetings with the staff or other representatives of the City or the Economic Development Authority of the City of Duluth regarding the Required Governmental Approvals or Infrastructure funding and Seller will have the right to have a representative of Seller participate with Buyer and its Agents in such meetings. Nothing in this Agreement prohibits or restricts Seller from contacting the City of Duluth directly.

## 5. Contingencies and Conditions Precedent to Closing.

5.1 Mutual Contingency for Plan Approval. The obligations of Seller and Buyer under this Agreement are contingent upon Seller and Buyer agreeing upon a Preliminary Master Plan and Preliminary Infrastructure Development Schedule on or before the date seventy-five (75) days after the Effective Date (the “**Initial Plan Approval Date**”) and upon City approval of an Approved Master Plan as set forth in Section 5.3.3. Absent such agreement and approval, either party may terminate this Agreement by written notice delivered to the other party on or before the expiration of the Public Approvals Period (defined below) and upon such termination: (a) this Agreement shall be null and void, except for those provisions which, by the express terms of this Agreement, survive the termination of this Agreement, and (b) the Earnest Money shall be refunded to Buyer.

### 5.2 Title Contingency.

5.2.1 **Title Review and Objections.** Seller shall cause Title to issue and deliver to Seller and Buyer, within fifteen (15) business days after the Effective Date, a 2016 form ALTA Commitment for Title Insurance (the “**Commitment**”) committing Chicago Title Insurance Company or Old Republic Title Insurance Company (as applicable “**Title Company**”) to issue an 2006 form ALTA owner’s policy of title insurance for the Land and the Seller Retained Site and to provide Seller and Buyer with electronic access to legible copies of all items shown in Schedule A, Schedule B-1, or Schedule B-2 thereof. Buyer shall have until the end of the Due Diligence Period (defined below) (the “**Title Examination Period**”), within which to disapprove of or object to any specific item or exception shown in the Commitment, the Existing Survey or any new or updated survey Buyer elects to obtain (“**Unpermitted Exceptions**”). Any such disapproval or objection shall be in writing (the “**Objection Notice**”) and shall be given to Title and Seller. Any item or exception to which Buyer does not so object, together with real estate taxes and assessments not yet due and payable, are referred to as “**Permitted Exceptions.**” If Buyer fails to deliver an Objection Notice within the Title Examination Period, Buyer shall be deemed to have waived its right to object to the condition of title reflected in the Commitment, and items and exceptions noted in the Commitment shall thereafter be deemed Permitted Exceptions. Within five (5) business days following the receipt of an Objection Notice (the “**Seller Notice Period**”) from Buyer, Seller shall give notice (the “**Response Notice**”) advising Buyer whether Seller, at Seller’s cost and expense, will cause any of the Unpermitted Exceptions to be removed from the Commitment or otherwise cured at or prior to Closing. If Seller fails to give the Response Notice, or if Seller fails to respond to a specific Unpermitted Exception in the Response Notice, during the

Seller Notice Period, Seller shall be deemed to have given Buyer notice that it will not cause such Unpermitted Exceptions to be removed from the Commitment or otherwise cured.

**5.2.2 Title Termination Notice.** If Seller delivers or is deemed to have delivered to Buyer a Response Notice indicating Seller will not cause one or more Unpermitted Exceptions to be removed from the Commitment or otherwise cured prior to the first Closing on the purchase of a Site, then Buyer, in its sole discretion, may elect to (i) waive in writing the removal of such Unpermitted Exception with respect to all of the Sites and the Seller Retained Site without abatement regarding the Unpermitted Exception or (ii) terminate this Agreement, by giving Seller and Title a written notice of termination (a "**Title Termination Notice**") within ten (10) business days of the sooner of (i) expiration of the Seller Notice Period or (ii) Buyer's receipt of the Response Notice. If Buyer delivers a Response Notice indicating Seller will cause one or more Unpermitted Exceptions to be removed from the Commitment or otherwise cured prior to the first Closing on the purchase of a Site but fails to do so to Buyer's satisfaction and at no cost to Buyer then Buyer, in its sole discretion, may elect to (i) waive in writing the removal of such Unpermitted Exception with respect to all of the Sites without abatement regarding the Unpermitted Exception, or (ii) terminate this Agreement with respect to any applicable Site by giving a Title Termination Notice to Seller and Title on or before the date of Closing. If Buyer gives a Title Termination Notice this Agreement shall become null and void, except for those provisions which, by the express terms of this Agreement, survive the termination of this Agreement. If Buyer does not give a Title Termination Notice within the period set forth above, the Unpermitted Exceptions will thereafter be deemed Permitted Exceptions, and this Agreement shall remain in full force and effect.

**5.2.3 Supplemental Title Review and Supplemental Objections.** Not less than ten (10) business days before Buyer's Closing on a Site, Seller shall cause Title Company to issue a supplemental commitment for that Site to Buyer (each a "**Supplemental Commitment**"). With respect to each Supplemental Commitment, Buyer shall have five (5) business days from Buyer's receipt of the Supplemental Commitment, to deliver to Seller a supplemental objection notice (the "**Supplemental Objection Notice**") with respect to any objections (the "**Supplemental Unpermitted Exceptions**") Buyer may have to any new item set forth in the Supplemental Commitment, unless such item was previously approved or waived by Buyer, was created by Buyer, arises out of or relates to any Approval, or arises out of or relates to the Infrastructure. If Buyer does not deliver to Seller the Supplemental Objection Notice within the time specified above, Buyer shall be deemed to have waived its right to object to all new matters described as title exceptions in the Supplemental Commitment. Within five (5) business days following the receipt of a Supplemental Objection Notice from Buyer (the "**Supplemental Seller Notice Period**"), Seller shall give notice (the "**Supplemental Response Notice**") advising Buyer whether Seller, at Seller's cost and expense, will cause any of the Supplemental Unpermitted Exceptions to be removed or cured from the Supplemental Commitment at or prior to Closing for the applicable Site. If Seller fails to give the Supplemental Response Notice, or if Seller fails to respond to a specific Supplemental Unpermitted Exception in the Supplemental Response Notice during the Supplemental Seller Notice Period, Seller shall be deemed to have notified Buyer that it will not cause such Supplemental Unpermitted Exceptions to be removed or cured from the Supplemental Commitment.

**5.2.4 Supplemental Title Termination Notices.** If Seller delivers or is deemed to have delivered to Buyer a Supplemental Response Notice indicating Seller will not cause one or more Supplemental Unpermitted Exception to be removed from the Supplemental Commitment or otherwise cured prior to Closing, then Buyer, in its sole discretion, may elect to (i) waive in writing the removal of such Supplemental Unpermitted Exception and proceed to Closing with respect to the Site without any abatement to the Purchase Price for the applicable Site, or (ii) terminate this Agreement with respect to any applicable Site, by giving Seller and Title a written notice of termination (a “**Supplemental Title Termination Notice**”) within five (5) business days of the sooner of (i) expiration of the Supplemental Notice Period or (ii) Buyer’s receipt of the Supplemental Response Notice. If Buyer delivers a Supplemental Response Notice indicating Seller will cause one or more Supplemental Unpermitted Exception to be removed from the Supplemental Commitment or otherwise cured prior to Closing but fails to do so to Buyer’s satisfaction and at no cost to Buyer then Buyer, in its sole discretion, may elect to (i) waive in writing the removal of such Supplemental Unpermitted Exception and proceed to Closing with respect to the Site without any abatement to the Purchase Price for the applicable Site, or (ii) terminate this Agreement with respect to any applicable Site by giving a Supplemental Title Termination Notice to Seller and Title on or before the date of Closing. If Buyer gives a Supplemental Title Termination Notice: (a) if there are no unpurchased Sites other than the Site that is the subject of the Supplemental Title Termination Notice, the Earnest Money shall be paid to Buyer and (b) this Agreement shall become null and void with respect to the applicable Site, except for those provisions which, by the express terms of this Agreement, survive the termination of this Agreement. If Buyer does not give a Supplemental Title Termination Notice within the period set forth above, the Supplemental Unpermitted Exceptions will thereafter be deemed Permitted Exceptions, and this Agreement shall remain in full force and effect.

### **5.3 Buyer’s Inspection Rights and Buyer Contingencies.**

**5.3.1 Due Diligence Items and Buyer’s Inspection Rights.** Within five (5) business days of the Effective Date, Seller shall make available to Buyer all of the items listed on **Exhibit 5.3.1** (the “**Due Diligence Items**”). Buyer’s sole remedy for Seller’s failure to deliver any of the Due Diligence Items is termination pursuant to Section 5.3.2. Buyer and its agents, representatives, consultants, contractors or invitees (collectively, “**Agents**”) may enter upon the Land during reasonable business hours during the Due Diligence Period (defined below) and thereafter prior to the Closing to perform such inspections and tests of the Land and any structural or mechanical systems within any Improvements as Buyer deems necessary or desirable, all at Buyer’s sole cost and expense. Buyer and its Agents, shall, in performing Buyer’s inspections, comply with any and all laws, ordinances, rules, regulations applicable to the Land and will not engage in any activities which would violate any recorded environmental covenant, any environmental law or regulation, or any permit or license that Seller has disclosed to Buyer. Buyer agrees to conduct such inspections in a manner which will not unreasonably interfere with Seller’s normal operations on the Land or the activities of its tenants and that such inspections will be conducted in accordance with the following procedures: (a) all persons, entities and Agents performing any tests will be properly licensed and qualified and will have obtained all required permits for performing such tests; (b) Buyer will advise Seller two (2) days in advance of the dates of all tests and inspections and will schedule all tests and inspections during normal business hours whenever feasible unless otherwise requested by Seller; (c) Seller will have the right to have a representative of Seller accompany Buyer and its Agents while they are on the Land; (d) Buyer

will promptly pay when due the costs of all entry and inspections, tests and examinations done with regard to the Land; (e) Buyer will, to the extent feasible and at its sole cost and expense, repair and restore the Land to its condition immediately before any such entry or any inspection, test or examination was undertaken; and (f) Buyer will not conduct any intrusive or destructive testing without the prior written consent of Seller's staff who may not unreasonably withhold, condition, or delay consent and who must respond to a request for consent within two (2) days of Buyer's request. Buyer shall keep the Land free and clear of any mechanics', materialmen's or similar liens arising out of or relating to Buyer's or Agent's exercise of the right of inspection and its due diligence activities. Buyer shall indemnify, defend (with counsel reasonably satisfactory to Seller) and hold Seller and Seller's direct and indirect affiliates, members, partners, subsidiaries, shareholders, trustees, managers, investors, officers, officials, employees, board members, representatives, agents and successors and assigns (collectively, the "**Seller-Related Parties**") harmless for, from and against any claims, damages, costs, liabilities, and losses to the extent arising out of any entry on the Land by Buyer or its Agents or Buyer's inspections or tests of the Land, whether or not a Closing occurs; provided, however, Buyer is only obligated to defend, indemnify or hold harmless Seller-Related Parties with respect to any claims, damages, costs, liabilities or losses resulting from pre-existing conditions to the extent the claims, damages, costs, liabilities or losses are based on or arise from the negligence or intentional misconduct of Buyer or its Agents. Buyer will provide not less than \$2,000,000 commercial general liability insurance insuring all activity and conduct of Buyer while exercising such right to access, naming Seller as an additional insured, issued by a licensed insurance company qualified to do business in Minnesota, and including a contractual liability endorsement insuring its indemnity obligation under this Agreement. It is specifically agreed that the obligations of the Buyer to pay any sums and the indemnity provided for in this Section 5.3.1 shall survive any termination or cancellation of this Agreement and shall survive the Closing. Buyer will promptly provide to Seller a copy of any written report Buyer receives from any third party. Buyer shall keep Seller informed about the progress of its due diligence inquiry by facilitating regularly scheduled progress calls (at least monthly) and by promptly responding to requests for information by Seller.

**5.3.2 Due Diligence Termination Right.** Buyer may, for any reason or no reason whatsoever, terminate this Agreement by giving written notice of termination to Seller (the "**Inspection Termination Notice**") at any time between the Effective Date and 5:00 P.M., Central Standard Time, on the date one hundred twenty (120) days after the Effective Date (the "**Due Diligence Period**") If Buyer gives Seller an Inspection Termination Notice prior to the expiration of the Due Diligence Period: (a) this Agreement shall be null and void, except for those provisions which, by the express terms of this Agreement, survive the termination of this Agreement, and (b) the Earnest Money shall be refunded to Buyer. If Buyer does not provide the Inspection Termination Notice prior to the expiration of the Due Diligence Period, then the contingency set forth in this Section 5.3.2 shall be deemed to have been waived.

