

## Regular Business Meeting

Tuesday, May 11, 2021 5:30 PM  
Online Meeting

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

2) **Adoption of the Agenda**

3) **Acceptance of Minutes**

a. April 13, 2021, Minutes

4) **Public Comments**

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

a. COVID-19 Response Update

b. Legislative Session Update

c. 2021-2022 Budget

d. 2021-2022 Capital Plan Budget

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

a. Approval of the Consent Agenda

1. Personnel Items

a. Approval of List A personnel matters (2020-05-ER-A)

b. Approval of List B personnel matters (2020-05-ER-B)

2. Contracts

a. Contract amendment with AMAZEworks for Individual Instructional Supplies

b. Contract amendment with Canvas Health for mental health services

c. Contract amendment with Change Inc. for school mental health services

d. Contract amendments with Contract Alternative Schools

e. Contract amendment with Crisis Prevention Institute Inc. for training services

f. Contract amendment with GardaWorld (Whelan) for Operational Safety and Security Services

g. Contract amendment with Joshua Downham for lobbying services

h. Contract with Peterson Companies, Inc. for Patrick Henry High School Running Track Reconstruction project

i. Contract Amendment with Ratwik, Roszak, & Maloney, P.A. for Legal Services

j. Contract amendment with Russ Davis Wholesale Inc. to provide produce and supplies

k. Contract amendment with The Mental Health Collective dba Watercourse for mental health services

l. Contract amendment with Unique Software for device repairs

m. Contract amendment with Washburn Center for Children for school mental health services

3. Resolutions

a. Resolution Approving Equal Treatment in Transporting Students Funding to Non-Public Schools

b. Resolution Supporting GreenCorps Grant Application

4. Agreements

a. Easement Agreement for Bryn Mawr/Anwatin Storm Water Improvements

b. Extension to Use and Management Agreement with YWCA of Minneapolis for fieldhouse

5. Reports

a. Receive and File Annual Radon Testing Summary and Report

b. Approval of 2019-2021 Collective Bargaining Agreement with Minneapolis Federation of Teachers Adult Education

c. Revision of Policy 6450 and Repeal of Policy 3250

d. Revision of Policy 5600

e. Capital Fund Transfer

f. 2020-2021 Budget Amendment

g. 2021-2022 Board Meeting Calendar

7) **New Business**

a. Support Education Conference Committee Legislative Priorities

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

a. Notification of Appointments to the World's Best Workforce Advisory Committee

9) **Adjournment**

**Minneapolis Public Schools – Board of Education**  
**Special School District No. 1**  
**Regular Business Meeting**  
**April 13, 2021**

**I. CALL TO ORDER**

Call to Order of the Board of Education. Pursuant to due notice mailed to each member of the Board of Education not less than three days prior to the time of such meeting, the Board members met electronically in a regular business meeting conducted in accordance with Minnesota Statutes 13D.021 on April 13, 2021, commencing at 5:39 pm. Chair Ellison called the meeting to order.

**I. ROLL CALL**

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

**II. APPROVAL OF THE AGENDA**

**MOTION:** Director Arneson moved, seconded by Director Ali that the Board of Education, Special School District No. 1, approve the Agenda for April 13, 2021. Motion to approve the agenda was put to a roll-call vote and carried unanimously.

**III. ACCEPTANCE OF MINUTES**

**MOTION:** Director Pauly moved, seconded by Director Ali that the Board of Education, Special School District No. 1, approve the Minutes for March 9 and March 23, 2021. Motion to approve the Minutes was put to a roll-call vote and carried out unanimously.

**IV. PUBLIC COMMENTS**

Pre-recorded Public Comments were played

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

- a. COVID-19 Response Update

**VI. POLICY COMMITTEE REPORT**

- a. Revision of Policy 6450 and Repeal of Policy 3250
- b. Revision of Policy 5600

**VII. ACTION ITEMS BY THE BOARD OF EDUCATION**

**a. Approval of Consent Agenda**

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

1. *Personnel Items*
  - a) *Personnel List A*
  - b) *Personnel List B*

2. *Contracts Requiring Board of Education Approval*
  - a) *Contract with Construction Results Corp for work at Folwell (2021-12996)*
  - b) *Contract with Electronic Communication Systems for multi-site low voltage improvement project (2021-12999)*
  