**5.3.3 Public Approvals Termination Right.** Contemporaneously with Seller's pursuit of the Required Governmental Approvals, Buyer will pursue an agreement with either the City or the Economic Development Authority of the City of Duluth for the creation of a tax increment financing district and the payment of tax increments to Buyer to offset certain eligible expenses associated with Buyer's construction of the Infrastructure and Buyer's development of the Sites (the "**Buyer TIF Agreement**"). If, at any time during the period between the Effective Date and

5:00 P.M. Central Standard Time on the date two hundred seventy (270) days after the Effective Date (the "**Public Approvals Period**"), Buyer determines that (a) Buyer will not be able to enter into a Buyer TIF Agreement on terms and conditions acceptable to Buyer in Buyer's discretion, (b) Buyer and Seller will not be able to obtain all Required Governmental Approvals, or (c) the TIF Agreement or the Required Governmental Approvals require Buyer to provide or to cause its contractor to provide one or more payment and performance bonds, a cash deposit, a letter of credit, or other security that secures the same work that is secured by and is in addition to the security that Seller requires Buyer to provide to Seller pursuant to Section 6.1, then Buyer may terminate this Agreement by giving written notice of termination to Seller (a "**Public Approvals Termination Notice**") prior to the end of the Public Approvals Period. If Buyer gives Seller a Public Approvals Termination Notice prior to the expiration of the Public Approvals Period: (a) this Agreement shall be null and void, except for those provisions which, by the express terms of this Agreement, survive the termination of this Agreement, and (b) the Earnest Money shall be refunded to Buyer. If Buyer does not provide the Public Approvals Termination Notice prior to the expiration of the Public Approvals Period, then the contingency set forth in this Section 5.3.3 shall be deemed to have been waived.

5.4 Buyer's Conditions Precedent to Closing. In addition to the satisfaction of the contingencies set forth in Section 5.1, Section 5.2, and Section 5.3, the obligation of Buyer to close on the sale of each Site is subject to the satisfaction of each of the following conditions precedent with respect to that Site:

(a) There shall not have been a material adverse change in physical or environmental condition of the Site since the earlier of the expiration of the Due Diligence Period or Buyer's written waiver of Buyer's right to terminate this Agreement pursuant to Section 5.3.2.

(b) No actions, suits, arbitrations, claims, assignments for the benefit of creditors, insolvencies, bankruptcies, reorganizations or other proceedings shall be pending against Seller or the Property or shall have been threatened against Seller, Buyer or the Property that or that may materially and adversely affect Seller's ability to perform its obligations under this Agreement or which would have or could have a material adverse effect upon the Property or Buyer's ownership, development, or use thereof.

(c) There shall exist no pending suit or proceeding with respect to Seller before any court, governmental or administrative agency which seeks to restrain or prohibit or to obtain damages or a discovery order with respect to this Agreement or the consummation of the transaction contemplated by this Agreement.

(d) Subject to Buyer's compliance with any requirements of Buyer set forth on Schedule B-1 of the Commitment for that Site and Buyer's payment of the applicable premiums, Title Company's willingness to issue to Buyer, at Closing, a 2006 form ALTA owner's policy of title insurance insuring Buyer's fee simple title to the Site free and clear of all exceptions and encumbrances other than the Permitted Exceptions, with liability limits in the amount of the Purchase Price allocated to that Site.

The conditions set forth in this Section 5.4 are for Buyer's benefit and may be waived by Buyer. Closing on the purchase of any Site shall constitute a waiver of all contingencies with respect to the Site.

5.5 Seller's Condition Precedent to Closing. In addition to the satisfaction of the contingency set forth in Section 5.1, the obligation of Seller to close on the sale of each Site is subject to the satisfaction of the condition precedent that all representations made by Buyer pursuant to this Agreement shall be true in all material respects as of the Closing on that Site. The condition set forth in this Section 5.5 is for Seller's benefit and may be waived by Seller. Closing on the sale of any Site shall constitute a waiver of this contingency with respect to that Site.

5.6 Failure of a Condition Precedent to Closing. If one or more of the conditions precedent to Closing set forth in Section 5.4 or Section 5.5 are not satisfied as of the Closing on a Site, the party that the condition benefits may terminate this Agreement with respect to that Site by written notice to the other party at that Closing or, in the case of Buyer, Buyer may rescind Buyer's Closing Notice (defined below) for that Site and retain the right to subsequently give Seller a Closing Notice with respect to that Site on or before, in the case of the first Closing, the date ninety (90) days after the date originally scheduled for that Closing.

## 6. Infrastructure Construction and Seller's Pre-Closing Obligations.

6.1 Infrastructure Construction. Subject to the satisfaction of the contingencies described in Section 5.1, Section 5.2, and Section 5.3 and the conditions to closing in Section 5.4, Buyer shall complete the construction of the Infrastructure in accordance with the Approved Master Plan and the Infrastructure Construction Schedule. To meet this obligation, Buyer shall, at Buyer's cost and expense, cause the preparation of all construction plans, budgets, schedules and contracts, including those with the architect, contractors and other parties working on the Infrastructure and shall provide Seller with copies of all of those plans, budgets, schedules and contracts and any material changes thereto. The construction plans and all revisions and modifications thereto, shall be certified by an architect duly registered under the laws of the State of Minnesota. The construction plans must conform with all applicable legal requirements, including City's ordinances, and all environmental laws. Buyer shall cause its general contractor to provide any payment and performance bonds that Seller reasonably determines are required by the "Public Contractor's Performance and Payment Bond Act" (the "**Bond Act**") or other applicable law provided, however, this requirement shall be deemed satisfied if the City or the Economic Development Authority of the City of Duluth require Buyer to either (a) obtain or cause its general contractor to obtain payment and performance bonds naming the City or the Economic Development Authority of the City of Duluth as obligee and (i) Seller is listed as a dual obligee and (ii) the payment and performance bonds meet the requirements of the Bond Act or other law as applicable, or (b) provide the City or the Economic Development Authority of the City of Duluth with a letter of credit or a cash deposit to secure the construction of the Infrastructure in a form and manner that meets the requirements of the Bond Act or other law as applicable.

6.2 Operation of the Property. After the Effective Date and until the earlier of the Closing on each Site or termination of this Agreement, Seller shall (a) continue to manage, operate and maintain the Property in the same manner in which it is presently managed, operated and



maintained (subject, however, to the demolition of the High School Building); (b) provide prompt written notice to Buyer of any condemnation affecting any portion of the Property or any matter relating to zoning changes, rent control or increase in tax assessments; (c) deliver to Buyer, promptly after receipt by Seller, copies of all notices of violation issued by any governmental authority with respect to the Property received by Seller after the date of this Agreement; (d) advise Buyer promptly of any new litigation, arbitration or other judicial or administrative proceeding threatened or commenced after the Effective Date which concerns or may affect the Property or Seller's ability to perform its obligations under this Agreement; (e) not enter into any new lease or extend the term of any existing lease unless the new or extended lease gives Seller the right to terminate the lease, either in whole or with respect to a Site, upon the Closing for that Site. Seller will deliver each Site to the Buyer on the Closing Date free and clear of existing leases and with all tenants relocated from the Site. Seller's obligations in this Section shall end with respect to any Site as of the Closing for that Site. Nothing in this Section 6.2 will require Seller to (a) operate any program, (b) provide any maintenance or repairs, or (c) provide any utilities to the High School Building.

6.3 Operation of the Retained Site. After the Effective Date and until the earlier of (i) execution and delivery of the restrictive covenant pursuant to Section 7.2(g), or (ii) termination of this Agreement, Seller shall not (a) convey or enter into an earnest money contract, purchase agreement, contract for deed, or other contract to convey any interest in all or any portion of the Retained Site, without first subjecting that portion of the Retained Site to a recorded restrictive covenant that is for the express benefit of and is specifically enforceable by Buyer or its assignee, as an owner of or vendee with a right to purchase any part of the Campus Property, prohibiting the development or use of all or any portion of that portion of the Retained Site for multi-family housing or medical office uses prior to the Expiration Date; or (ii) develop all or any part of the Retained Site for multi-family housing or medical office uses; or (b) lease or grant an easement or license all or any portion of the Retained Site unless the lease, grant of easement or license includes an express provision that is for the express benefit of and is specifically enforceable by Buyer or its assignee, as an owner of or a vendee with the right to purchase any part of the Campus Property, prohibiting the development or use of all or any portion of that portion of the Retained Site for multi-family housing or medical office uses prior to the Expiration Date; or (ii) develop all or any part of the Retained Site for multi-family housing or medical office uses.

7. Closing. The closing for the purchase and sale of each Site (each a "Closing") will be conducted separately. The first Closing shall be for one of the Residential Sites and shall occur on the date that is one hundred eighty (180) days after the latest to occur of (i) the expiration of the Due Diligence Period, (ii) the expiration of the Public Approvals Period, or (iii) the date the Infrastructure Construction Schedule sets forth as the completion date for all Infrastructure serving the Residential Site that is to be the subject of the first Closing; provided that during said one hundred eighty (180) day period Buyer may, by written notice to Seller, establish an earlier Closing date by a written notice Buyer delivers to Seller not less than thirty (30) days before the proposed earlier Closing date. Subsequent Closings shall occur for the remaining Sites on dates designated by Buyer in a written notice Buyer delivers to Seller with respect to each Site which date is not less than thirty (30) days before the proposed Closing date; provided that (a) Buyer must Close on the Vo-Tech Building Site prior to or contemporaneously with Buyer's Closing on the second Residential Site, (b) Buyer must Close on the Central High School Site prior to or

contemporaneously with Buyer's Closing on the fourth Residential Site (provided, however, those closings may not occur before and will be delayed until the Demolition Competition Date), and (c) all Closings must occur within five years of the date on which the first Closing is required to occur. All Closings shall be conducted by Title at its office in Duluth, Minnesota and Title shall act as closing agent. The parties shall deliver to Title an executed copy of this Agreement, which shall constitute instructions. If required by Title, the parties shall execute any printed form escrow instructions used by Title; any provisions of such instructions which conflict with this Agreement shall be governed by this Agreement.

7.1 **Purchase Price Adjustment.** From and after the date of the earliest of (i) the day following the Closing on the first Site purchased by Buyer or (ii) the day following the latest date on which the Closing on the first Site is required to occur pursuant to this Agreement, the Purchase Price for each Site for which a Closing has not occurred shall increase at the rate of 5% per annum prorated on a daily basis but not compounding until the Closing for that Site.

7.2 **Seller's Closing Documents.** On the Closing date for the Closing of each Site, Seller shall execute and/or deliver to Buyer the following for the Site (collectively, "**Seller's Closing Documents**"):

(a) **Quitclaim Deed.** A Quitclaim Deed in substantially the form of the Minnesota Uniform Conveyancing Blank subject to the Permitted Exceptions. Said deed shall be subject to a restriction in gross in favor of Seller that prohibits the Grantee and its successors in title to all or any part of the Land from using the Land as a school for the purpose of conducting programs for children between the ages of 5 and 18 for so long as Seller owns any portion of the Central Campus. The foregoing restriction shall not prohibit the use of all or any part of the Land for a day care. Said deed shall provide the Seller the right to an injunction and the Seller shall have the right to attorney's fees and other costs and disbursements if the Seller prevails. The Buyer agrees that the Seller shall sustain irreparable harm and damages if this restriction is violated and that the Seller shall have the right to a Temporary Restraining Order, a Temporary Injunction and a Permanent Injunction and that the grounds exist for the issuance of such orders.

(b) **Intentionally Omitted.**

(c) **FIRPTA Affidavit.** A non-foreign affidavit, properly executed and in recordable form, containing such information as is required by IRC Section 1445 (b)(2) and its regulations.

(d) **Seller's Affidavit.** A standard form seller's affidavit relating to liens and possession reasonable required by and directed to Title and any other documentation or agreements reasonably requested by Title as a condition to insuring Buyer's title to the Site or Buyer's lender's lien on the Site without exceptions for mechanic's lien rights arising out of or relating to work performed on the Site by or for the benefit of Seller (but excluding the Infrastructure).

(e) **Evidence of Authority.** Such evidence that Seller has authorized this transaction

and the execution of the Seller's Closing Documents as may be reasonably required by Title

(f) **Date Down Certificate.** A certificate, dated as of the date of each Closing, either (A) certifying that the representations of Seller set forth in Section 9.1 are true as of such date, or (B) a certifying that the representations of Seller set forth in Section 9.1 are true as of such date except as expressly described in the certificate.

(g) **Other Documents.** All other information or documents reasonably determined by Title before the Closing to be necessary to transfer the Property to Buyer on the terms stated herein. This provision is not intended to and does not require Seller to provide any document which imposes or may impose any obligations or liabilities on Seller.

(h) **Restrictive Covenant.** At the Closing on the purchase of the first Residential Site, Seller shall subject the Retained Site to a recorded restrictive covenant that is for the express benefit of and is specifically enforceable by Buyer or its assignee, as an owner of any part of the Campus Property prohibiting the development or use of all or any portion of the Retained Site for multi-family housing or medical office uses for a period ending on the date (the "**Expiration Date**") ten (10) years after the date of the Closing on the purchase of the first Residential Site.

(i) **Release of Letter of Credit.** At the Closing on the purchase of the Central High School Site, Seller shall return the original Letter of Credit or Substitute Letter of Credit, as defined in Section 7.3(c) and Section 24, to Buyer and execute any other documentation reasonably requested by the issuer of the Letter of Credit or Substitute Letter of Credit to evidence the termination of the Letter of Credit or Substitute Letter of Credit or, if applicable, direct Title to disburse to Buyer any proceeds of the Letter of Credit or Substitute Letter of Credit being held by Title pursuant to Section 24.

7.3 **Buyer's Closing Documents.** On the Closing Date for the purchase of each Site, Buyer shall execute and/or deliver to Seller the following (collectively, "**Buyer's Closing Documents**"):

(a) **Purchase Price.** The Purchase Price for the Site (adjusted, if at all, as provided in Section 7.1).

(b) **Title Documents.** Such information as may be necessary to permit Title to file an electronic certificate of real estate value and an affidavit of purchaser, evidence of authority and any other documents as may be reasonably required by Title in order issue a loan policy of title insurance in favor of Buyer's lender.

(c) **Letter of Credit.** At the Closing on the purchase of the second Residential Site to be purchased, Buyer will provide a \$2,000,000.00 letter of credit ("**Letter of Credit**") in a form approved by Seller. The Letter of Credit shall have a term of not less than one year and be issued by an institutional lender approved by Seller. Seller must be able to draw the Letter of Credit at site accompanied only by (i) the original Letter of Credit and (ii) a written

statement signed by an authorized representative of Seller in which Seller certifies that under the terms of this Purchase Agreement Seller is entitled to draw upon the Letter of Credit. Seller will not unreasonably condition, delay, or withhold its approval of the form of the Letter of Credit or the institutional lender. Additional terms and conditions relating to the Letter of Credit are set forth in Section 24.

(d) **Evidence of Authority.** Such evidence that Buyer has authorized this transaction and the execution of the Buyer's Closing Documents as may be reasonably required by Title and Seller.

(e) **Date Down Certificate.** A certificate, dated as of the date of each Closing, either (A) certifying that the representations of Seller set forth in Section 9.2 are true as of such date, or (B) a certifying that the representations of Seller set forth in Section 9.2 are true as of such date except as expressly described in the certificate.

(f) **Other Documents.** All other information or documents reasonably determined by Title before the Closing to be necessary to transfer the Property to Buyer on the terms stated herein. This provision is not intended to and does not require Buyer to provide any document which imposes or may impose any obligations or liabilities on Buyer.

8. **Prorations.** Seller and Buyer agree to the following prorations and allocations of costs regarding this Agreement:

(a) **Title and Closing Fees.** Buyer shall pay all costs of the Title Commitment and the Supplemental Commitments. Buyer shall pay all premiums required for the issuance of any owners or loan title policies. Seller and Buyer shall each pay one-half of any reasonable and customary closing fee or charge imposed by the closing agent, if any.

(b) **Taxes and Annual Service Charges.** General real estate taxes due and payable with respect to each Site in the years prior to the year of the Closing on that Site and any annual service charges certified for payment therewith shall be paid by Seller. General real estate taxes due and payable with respect to each Site in the years after the year of the Closing on that Site and any annual service charges certified for payment therewith shall be paid by Buyer. General real estate taxes due and payable with respect to each Site in the year of the Closing on that Site and any annual service charges certified for payment therewith shall be prorated between Seller and Buyer as of the actual Closing date, with Seller to pay that portion attributable to those days in the year having elapsed prior to the Closing Date.

(c) **Special Assessments.** Prior to or in conjunction with the recording of a plat subdividing the Land to create separate legal descriptions for the Sites, Seller must either pay, in full, all special assessments levied against the property subject to the Plat or allocate the levied special assessments among the lots the plat creates in a manner reasonably acceptable to Buyer. At or before the Closing on each Site, Seller must pay or escrow with the title company funds sufficient to pay all special assessments levied or pending with respect to that Site as of the date of such Closing. For purposes of this Agreement, a special assessment shall be deemed to be pending if the City or other assessing authority

has scheduled and published notice of the public hearing provided for in Minnesota Statutes Section 429.031. Notwithstanding the foregoing, if Buyer petitions or requests that Seller petition the City to construct any portion of the Infrastructure and to assess the cost thereof against on or more of the Sites, Buyer shall take title to that Site or those Sites subject to any levied or pending assessments for such Infrastructure.

(d) Deed Taxes, Conservation Fees, Mortgage Registry Taxes, and Recording Costs. At each Closing, Seller shall pay the deed tax and conservation fee due upon the recording of the deed for that Closing. Buyer shall pay any mortgage registry taxes associated with that Closing. Seller shall pay the cost of recording all documents necessary to address Unpermitted Exceptions. Buyer shall pay the cost of recording the deed and any loan documents.

(e) Other Costs. All operating costs of the Sites shall be allocated between Seller and Buyer as of the Closing Date for the applicable Site so that Seller pays that part of such operating costs attributable to the period before the Closing Date and Buyer pays that part of such operating costs attributable to the Closing Date and thereafter.

(f) Broker Fees. Seller is solely responsible for any commission or other fees or compensation owed to Seller's real estate broker as disclosed in Section 9.

(g) Attorneys' Fees. Each of the parties shall pay its own attorneys' fees, except that a party defaulting under this Agreement shall pay the reasonable attorneys' fees and court costs incurred by the non-defaulting party, including such fees and costs incurred to enforce its rights regarding such default.

The provisions of this Section 8 survive the Closings.

## 9. Representations and Related Provisions.

9.1 Seller's Representations. Seller represents to Buyer, as of the date of this Agreement, the following:

(a) **Good Standing.** Seller is a public corporation and political subdivision of the State of Minnesota, duly organized, validly existing and in good standing under the laws of the State of Minnesota.

(b) **Authority for this Agreement.** Seller has full power and authority to enter into this Agreement and to perform as required herein. Seller has duly and validly taken all necessary action to authorize the execution, delivery and performance of this Agreement by Seller. The individuals executing this Agreement on behalf of Seller have the requisite right, power, legal capacity and authority to execute and enter into this Agreement on behalf of Seller, to legally bind Seller to the terms and provisions of this Agreement and to execute all other documents and take all other actions as may reasonably be necessary to perform each and all of Seller's obligations under this Agreement. This Agreement constitutes a legal, valid and binding obligation of Seller, and (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws effecting

the rights of creditors generally or general equitable principles) is enforceable as to Seller in accordance with its terms.

(c) **No Violation of Instruments.** The execution, delivery and performance of this Agreement by Seller and the consummation of the transaction contemplated herein will not constitute a default under any indenture, mortgage, deed of trust or other material agreement or instrument to which Seller is a party or by which Seller is bound.

(d) **Bankruptcy.** There are no actions or proceedings pending or, to Seller's knowledge, threatened to liquidate, reorganize, place in bankruptcy or dissolve Seller. Seller has not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors, suffered the appointment of a receiver to take possession of substantially all of its assets, suffered the attachment or other judicial seizure of substantially all of its assets, admitted its inability to pay its debts as they come due, or made an offer of settlement, extension or composition to its creditors generally.

(e) **No Broker.** Seller has not engaged or dealt with any broker or finder in connection with the sale contemplated by this Agreement except for Greg Follmer Commercial Real Estate ("**Broker**"). Seller shall indemnify and hold harmless Buyer from any claims, costs, damages or liabilities (including reasonable attorneys' fees) arising from any breach of the representation contained in this Section 9.(e) and from any claims by Broker for any commission or other fee or compensation in connection with the transactions contemplated by this Agreement.

(f) **Wells.** To Seller's knowledge there are no "wells" on the Land within the meaning of Minn. Stat. §103I. This representation is intended to satisfy the requirements of the statute.

(g) **Subsurface Sewage Treatment Systems.** Solely for the purpose of satisfying the requirements of Minn. Stat. §115.55, Seller certifies that sewage generated on the Property goes to a facility permitted by the Minnesota Pollution Control Agency and that to Seller's knowledge, there are no abandoned "subsurface sewage treatment systems" within the meaning of that statute on or serving the Property.

(h) **Methamphetamine Disclosure.** To Seller's knowledge, methamphetamine production has not occurred on the Property.

(i) **Tanks.** To Seller's knowledge, there are no above ground or underground tanks on the Property except, if at all, as set forth in a Tank Affidavit attached to this Agreement as **Exhibit 9.1(i)**.

(j) **No Proceedings.** No legal or administrative proceeding has been commenced against Seller which would adversely affect its right to convey the Property to Buyer as contemplated in this Agreement. To Seller's knowledge, there are no condemnation or eminent domain proceedings pending or threatened with respect to the Property.

(k) **Unrecorded Rights.** To Seller's knowledge, no third party is claiming any right, title or interest in or to any portion of the Land based on any unrecorded "conveyance" (as defined in Minn. Stat. Section 507.01) or on the third party's or the third party's predecessor's possession or use of any part of the Land, except for claims which may be revealed in the Survey or in a thorough inspection of the Land.

For purposes of subsections (f) through (k) above the phrase "Seller's knowledge" means and is limited to the actual knowledge of David Spooner as of the Effective Date and without any duty to investigate the matter to which such actual knowledge or the absence thereof pertains. David Spooner shall have no personal liability to Buyer or any other person or entity for any breach of any representation by Seller in this Purchase Agreement or in any Date Down Certificate. David Spooner is acting for and on behalf of Seller and is in no manner expressly or impliedly making any representations in an individual capacity. Buyer waives any right to sue or seek any personal judgment or claim against David Spooner.

9.2 **Buyer's Representations.** Buyer hereby makes the following representations; which representations are true in all respects as of the date hereof and shall be true in all respects on the Closing Date for any applicable Site:

(a) **Good Standing.** The Buyer has full power and authority to own its property and carry on its business as it is now being conducted, and as it is proposed to be conducted. The Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of Minnesota.

(b) **Authority for this Agreement.** Buyer has full power and authority to enter into this Agreement and to perform as required herein. Buyer has duly and validly taken all necessary action to authorize the execution, delivery and performance of this Agreement by Buyer. The individuals executing this Agreement on behalf of Buyer have the requisite right, power, legal capacity and authority to execute and enter into this Agreement on behalf of Buyer, to legally bind Buyer to the terms and provisions of this Agreement and to execute all other documents and take all other actions as may reasonably be necessary to perform each and all of Buyer's obligations under this Agreement. This Agreement constitutes a legal, valid and binding obligation of Buyer, and (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws effecting the rights of creditors generally or general equitable principles) is enforceable as to Buyer in accordance with its terms.

(c) **No Violation of Instruments.** The execution, delivery and performance of this Agreement by Buyer and the consummation of the transaction contemplated herein will not result in a breach or violation of the terms and provisions of the articles, bylaws, operating agreement and/or other governing documents of the Buyer in effect on the date hereof (the "Organizational Documents") and will not constitute a default under any indenture, mortgage, deed of trust or other material agreement or instrument to which the Buyer is a party or by which the Buyer is bound.

(d) **No Broker.** Buyer has not engaged any broker or finder other than Broker in connection with the sale contemplated by this Agreement. Buyer shall indemnify and hold harmless Seller from any claims, costs, damages or liabilities (including reasonable attorney's fees) arising from any breach of the representations contained in this Section 9.2(d).

### 9.3 Survival of Representations and Remedies for Misrepresentation.

**9.3.1 Survival of Representations and Remedies for Misrepresentation following a Closing.** The representations made by Seller and the representations made by Buyer in this Agreement and in any Date Down Certificate, as they apply to a Site, shall survive the Closing for that Site for a period expiring on the date that is twelve (12) months following the Closing for the Site (the "**Survival Date**") and any action for a breach of Seller's representations, for breach of Buyer's representations, or for a breach of a representation made in any Date Down Certificate must be made and filed by the Survival Date. Neither Buyer nor Seller shall make or bring any claim for the breach of a representation unless the amount of such claim equals or exceeds \$50,000. Any claim for a breach of a Seller's representation, of a Buyer's representation, or a representation made in any Date Down Certificate which is not made and filed by prior to the Survival Date shall, from and after the Survival Date, be deemed to have been waived and rendered null and void and of no further force and effect. A party's sole remedy after the delivery of the Deed for a breach of a representations of the other party is an action for damages pursuant to this Section and the parties waive all other causes of action and claims including, without limitation, any action to rescind this Agreement.

**9.3.2 Remedies for Misrepresentations Discovered before the Expiration of the Due Diligence Period.** If, at any time prior to the expiration of the Due Diligence Period, Buyer is aware of any condition, state of facts or other matter or any condition, state of facts or other matter is disclosed to Buyer in writing from any source including, without limitation, in any of the exhibits or schedules to this Agreement, the Due Diligence Items, the Reports, or by email, overnight delivery, or on-site availability, which would cause a representation of Seller set forth in Section 9.1 to be untrue or misleading, Buyer shall promptly, and in any event before the expiration of the Due Diligence Period, notify Seller if Buyer requires that Seller correct or cure such matter. If (i) Seller does not notify Buyer within ten (10) business days after Seller's receipt of a written request from Buyer that Seller has elected to cure such matter or if Seller elects to cure such matter but fails to do so, then, notwithstanding anything contained in this Purchase Agreement to the contrary, Buyer, at its sole option and in its sole discretion, may, by written notice to Seller provided within ten (10) business days after Seller's failure to provide written notice that Seller has elected to cure such matter or (ii) Seller elects to cure such matter but fails to do so provided within ten (10) business days after Seller's subsequent notice to Buyer that it has failed to cure such matter: (a) waive Seller's obligation to cure such matter and Seller's representation shall, without any additional action by Buyer and Seller, be deemed modified to reflect the condition, state of facts or other matter or (b) terminate this Purchase Agreement by written notice to Seller. If Buyer terminates this Agreement in accordance with subsection (b) of the preceding sentence, then upon such termination (A) all Earnest Money will be refunded to Buyer, (B) if the representation of Seller was untrue or misleading as of the Effective Date, Seller shall be liable to and shall reimburse Buyer for all documented, third party out-of-pocket fees and



costs actually incurred by Buyer in connection with this Agreement or the purchase or development of the Land (not to exceed \$250,000), and (C) this Agreement shall become null and void, except for those provisions which, by the express terms of this Agreement, survive the termination of this Agreement. If Buyer is required to but does not provide a notice pursuant to the first sentence of this Section 9.3.2, then Seller's representation shall, without any additional action by Buyer and Seller, be deemed modified to reflect the conditions, state of facts or other matters of which Buyer was aware prior to the end of the Due Diligence Period.

**9.3.3 Remedies for Misrepresentations Discovered after the Expiration of the Due Diligence Period and before the first Closing.** If at any time after the expiration of the Due Diligence Period and before the first Closing, Buyer becomes aware of any condition, state of facts, or other matter or any condition, state of facts, or other matter is disclosed to Buyer in writing from any source which would cause a representation of Seller set forth in Section 9.1 that has not already been modified pursuant to Section 9.3.2 to be untrue or misleading, Buyer shall promptly and in any event before the first Closing notify Seller if Buyer requires that Seller correct or cure such matter. If (i) Seller does not notify Buyer within ten (10) business days after Seller's receipt of a written request from Buyer that Seller has elected to cure such matter or if Seller elects to cure such matter but fails to do so, then, notwithstanding anything contained in this Purchase Agreement to the contrary, Buyer, at its sole option and in its sole discretion, may, by written notice to Seller provided within ten (10) business days after Seller's failure to provide written notice that Seller has elected to cure such matter or (ii) Seller elects to cure such matter but fails to do so provided within ten (10) business days after Seller's subsequent notice to Buyer that it has failed to cure such matter (a) waive Seller's obligation to cure such matter and Seller's representation shall, without any additional action by Buyer and Seller, be deemed modified to reflect the condition, state of facts or other matter or (b) terminate this Purchase Agreement by written notice to Seller and upon such termination (A) all Earnest Money will be refunded to Buyer, (B) if the representation of Seller was untrue or misleading as of the Effective Date, Seller shall be liable to and shall reimburse Buyer for all documented, third party out-of-pocket fees and costs actually incurred by Buyer in connection with this Agreement or the purchase or development of the Land (not to exceed \$250,000), and (C) this Agreement shall become null and void, except for those provisions which, by the express terms of this Agreement, survive the termination of this Agreement. If Buyer is required to but does not provide a notice pursuant to the first sentence of this Section 9.3.3, then Seller's representation shall, without any additional action by Buyer and Seller, be deemed modified to reflect the conditions, state of facts or other matters of which Buyer was aware prior to the Closing on the first Site.

**9.3.4 Remedies for Misrepresentations with respect to a Site that has not Closed Discovered after the first Closing.** If at any time after the first Closing, Buyer becomes aware of any condition, state of facts, or other matter or any condition, state of facts, or other matter is disclosed to Buyer in writing from any source which would cause a representation of Seller set forth in Section 9.1 that has not already been modified pursuant to Section 9.3.2 or 9.3.3 to be untrue or misleading with respect to a Site that has not yet Closed, then Buyer shall immediately notify Seller if Buyer requires that Seller correct or cure such matter. If (i) Seller does not notify Buyer within ten (10) business days after Seller's receipt of a written request from Buyer that Seller has elected to cure such matters or (ii) Seller elects to cure the matter but fails to do so, then, notwithstanding anything contained in this Purchase Agreement to the contrary, Buyer, at its sole

option and in its sole discretion, may, by written notice to Seller provided within ten (10) business days after Seller's failure to provide written notice that Seller has elected to cure such matter or if Seller elects to cure the matter but fails to do so provided within ten (10) business days after Seller's subsequent notice to Buyer that it has failed to cure such matter (a) waive Seller's obligation to cure the matter and Seller's representation shall, without any additional action by Buyer and Seller, be deemed modified to reflect the condition, state of facts or other matter or (b) terminate this Purchase Agreement with respect to the remaining Sites by written notice to Seller and upon such termination (A) all Earnest Money will be refunded to Buyer, (B) if the representation of Seller was untrue or misleading as of the Effective Date, Seller shall be liable to and shall reimburse Buyer for a pro rata share of all documented, third party out-of-pocket fees and costs actually incurred by Buyer in connection with this Agreement or the purchase or development of the Land and all documented, third party out-of-pocket fees and costs actually incurred by Buyer solely in connection with the Site or Sites terminated (not to exceed, in total, \$42,000 for each Site subject to the termination), and (C) this Agreement shall become null and void with respect to the remaining Sites, except for those provisions which, by the express terms of this Agreement, survive the termination of this Agreement. If Buyer is required to but does not provide a notice pursuant to the first sentence of this Section 9.3.4, then Seller's representation shall, without any additional action by Buyer and Seller, be deemed modified to reflect the conditions, state of facts or other matters of which Buyer was aware after the Closing on the first Site.

**9.3.5 Closing Dates.** Applicable Closing Dates shall be postponed automatically, if necessary, to permit the full running of the time periods described in this Section 9.3.

**9.4 As Is Provisions.** Buyer is purchasing the Property "AS IS" and "WHERE IS", and with all faults, and except as expressly set forth in Section 9.1 or in an applicable Date Down Certificate, Seller makes no representations or warranties, whether express or implied, by operation of law or otherwise, with respect to the quality, physical condition or value of the Property, the compliance of the Property with applicable building or fire codes or other laws or regulations. Buyer agrees that Seller is not liable or bound by any guarantees, promises, statements, representations or information pertaining to the Property made or furnished by Seller or any agent, officer, director, employee or other person representing or purporting to represent Seller, except as and to the extent expressly set forth in Section 9.1 or in an applicable Date Down Certificate. To the fullest extent allowed by Minnesota and Federal law, Buyer and Seller agrees as follows: Buyer expressly waives the requirement of any disclosure not expressly contained in this Agreement (including, without limitation, any disclosure required pursuant to Minn. Stat. §513.52-513.60), and Buyer agrees to take the Property "As Is" notwithstanding any matter set forth in any disclosure statement required by Minnesota law.

**BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 9, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO:**

- (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY;
- (B) THE INCOME TO BE DERIVED FROM THE PROPERTY;
- (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON;
- (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCE OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY OR ANY FRANCHISE LICENSE OR AGREEMENT OR ANY GRANT OR SIMILAR AGREEMENT;
- (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY;
- (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY;
- (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY;
- (H) THE AVAILABILITY OF WATER OR OTHER RESOURCES OR UTILITIES;  
OR
- (I) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION OR POLLUTION RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING SOLID WASTE, AND INCLUDING THE DISPOSAL, RELEASE OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS SUBSTANCE.

SELLER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR IN A BUYER CLOSING DOCUMENT, BUYER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO BUYERS USE OF THE SITES AFTER CLOSING.

TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING, WITHOUT LIMITATION, AS PERMITTED BY MINN. STAT. §1031.235, SUBD. 2, (I) BUYER WAIVES ANY REQUIREMENT REGARDING THE DISCLOSURE OF THE EXISTENCE OR STATUS OF ANY WELLS ON THE REAL PROPERTY AND (II) BUYER WAIVES ANY CLAIM

AGAINST SELLER AND RELEASES SELLER FROM ANY LIABILITY FOR FAILURE TO DISCLOSE OR ACCURATELY DISCLOSE THE EXISTENCE OR STATUS OF ANY WELLS ON THE REAL PROPERTY WHETHER OR NOT SELLER KNOWS OR HAS REASON TO KNOW OF THE EXISTENCE OR KNOWN STATUS OF ANY WELLS ON THE REAL PROPERTY.

TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING, WITHOUT LIMITATION, AS PERMITTED BY MINN. STAT. §115.55, SUBD. 6(B), (I) BUYER WAIVES ANY REQUIREMENT REGARDING THE DISCLOSURE OF THE EXISTENCE OR STATUS OF ANY SUBSURFACE SEWAGE TREATMENT SYSTEMS ON THE REAL PROPERTY AND (II) BUYER WAIVES ANY CLAIM AGAINST SELLER AND RELEASES SELLER FROM ANY LIABILITY FOR FAILURE TO DISCLOSE OR ACCURATELY DISCLOSE THE EXISTENCE OR STATUS OF ANY SUBSURFACE SEWAGE TREATMENT SYSTEMS ON THE REAL PROPERTY WHETHER OR NOT THE SELLER KNOWS OR HAS REASON TO KNOW OF THE EXISTENCE OR KNOWN STATUS ANY SUBSURFACE SEWAGE TREATMENT SYSTEMS ON THE REAL PROPERTY.

9.5 Independent Investigation. The consummation of the Closing for each Site shall constitute Buyer's acknowledgment that Buyer has independently inspected and investigated the Site and has closed on that Site based upon such inspection and investigation and its own examination of the condition of the Site and on the representations, certifications, and warranties, if any, set forth in this Agreement and in Seller's Closing Documents. Upon the Closing for each Site, Buyer shall assume the risk that adverse matters, including but not limited to construction defects and adverse physical and environmental conditions and the suitability or unsuitability of the Site for Buyer's intended uses, may not have been revealed by Buyer's investigations. Buyer, upon Closing, shall be deemed to have waived, relinquished and released the Seller-Related Parties from and against, and covenanted not to sue any of the foregoing with regard to, any and all claims, demands, causes of action (including causes of action in tort or under any environmental law), losses, damages, liabilities (whether based on strict liability or otherwise), losses, damages, liabilities, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, which Buyer might have asserted or alleged against the Seller-Related Parties at any time (including without limitation to the extent covered by or that would be covered by [as opposed to paid] by insurance) by reason of or arising out of any latent or patent construction defects or physical conditions, violations of any applicable laws (including, without limitation, any environmental laws), the suitability of the Site for any purposes contemplated by Buyer and any and all other acts, omissions, events, circumstances or matters regarding the Site. The foregoing shall not be interpreted to waive any (a) claim of Buyer with respect to any breach by Seller of any express representations made by Seller in Section 9.1 that expressly survive Closing pursuant to this Agreement or (b) any claim of Buyer with respect to any representation, certification or warranty set forth in an applicable Date Down Certificate.

9.6 Buyer Reliance. Buyer is experienced in and knowledgeable about the ownership, development, and management of real estate, and it has relied and will rely exclusively on its own consultants, advisors, counsel, employees, agents, principals and/or studies, investigations and/or inspections with respect to the Property, its condition, value and potential as well as on the representations, certifications and warranties of Seller as set forth in this Agreement and the Seller Closing Documents. The Purchase Price and other terms and conditions contained in this

Agreement are the result of arm's-length negotiations between sophisticated parties experienced in transactions of this kind, and the Purchase Price and other terms and conditions contained in this Agreement take into account the fact that Buyer is not entitled to rely on any information provided by Seller, any of its agents, or any other person acting for or on behalf of Seller, except as expressly set forth in Section 9.1 or in an applicable Date Down Certificate. All information, whether written or oral, previously, now, or hereafter made available to Buyer by Seller, its agents, or any other person acting for or on behalf of Seller, whether in the form of appraisals, market studies, projections, brochures, maps, surveys, soil reports, engineering studies, environmental studies, inspection reports, plans and specifications, and all other information and materials have been or will be furnished by Seller to Buyer solely as an accommodation, and neither Seller nor its agents has verified the accuracy of such information or the qualifications of the persons preparing such information, except as expressly set forth in Section 9.1 or in an applicable Date Down Certificate. Buyer agrees that, notwithstanding the fact that Buyer has received certain information from Seller, or its respective agents or consultants, Buyer has relied solely upon and will continue to rely solely upon its own analysis and will not rely on any information provided by Seller, or its agents or consultants, except as expressly set forth in Section 9.1 or in an applicable Date Down Certificate.

9.7 Buyer's Efforts Are for Buyer's Benefit Only. Notwithstanding any obligation of Buyer to provide copies to Seller of any Reports, or any permission received from Seller to take any action, or any provision in this Agreement requiring Buyer to seek, obtain or provide (i) any subdivision approval, zoning change, license, permit, approval, consent, utility reservation, water allocation or other entitlement of any kind or nature whatsoever ("Approval"), (ii) any drawings, plans, specifications, surveys or architectural or engineering renderings (collectively, "Plans"), or (iii) any third party report, study, survey, or analysis, including, without limitation, any survey, environmental investigation or report, soil report or traffic report (collectively, "Reports") and except for reimbursement as provided in Section 3.1 and except as expressly provided in this Agreement or in any subsequent agreement between Seller and Buyer, Buyer is not entitled to any compensation or reimbursement of any kind or nature from Seller for actions taken or to be taken or any expenses or payments made or to be made or any obligations entered into or incurred or to be entered into or incurred by or on behalf of or at the direction or request of Borrower relating to this Agreement or Buyer's acquisition of the Property or Buyer's use, possible use or intended use of the Property. This includes, without limitation, compensation for any services relating to any Approval, Plans, or Reports, any compensation for any improvement of or to the Property by Buyer, and any increase in value of the Property or any other property of Seller arising out of any improvement or Approval, Plans or Reports on any basis whatsoever including, without limitation, on the basis of any claim based upon agency, partnership, joint venture or enterprise, unjust enrichment, quantum meruit or other quasi-contract theory, whether or not a Closing occurs or this Agreement is terminated or cancelled. Buyer shall indemnify, defend (with counsel reasonably satisfactory to Seller), and hold Seller and the Seller-Related Parties harmless for, from and against any claims, damages, costs, liabilities, losses, mechanic's, materialmen's or other liens, arising out of or in any way related to any claim by any third party for compensation for services incurred by or on behalf of Buyer relating to this Agreement or the Property on any basis whatsoever including, without limitation, on the basis of any claim based upon agency, partnership, joint venture or enterprise, unjust enrichment, quantum meruit or other quasi-contract theory, including, without limitation, claims by any third party for (a) compensation for services incurred by or on behalf of Buyer relating to any Approval, Plans, or Reports, (b) compensation for any improvement of or to

the Property made by or on behalf of Buyer, and (c) compensation for any increase of value in the Property or any other property of Seller arising out of any (i) services incurred by or on behalf of Buyer relating to any Approval, Plans or Reports, except to the extent, if at all, that such services or improvements are expressly contracted for by Seller in writing.

9.8 **Survival.** Sections 9.1 through 9.8 shall survive the termination of this Agreement and the Closings.

10. **Damage.** Promptly upon learning thereof, Seller shall give Buyer written notice of any condemnation, damage or destruction of any Site occurring prior to the Closing for the Site. If prior to the Closing all or a material portion of a Site is condemned, damaged or destroyed by an insured casualty, Buyer shall have the option of either (i) applying the proceeds of any condemnation award or payment under any insurance policies (other than business interruption or rental loss insurance) toward the payment of the Purchase Price for the Site to the extent Seller has received such condemnation awards or insurance payments and has not spent them as permitted under this Section 10, receiving a credit against the Purchase Price for the Site in an amount equal to any applicable outstanding deductible under any such insurance policy, and receiving an assignment from Seller of Seller's right, title and interest in any such awards or payments not theretofore received by Seller, or (ii) terminating this Agreement with respect to the Site by delivering written notice of such termination to Seller and Escrow Agent within ten (10) days after Buyer has received written notice from Seller of such material condemnation, damage or destruction. If all or a material portion of a Site is damaged or destroyed by an insured casualty before Buyer has provided written notice pursuant to Section 7 establishing a Closing Date for that Site, Seller may, after consulting with Buyer, use insurance proceeds to provide necessary repairs or necessary demolition, debris removal, and site security (e.g., fencing), and if Buyer does not elect to terminate this Agreement with respect to the Site as provided in subsection (ii) above, Buyer will not receive a credit against the Purchase Price with respect to those expenditures. If, prior to the Closing, a portion of a Site is condemned, damaged or destroyed by an insured casualty and such portion is not a material portion of the Site, the proceeds of any condemnation award or payment and any applicable outstanding deductible under any insurance policies shall be applied toward the payment of the Purchase Price for the Site to the extent such condemnation awards or insurance payments have been received by Seller but not spent by Seller pursuant to this Section 10, and Seller shall assign to Buyer all of Seller's right, title and interest in any unpaid awards or payments. If less than a material portion of a Site for which Buyer has not provided written notice pursuant to Section 7 establishing a Closing Date is damaged or destroyed by an insured casualty, Seller may, after consulting with Buyer, use insurance proceeds to provided necessary repairs or necessary demolition, debris removal, and site security (e.g., fencing), and Buyer will not receive a credit against the Purchase Price with respect to those expenditures. For purposes of this Section 10, the term "material portion" shall mean (i) with respect to any Residential Site, an amount equal to or exceeding five percent (5%) of the Purchase Price for the Site or an absence of reasonable access to the Site, (ii) with respect to the Vo-Tech Building Site, an amount equal to or exceeding ten percent (10%) of the Purchase Price for the Vo-Tech Building Site or an absence of reasonable access to the Vo-Tech Building Site, and (iii) with respect to the Central High School Site, an amount equal to or exceeding fifty percent (50%) of the Purchase Price for the Central High School Site or an absence of reasonable access to the Central High School Site. If the damage or destruction arises out of an uninsured risk, Seller shall elect, by written notice within ten (10) days

of the occurrence of such damage or destruction either to terminate this Agreement or to close the transaction contemplated hereby with a reduction of the Purchase Price equal to the costs of repairing the Site, as reasonably estimated by an engineer engaged by Seller and reasonably acceptable to Buyer.

11. **Assignment.** Buyer shall not assign its rights under this Agreement without the consent of Seller, which will not be unreasonably conditioned, withheld or delayed. No assignment by Buyer shall relieve the Buyer of its obligations under this Agreement.

12. **Waiver of Jury Trial.** BUYER AND SELLER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ANY ACTIONS OF EITHER PARTY ARISING OUT OF OR RELATED IN ANY MANNER WITH THIS AGREEMENT OR THE PROPERTY (INCLUDING WITHOUT LIMITATION, ANY ACTION TO RESCIND OR CANCEL THIS AGREEMENT OR ANY CLAIMS OR DEFENSES ASSERTING THAT THIS AGREEMENT WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE). THIS WAIVER IS A MATERIAL INDUCEMENT FOR SELLER TO ENTER INTO AND ACCEPT THIS AGREEMENT AND THE DOCUMENTS TO BE DELIVERED BY BUYER AT CLOSING, AND SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT. EACH PARTY HEREBY AUTHORIZES AND EMPOWERS THE OTHER TO FILE THIS SECTION AND THIS AGREEMENT WITH THE CLERK OR JUDGE OF ANY COURT OF COMPETENT JURISDICTION AS A WRITTEN CONSENT TO WAIVER OF JURY TRIAL.

13. **Notices.** Any notice required or permitted to be given by any party upon the other shall be deemed delivered or given in accordance with this Agreement: (i) three (3) business days after it is deposited in the United States mail; (ii) the next business day after it is deposited with a nationally-recognized over-night courier before the next business day delivery time cut off; (iii) the day it is personally delivered or, if that day is not a business day, the next business day after it is personally delivered; or (iv) the day it is sent by electronic transmission (e.g. facsimile or email) or, if that day is not a business day, the next business day after it is sent by electronic transmission and addressed as follows:

If to Seller:

Independent School District #709  
215 N. 1<sup>st</sup> Avenue East  
Duluth, MN 55802  
Attn: Catherine Erickson  
Email: [catherine.erickson@isd709.org](mailto:catherine.erickson@isd709.org)

with a copy to:

Daniel D. Maddy  
 Fryberger, Buchanan, Smith & Frederick, P.A.  
 302 West Superior Street, Ste. 700  
 Duluth, Minnesota 55802  
 Email: [dmaddy@fryberger.com](mailto:dmaddy@fryberger.com)

If to Buyer:

Saturday Central Heights LLC  
 3546 Dakota Avenue South, Suite D  
 Saint Louis Park, MN 55416  
 Attn: Mark Laverty  
 Email: [mlaverty@saturdayproperties.com](mailto:mlaverty@saturdayproperties.com)  
 with a copy to:

Daniel J. Van Dyk  
 Taft Stettinius & Hollister LLP  
 80 South Eighth Street, Suite 2200  
 Minneapolis, MN 55402  
 Email: [dvandyk@taftlaw.com](mailto:dvandyk@taftlaw.com)

If to Title:

Arrowhead Abstract & Title Company  
 314 W. Superior Street, Ste. 101  
 Duluth, MN 55802  
 ATTN: Edie Michalski  
 Fax No. (218) 722-0052  
 Email: [emichalski@arrowheadabstract.com](mailto:emichalski@arrowheadabstract.com)

Notices shall be deemed effective on the date they are deemed to be delivered. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified, ten (10) days prior to the effective date of such change.

14. **Captions and Recitals.** The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. The recitals set forth in this Agreement are intended to provide definitions and context only and are not intended as representations or warranties of any kind or nature.

15. **Entire Agreement Modification.** This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement and no waiver or amendment of any of its terms shall be effective unless in writing executed by the parties. This Agreement or any amendments may be executed in counterparts, which, taken together, shall constitute one original. The parties agree that this Agreement may be



transmitted between themselves by electronic transmission (e.g. facsimile or email). The parties intend that electronically transmitted signatures constitute original signatures and that an electronically transmitted agreement or counterparts containing the signatures (original or electronically transmitted) of all the parties is binding upon the parties.

16. **Binding Effect, Execution of Counterparts, and Electronic Signatures.** This Agreement binds and benefits the parties and their successors and assigns. The parties may execute separate counterparts of this Agreement and deliver electronic copies of their respective signature pages to one another electronically. The electronic delivery of an electronic copy of this Agreement bearing a party's signature shall be deemed delivery of an executed original for all purposes. Each party may collate electronic copies of its signature page and of the other party's signature page to form a fully executed copy of this Agreement and all such copies shall together constitute but one and the same instrument.

17. **Choice of Law.** This Agreement shall be subject to and governed by the laws of the State of Minnesota and all questions concerning the meaning or intention of the terms of this Agreement or concerning the validity thereof, and questions relating to the performance hereunder shall be adjudged and resolved in accordance with the laws of the State of Minnesota. All actions to enforce the terms and provisions of this Agreement shall be brought and maintained only within the State of Minnesota, and Seller and Buyer each hereby consent to the exclusive jurisdiction of the State Courts, sited in Duluth, Minnesota. Seller and Buyer each hereby expressly waive any and all rights which it may have to make any objection based on (a) jurisdiction, to any suit brought to enforce this Agreement in the State of Minnesota, or (b) venue, to any action brought to enforce this Agreement in Duluth, Minnesota, in each case in accordance with the above provisions. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid pursuant to applicable laws; however, if any part hereof shall be prohibited by applicable law or invalid thereunder, such provision shall be ineffective to the extent of such prohibition or invalidity only and without invalidating the remainder thereof.

18. **Time of Essence.** Time is of the essence in all terms herein.

19. **Default and Remedies.**

19.1 **Buyer's Default.** Subject to the additional notice requirements provided in Section 24, if applicable, if Buyer defaults under this Agreement, Seller shall have the right to terminate this Agreement, by providing thirty (30) calendar days' written notice with right to cure, if Minnesota Statute §559.21 does not apply, or by providing written notice of cancellation as provided in Minnesota Statute §559.21 if Minnesota Statute §559.21 does apply. Upon such termination, Seller shall retain the Earnest Money (including any amount drawn on the Letter of Credit or Substitute Letter of Credit, as that term is defined in Section 24, which Seller was not, prior to such termination, required to return to Buyer pursuant to Section 7.2) as liquidated damages, time being of the essence of this Agreement. Seller and Buyer agree that Seller's economic detriment resulting from the removal of the Property from the market, the carrying and other costs incurred thereafter and associated therewith, including, without limitation, any costs to be incurred by Seller in order to satisfy the conditions set forth in this Agreement, and, if applicable, the cost to demolish the High School Building or otherwise deal with the Central High

School Site, are impracticable or extremely difficult to ascertain. Seller and Buyer agree that the Earnest Money (including, if applicable, the amount drawn under the Letter of Credit or Substitute Letter of Credit which Seller was not, prior to such termination, required to return to Buyer pursuant to Section 7.2) is a reasonable estimate of such damages in the event of Buyer's failure to perform according to the provisions of this Agreement. Such payment is intended to be liquidated damages and not intended to be a forfeiture or penalty. Seller and Buyer acknowledge and agree that any liability of Buyer to Seller under any provision of this Agreement which survives termination will not be limited by this liquidated damages provision. Termination with the retention of the Earnest Money (including, if applicable, the amount drawn under the Letter of Credit or Substitute Letter of Credit which Seller was not, prior to such termination, required to return to Buyer pursuant to Section 7.2) pursuant to this Section 19.1 is the sole and exclusive remedy afforded to Seller.

19.2 **Seller's Default.** If Seller defaults under this Agreement, Buyer shall have the right to terminate this Agreement by giving thirty (30) calendar days' written notice of termination to Seller, whereupon this Agreement will terminate, and upon such termination, all Earnest Money will be refunded to Buyer and if Seller is then holding the Letter of Credit or a Substitute Letter of Credit, Seller shall immediately return the Letter of Credit or Substitute Letter of Credit to Buyer. In lieu of terminating this Agreement, Buyer may maintain a suit for specific performance of this Agreement, provided, however, that any such suit must be commenced within one hundred eighty (180) days after Buyer becomes aware of Seller's default in the performance of the obligation or obligations performance of which Buyer seeks to specifically enforce and, if Buyer prevails in an action for specific performance, Buyer may also recover from Seller any and all damages Buyer has suffered or incurred as a result of the delay in Seller's performance (not to exceed \$100,000.00). Notwithstanding the foregoing or anything else in this Agreement to the contrary, if after the Effective Date, Seller has intentionally or voluntarily, whether directly or indirectly, sold or transferred the Land or impeded in any material way the transfer of the Land, so that specific performance is not available to Buyer, then, upon the termination of this Agreement by Buyer pursuant to this Section 19.2, Seller shall be liable to and shall reimburse Buyer for all documented, third party out-of-pocket fees and costs actually incurred by Buyer in connection with this Agreement or the purchase or development of the Land (not to exceed \$250,000.00). The remedies set forth in this Section 19.2 are the sole and exclusive remedies afforded to Buyer and in no event shall Seller be liable for any actual, general, specific, punitive, incidental, speculative, consequential or other damages of any kind or nature.

19.3 **Claims for Misrepresentation.** This Section 19 does not apply to claims for misrepresentation based on the representations set forth in Section 9.1 and 9.2. Such claims are governed by Section 9.

20. **Relationship of Seller and Buyer.** It is expressly agreed and understood between Seller and Buyer that Buyer, in entering into this Agreement and carrying out its obligations hereunder, is working for itself and is not, shall not be deemed to be and shall not hold, except as expressly set forth herein, hold itself out as or be deemed to be an agent, joint venturer, independent contractor, legal representative or employee of Seller. Buyer is not granted any right or authority to assume or to create any obligation, liability or responsibility, express or implied, on behalf of or in the name of Seller, to bind Seller in any manner to any

contractual or other undertaking whatsoever or to accept payment from any party of any obligation owing to Seller. Except, if at all, as expressly provided in this Agreement, Buyer shall be responsible for all costs it incurs in performing its obligations under this Agreement, and except as explicitly set forth herein, Seller shall have no liability for any debts or other obligations which Buyer may incur in rendering such performance.

21. **Effect of Termination.** Notwithstanding any provision in this Agreement to the contrary, the following shall survive any termination of this Agreement or with respect to a Site (including a termination pursuant to Section 19.1 or Section 19.2): (a) the indemnity provisions in Section 4, Section 5.3.1, Section 9.1(e), Section 9.2(d), and Section 9.7, (b) any provision limiting claims for damages, (c) any provision governing the distribution of the Earnest Money, the Letter of Credit, or a Substitute Letter of Credit, (d) the provisions of Sections 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19.1 (permitting Seller to make a draw on the Letter of Credit or Substitute Letter of Credit after termination), 20 and this Section 21, and (e) any other provisions that expressly state they survive the termination of this Agreement.

22. **Post-Closing Survival.** Notwithstanding any provision of this Agreement to the contrary, the following shall survive the Closing and the delivery of the deed and other closing documents with respect to a Site: (a) the indemnity provisions in Section 4 and Section 5.3.1, (b) any provision limiting claims for damages, (c) the provisions of Sections 9.1 through 9.8, (d) the provisions of Sections 7.2 and 7.3 (to the extent they are not performed at the applicable Closing), (e) the Provisions of Sections 8, 11, 12, 13, 14, 15, 16, 17, 18, 20, and this Section 22, and (e) any other provision that expressly states that it will survive the Closing on a Site.

23. **Confidentiality Agreement.** Buyer and Seller acknowledge that the existence and the terms of this Agreement, Buyer's intended development of the Land and any oral or written information exchanged between Buyer and Seller in connection with the preparation and performance this Agreement and Buyer's investigation and development of the Land are regarded as confidential information. Each party shall maintain confidentiality of all such confidential information, and without obtaining the consent of the other party, shall not disclose any relevant confidential information to any third parties or to the public, except for the information that: (a) is or will be in the public domain (other than through the receiving party's unauthorized disclosure), including as necessary with any approvals required in connection with the sale, purchase or development of the Land, including public hearings or submissions made for purposes of such approvals; (b) is under the obligation to be disclosed pursuant to the applicable laws or regulations, or orders of the court or other government authorities, or becomes part of the public record by virtue of the foregoing or any approvals sought hereunder; or (c) is required to be disclosed by Buyer or Seller to its members, officers, investors, lenders, tenants, legal counsel and other advisors regarding the transaction contemplated hereunder, provided that such parties shall be bound by the provisions of this Section 23. Disclosure of any confidential information by the employees, agents or consultants hired by any party shall be deemed disclosure of such confidential information by such party. Except as otherwise permitted by this Section 23, any disclosure of this Agreement or Buyer's intended development of the Land shall be made with the consent of each of Buyer and Seller and shall be made jointly on terms reasonably acceptable to each party. This Section shall survive the termination of this Agreement for any reason. This

provision supersedes and terminates that certain undated Confidentiality and Non-Disclosure Agreement between Buyer and Seller.

24. **Letter of Credit.** As provided in Section 7.3(c), if Buyer does not Close on the purchase of the Central High School Site prior to or simultaneously with the Closing on the purchase of the second Residential Site purchased, Buyer will provide the Letter of Credit to Seller. Thereafter, until the Closing on the purchase of the Central High School Site, the termination of this Agreement (except by Seller pursuant to Section 19.1.), or the termination of Buyer's obligation to purchase the Central High School Site (except by Seller pursuant to Section 19.1.), in each case if and as permitted in this Agreement, Buyer shall continuously maintain in place the Letter of Credit or another letter of credit meeting the requirements of Section 7.3(c) (a "**Substitute Letter of Credit**"). If Buyer provides a Substitute Letter of Credit, Seller will reasonably cooperate with Buyer to surrender the Letter of Credit or Substitute Letter of Credit Seller is holding simultaneously with delivery of the Substitute Letter of Credit so that there are not two letters of credit outstanding at any given time. The Letter of Credit and each Substitute Letter of Credit shall authorize Seller to draw the full amount of the Letter of Credit if Buyer does not provide Seller with a Substitute Letter of Credit at least thirty (30) days before the expiration date of the Letter of Credit or Substitute Letter of Credit. In addition, if Buyer defaults under this Agreement, Seller may draw on the Letter of Credit or Substitute Letter of Credit after Seller delivers written notice of the default to Buyer setting forth the default and stating the act required to cure the default if Buyer does not cure the default within thirty (30) calendar days after Seller delivers the written notice of the default to Buyer. If Seller draws on the Letter of Credit or a Substitute Letter of Credit, then Seller shall deposit the proceeds of the draw with Title as a part of the Earnest Money. If the draw occurs because Buyer does not provide Seller with a Substitute Letter of Credit at least thirty (30) days before the expiration date of the Letter of Credit or Substitute Letter of Credit and if Buyer is not in default under this Agreement, the amount of the draw included in the Earnest Money may be released to Buyer if Buyer provides a Substitute Letter of Credit. For the sake of clarity, Buyer and Seller affirm that if Seller terminates this Agreement pursuant to Section 19.1, then Seller may retain all Earnest Money, including the proceeds of a draw. Buyer and Seller also affirm that they have agreed that the \$2,000,000.00 amount of the Letter of Credit was determined based on a reasonable estimate of the cost to Seller to demolish the High School Building and to otherwise carry and deal with the Central High School Site if Buyer does not acquire the Central High School Site.

[Signature Page to Follow.]

Seller and Buyer have executed this Agreement as of the respective dates stated below.

**SELLER:**

**INDEPENDENT SCHOOL DISTRICT #709,**  
a public corporation and political subdivision of  
the State of Minnesota

By: Jill Lofald  
Name: Jill Lofald  
Title: School Board Chair  
Date: \_\_\_\_\_

**BUYER:**

**SATURDAY CENTRAL HEIGHTS LLC,** a  
Minnesota limited liability company

By: Brenton D. Rogers  
Name: Brenton D. Rogers  
Title: Chief Manager  
Date: \_\_\_\_\_

**EXHIBIT A(1)**  
**Legal Description of Central Campus**

**CENTRAL HIGH SCHOOL SITE**  
**LEGAL DESCRIPTION**

PARCEL I - Certificate of Title No. 176058

All of GREAT VIEW ADDITION TO DULUTH, EXCEPT Lots 7 and 8 in Block 2  
 AND Lots 1 and 2 in Block 3 of said Addition.

PARCEL II - Certificate of Title No. 176154

Lots 1 to 16 inclusive in Block 2; AND Lots 1, 2, 15, 16 and 17 in Block 3,  
 CLEARVIEW PARK

PARCEL III - Certificate of Title No. 176792

Lots 7 and 8, Block 2, GREAT VIEW ADDITION TO DULUTH

PARCEL IV - Certificate of Title No. 180909

Lot 3, Block 3, CLEARVIEW PARK

PARCEL V- Certificate of Title No. 184073

Lots 1 and 2, Block 3, GREAT VIEW ADDITION TO DULUTH

PARCEL VI – Certificate of Title No. 267239

Commencing at the SE corner of Section 21, Township 50 North, Range 14 West of the Fourth Principal Meridian; thence North 05 degrees 00 minutes 00 seconds West (assumed bearing) along the East line of said Section 21 a distance of 410.24 feet; thence North 89 degrees 57 minutes 00 seconds West 451.75 feet; thence North 05 degrees 00 minutes 00 seconds West 275.00 feet to the Point of Beginning; thence North 19 degrees 24 minutes 00 seconds East 649.90 feet; thence North 53 degrees 31 minutes 51 seconds West 746.25 feet; thence South 00 degrees 28 minutes 57 seconds West 232.48 feet; thence S'y along a tangential curve concave to the West, having a radius of 993.01 feet, and a central angle of 34 degrees 51 minutes 37 seconds for a distance of 604.17 feet; thence South 48 degrees 39 minutes 10 seconds East 200.00 feet; thence South 73 degrees 17 minutes 13 seconds East 425.17 feet to the point of beginning and there terminating.

Parcel VII - Certificate of Title No. 270300

Lots 1 thru 8, Block 1, SWENSON'S DIVISION OF DULUTH

Lots 12 thru 18, Block 1, SWENSON'S DIVISION OF DULUTH

Lots 1 thru 19, Block 2, SWENSON'S DIVISION OF DULUTH

Parcel VII-A - Abstract Property

Lots 9, 10, 11, and 19, Block 1, SWENSON'S DIVISION OF DULUTH

PARCEL VIII – Certificate of Title No. 302438

That part of the SE 1/4 of SE 1/4 of Section 21, Township 50 North, Range 14 West of the Fourth Principal Meridian described as follows: Commencing at a Granite Monument at the SE corner of said SE1/4 of SE1/4 thence North 5 degrees 00 minutes 00 seconds West, assumed bearing, along the East line of said Section 21 a distance of 410.24 feet; thence North 89 degrees 57 minutes 00 seconds West a distance of 451.75 feet to a concrete monument; thence North 5 degrees 00 minutes 00 seconds West a distance of 275.00 feet; thence North 19 degrees 24 minutes 00 seconds East a distance of 406.63 feet to the point of beginning of the parcel of land to be described; thence continue North 19 degrees 24 minutes 00 seconds East a distance of 243.29 feet to the North line of said SE1/4 of SE1/4; thence North 84 degrees 04 minutes 11 seconds East along said North line a distance of 80.66 feet; thence South 53 degrees 55 minutes 21 seconds East a distance of 104.51; thence South 36 degrees 05 minutes 00 seconds West a distance of 25.00 feet; thence North 53 degrees 55 minutes 21 seconds; West a distance of 94.62 feet; thence South 36 degrees 04 minutes 39 seconds West a distance of 262.03 feet to the point of beginning.

PARCEL IX – Certificate of Title No. 307177

E1/2 of SE1/4 Section 21 Township 50 North of Range 14 West of the Fourth Principal Meridian EXCEPT those parts described as follows:

1. That part of the SE1/4 of SE1/4 of Section 21 Township 50 North of Range 14 described as follows: Commencing at a Granite Monument at the Southeast corner of said Section 21, thence North 5 degrees 00 minutes West (magnetic bearing) along the common section line of said Section 21 and Section 22 a distance of 410.24 feet to a concrete monument, said monument being the point of beginning, thence North 89 degrees 57 minutes West a distance of 451.75 feet to a concrete monument; thence North 5 degrees 00 minutes West a distance of 275.00 feet to a concrete monument, thence North 19 degrees 24 minutes East, a distance of 649.90 feet to a concrete monument on the North line of said SE1/4 of SE1/4, thence North 83 degrees 59 minutes East along said North line, a distance of 80.00 feet to a concrete monument, thence South 53 degrees 55 minutes East, a distance of 134.61 feet to a point on the common section line of Section 21 and Section 22, thence South 5 degrees 00 minutes East along said Section line, a distance of 819.50 feet to the point of beginning;

2. That part of the Easterly 1/2 of the SE1/4 of Section 21 in Township 50 North of Range 14 West of the Fourth Principal Meridian lying Northerly of the Central Entrance, a public highway, as the same is laid out and constructed over and across said SE1/4;

3. That portion thereof bounded as follows: On the Northwest by the Southeasterly line of Fourteenth Street, produced Southwesterly in the same straight line until it intersects the Northeasterly line of First Avenue East produced Northwesterly in the same straight line; on the Southwest by the Northeasterly line of First Avenue East produced Northwesterly in the same straight line until it intersects the Southeasterly line of Fourteenth Street produced Southwesterly in the same straight line; and on the East by the Westerly line of Block 193, Duluth Proper, Third Division according to the recorded plat thereof on file and of record in the office of the Register of Deeds.

SUBJECT also to an easement for roadway over and across said land as appears by the Award of Condemnation, dated September 17, 1909, and filed in the office of the Register of Deeds in and for said County on October 13, 1909, in Book 292 of Deeds on page 120, as appears by No. 52 of Abstract;

4. That portion of the above described premises bounded by the following described lines: The Westerly line of the E1/2 of SE1/4 of Section 21 Township 50 North, Range 14 West of the 4th Principal Meridian; the Southerly line of Swan Lake Road (also known as Sundby Road) and the center line of Highway 194;

5. That part Commencing at the Southeast corner of Section 21 Township 50 North, Range 14 West of the Fourth Principal Meridian; thence North 05 degrees 00 minutes 00 seconds West (assumed bearing) along the East line of said Section 21 a distance of 410.24 feet; thence North 89 degrees 57 minutes 00 seconds West 451.75 feet; thence North 05 degrees 00 minutes 00 seconds West 275.00 feet to the POINT OF BEGINNING; thence North 19 degrees 24 minutes 00 seconds East 649.90 feet; thence North 53 degrees 31 minutes 51 seconds West 746.25 feet; thence South 00 degrees 28 minutes 57 seconds West 232.48 feet; thence Southerly along a tangential curve concave to the West, having a radius of 993.01 feet; and a central angle of 34 degrees 51 minutes 37 seconds for a distance of 604.17 feet; thence South 48 degrees 39 minutes 10 seconds East 200.00 feet; thence South 73 degrees 17 minutes 13 seconds East 425.17 feet to the POINT OF BEGINNING and there terminating.

6. Registered Land Survey No. 65.

Parcel X:

S1/2 of NW14/ of SW1/4 of SE1/4 EXCEPT the Westerly 396 feet thereof; Section 21, Township 50 North of Range 14



**EXHIBIT A(2)**  
**Existing Survey Depicting Central Campus**

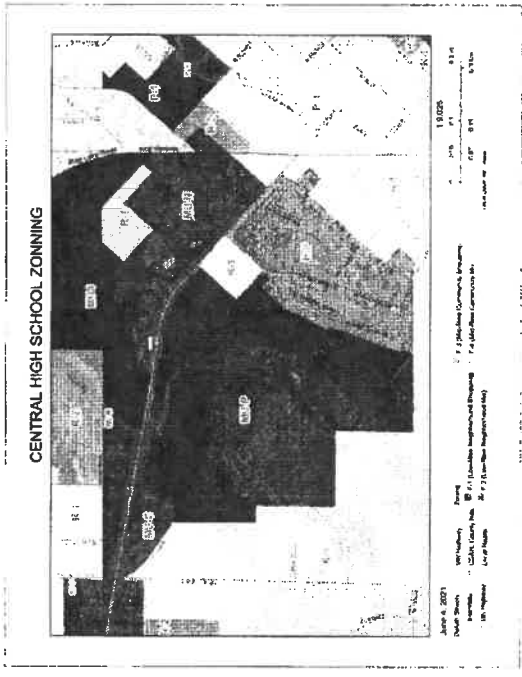




**EXHIBIT C(a)**  
**Preliminary Plat of Central Overlook**

# PRELIMINARY PLAT OF CENTRAL OVERLOOK

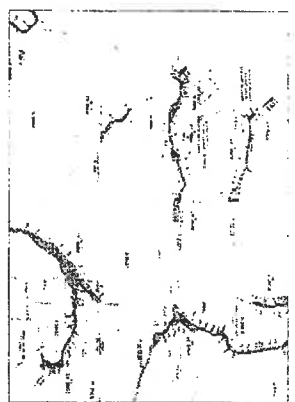
LOCATED IN PART OF SEC. 21, TWP. 50, RGE. 14, ST. LOUIS COUNTY MINNESOTA



Item	Value	Notes
1. Imperviousness	25%	Imperviousness is defined as any paved surface, including roofs, that does not allow water to infiltrate the ground.
2. Setback	10 ft	Setback is the minimum distance between the building and the property line.
3. Height	35 ft	Height is the maximum vertical distance from the finished ground to the highest point of the building.
4. Area	10,000 sq ft	Area is the total horizontal surface area of the building.
5. Density	10 units/acre	Density is the number of units allowed per acre of land.
6. Parking	1 space/unit	Parking is the number of parking spaces required for each unit.
7. Land Use	Residential	Land Use is the primary purpose of the property.
8. Zoning	Central High School Zoning	Zoning is the classification of land use.

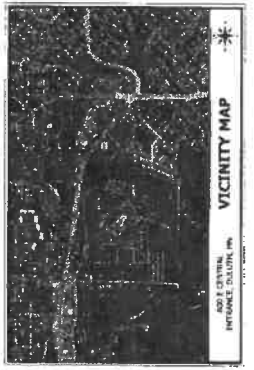
**DESIGNED BY:** [Firm Name]  
 [Address]  
 [City, State, Zip]  
 [Phone Number]

**APPROVED BY:** [Official Name]  
 [Title]  
 [City, State, Zip]



**GENERAL NOTES:**

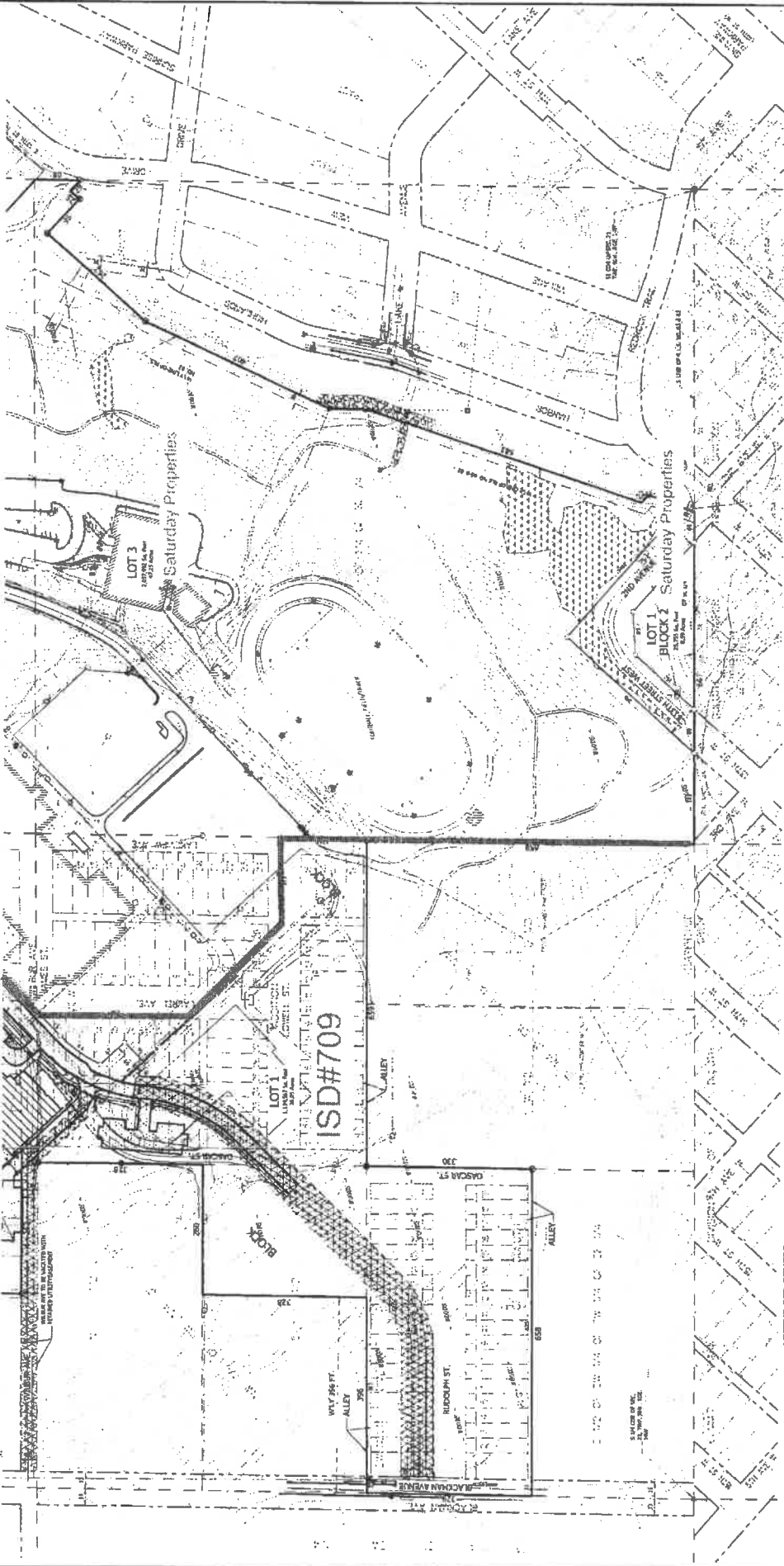
- The site is located in the City of Duluth, Minnesota, and is zoned for residential use.
- The project consists of a new building and parking spaces.
- The building footprint is shown in black on the site plan.
- The parking spaces are shown in gray on the site plan.
- The setbacks are shown in white on the site plan.
- The height of the building is limited to 35 feet.
- The area of the building is limited to 10,000 square feet.
- The density of the project is limited to 10 units per acre.
- The parking ratio is 1 space per unit.
- The land use is residential.
- The zoning is Central High School Zoning.





# PRELIMINARY PLAT OF CENTRAL OVERLOOK

LOCATED IN PART OF SEC. 27, TWP. 50, RGE. 14, ST. LOUIS COUNTY MINNESOTA



### ISD#709

THIS PLAN WAS PREPARED BY THE SURVEYOR IN THE CITY OF SAUKRATA, MINNESOTA, ON THE 15TH DAY OF APRIL, 2024. THE CITY OF SAUKRATA, MINNESOTA, HAS REVIEWED THIS PLAN AND HAS DETERMINED THAT IT CONFORMS TO THE CITY ORDINANCES AND REGULATIONS. THE SURVEYOR HAS REVIEWED THIS PLAN AND HAS DETERMINED THAT IT CONFORMS TO THE MINNESOTA SURVEYING ACT AND REGULATIONS.

**DEED RECORDS:** DEED RECORDS IN THE CITY OF SAUKRATA, MINNESOTA, FOR THE CITY OF SAUKRATA, MINNESOTA, HAVE BEEN SEARCHED AND FOUND TO BE CORRECT AND COMPLETE. THE SURVEYOR HAS REVIEWED THIS PLAN AND HAS DETERMINED THAT IT CONFORMS TO THE MINNESOTA SURVEYING ACT AND REGULATIONS.

### AREA SUMMARY

Total Acreage	82.99 AC.
Total Lot Acreage	77.11 AC.
Total Block Acreage	4.81 AC.
Number of Lots	2
Number of Blocks	1
Largest Lot in Sq. Ft.	2,872,993 SQ. FT.
Smallest Lot in Sq. Ft.	27,155 SQ. FT.

### LEGEND

PROPOSED CONCRETE SUBMIT	PROPOSED SANITARY LINE
PROPOSED ASPHALT DRIVE	PROPOSED GAS LINE
PROPOSED ASPHALT DRIVE	PROPOSED WATER MAIN
PROPOSED ASPHALT DRIVE	PROPOSED SANITARY LINE
PROPOSED ASPHALT DRIVE	PROPOSED GAS LINE
PROPOSED ASPHALT DRIVE	PROPOSED WATER MAIN

### LEGEND PER OTHERS

SUBMITTABLE SERVICE	PROPOSED SANITARY LINE
ASPHALT DRIVE	PROPOSED GAS LINE
CONCRETE DRIVE	PROPOSED WATER MAIN
GRAVEL DRIVE	PROPOSED SANITARY LINE
GRAVEL DRIVE	PROPOSED GAS LINE
GRAVEL DRIVE	PROPOSED WATER MAIN

SCALE: AS SHOWN  
SCALE IN FEET  
1" = 100'

**VALTA**  
Professional Land Surveyors  
1500 W. Highway 101, Suite 100, Sauk Rapids, MN 56384  
PHONE: (763) 282-5000  
WWW.VALTA-SURVEYORS.COM





**EXHIBIT 2(d)**  
**Allocation of Purchase Price**

Residential Site 1 \$ \_\_\_\_\_

Residential Site 2 \$ \_\_\_\_\_

Residential Site 3 \$ \_\_\_\_\_

Residential Site 4 \$ \_\_\_\_\_

Vo-Tech Building Site \$ \_\_\_\_\_

Central High School Site \$ \_\_\_\_\_

**EXHIBIT 3.1  
Proposed Site Development**

Residential Site 1: A 4 levels above parking apartment building with approximately 120 units.

Residential Site 2: A 4 levels above parking apartment building with approximately 130 units.

Residential Site 3: A 4 levels above parking apartment building with approximately 130 units.

Residential Site 4: A 4 levels above parking apartment building with approximately 120 units.

Vo-Tech Building Site: \_\_\_\_\_

Central High School Site: \_\_\_\_\_

**EXHIBIT 5.3.1****Due Diligence Materials****CENTRAL HIGH SCHOOL DOCUMENTS****ASBESTOS REPORT**

Central Asbestos Plan

Central HS 2016

**BLUE PRINTS**

CENTRAL HS DRAWINGS

1968 SURVEY

1969 CENTRAL HIGH SCHOOL

1969 DOOR &amp; ROOM FINISH SCHEDULES

1969 REVISED DRAWINGS

1971 EXPERIENCE CENTER

1978 ROOF REPLACEMENT

1980 REMODELING PHASE I

1981 REMODELING SECOND FLOOR PHASE II

1986 REPLACEMENT OF DOMESTIC WATER SYSTEM

1988 CONSTRUCTION WORK RELATED TO ACM REMOVAL

1989 WORK RELATED TO ACM REMOVAL (LOCKER ROOMS)

1991 ACM REMOVAL RELATED WORK (OFFICE)

1991 PROPERTY SURVEY (AT TOWER)

1991 REPAIR AND BETTERMENT (SCIENCE)

1993 CONSTRUCTION WROK RELATED TO ACM REMOVAL

1993 DAY CARE AND SHOPS

1993 TECHNICAL ANNEX

1993 TECHNICAL ANNEX ADDITION

1994 ACM RECONSTRUCTION

1994 ELECTRICAL SITE WORK

1994 REROOFING

1994 WINDOW &amp; DOOR REPLACEMENT

1996 EXTERIOR STONE TUCK POINTING

1997 ASBESTOS ENCAPSULATION RECONSTRUCTION WORK

1997 FIRE PROTECTION SYSTEM

1997 FIRE PROTECTION SYSTEM AS-BUILTS

1999 LOADING DOCK IMPROVEMENTS

1999 REROOFING

1999 TOPO SURVEY

2000 ELECTRONIC FOLDING DOOR (STAGE)

2000 NEW CONCESSION STAND

2000 TENNES COURTS &amp; PARKING LOT PHASE I

2001 ELECTRICAL SITE WORK

2001 SPORTS FACILTY PHASE II

2003 PRESS BOX

2003 ROOF STRUCTURE IMPROVEMENTS (CAFETERIA)

2004 LIGHTING FIXTURES

2004 ROOF REPLACEMENT (CAFETERIA)  
 2004 SUB SANDWICH SHOP  
 2005 SECOND ENTRANCE ROAD  
 2005 SPECIAL NEEDS CLASSROOM  
 2006 CLASSROOM EXITING PROJECT  
 Central Blue Prints  
 STC MAIN DRAWINGS  
 1995 BRONZE PLAQUE  
 1995 CASEWORK SHOP DRAWINGS  
 1995 ELECTRICAL  
 1995 FIRE ALARM AS-BUILTS  
 1995 KITCHEN EQUIPMENT  
 1995 KITCHEN SHOP DRAWINGS  
 1995 MECHANICAL  
 1995 PLUMBING  
 1995 SPRINKLER SHOP DRAWINGS  
 1995 STC  
 1995 STRUCTURAL  
 1995 TELEPHONE  
 1995 UTILITIES  
 1997 CONSOLIDATION  
 STC Legal Site Plan  
 STC UPPER DRAWINGS  
 1993 TECHNICAL ANNEX  
 1993 TECHNICAL ANNEX ADDITION  
**CHS SALE**  
 CHS Site - Aerial View - Option 1  
 CHS Site - Aerial View - Option 2  
 CHS Site - Aerial View - Option 3  
 CHS Site - Plan View - Option 1  
 CHS Site - Plan View - Option 2  
 CHS Site - Plan View - Option 3  
**COUNTY MAPS**  
 Central County Map  
**CURRENT FLOOR PLANS**  
 Central Floor Plans  
 Central HS Floor Plans  
 STC Main Floor Plans  
 STC Upper Floor Plans  
**DEED AND FILES**  
 National Tile Work  
 STC Financing  
 Certificate 267329 STC Main  
 Certificate 307177 Central  
 Property Deeds Map  
 Warranty Deed 795212 HRA  
 Certificate of Title No. 302438 HRA  
 Certificate of Title No. 267329 STC

Document 439499 Muskegon Easement  
Document 436177 Bike Pathway Easement  
Document 374776 Vacation  
Document 12291992 US West Easement  
Document 946967-9 Path Easement  
Abstract of Title 183543 Swenson's  
Warranty Deed 689792 Swenson's Correction  
Certificate of Title No. 267330 Main Site  
Certificate of Title No. 176792 Great View Lots 7-8  
Certificate of Title No. 180909 Clearview Lot 3  
Certificate of Title No. 176058 Great View  
Certificate of Title No. 176154 Clearview  
Certificate of Title No. 270300 Swenson's  
Certificate of Title No. 184073 Great View Lots 1-2  
**JCI FACILITIES REPORT**  
2006 Central Facilities Report  
**PARCELS**  
Central Parcels  
Central Utility Locations

EXHIBIT 9.1(i)

AFFIDAVIT REGARDING UNDERGROUND OR ABOVE GROUND STORAGE TANK
PURSUANT TO MINN. STAT. §116.48

STATE OF MINNESOTA )
) ss.
COUNTY OF ST. LOUIS )

(Affiant), being first duly sworn, on oath says that:

- 1. I am the \_\_\_\_\_ for Independent School District #709.
2. Two underground storage tanks are located on the land situated in St. Louis County, Minnesota, legally described on Exhibit A attached hereto (the Property).
3. All or part of the Property is registered (Torrens).
4. The tanks are described as follows:
i. A 30,000 gallon painted steel underground fuel oil storage tank (the Abandoned Tank) installed in 1971]. In 1994 the Abandoned Tank was stabilized, cut open, and closed in place. Approximately 60 yards of contaminated soils were excavated from around the exterior of the Abandoned Tank.
ii. A 6,000-gallon fiberglass underground fuel oil storage tank installed in 1994 (the Additional Tank) installed in the basin of the Abandoned Tank.
5. The location of the Abandoned Tank and of the Additional Tank is shown on the map attached hereto as Exhibit B.
6. To the knowledge of Affiant, (i) there has been no known release of a Regulated Substance from the Additional Tank, and (ii) there has been a known release of a fuel oil from the Abandoned Tank. Leak No. LEAK00003642 was assigned to the release from the Abandoned Tank by the Minnesota Pollution Control Agency. On May 30, 1995, the Minnesota Pollution Control Agency issued a closure letter with respect to LEAK00003642. A copy of the closure letter is attached hereto as Exhibit C. To the knowledge of Affiant, there has been no other known release of a Regulated Substance from the Abandoned Tank.
7. No restrictions resulting from the release of a Regulated Substance from the Abandoned Tank or the Additional Tank are currently in force on the Property.
8. The name of the owner of the Property is Independent School District #709.

By: \_\_\_\_\_
Name: \_\_\_\_\_
Title: \_\_\_\_\_

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF ST. LOUIS    )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, in their capacity as \_\_\_\_\_ for Independent School District #709.

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

My Commission Expires:

THIS INSTRUMENT WAS DRAFTED BY:  
Fryberger, Buchanan, Smith & Frederick, P.A.  
302 West Superior Street, Ste. 700  
Duluth, MN 55802  
DDM/05953-000080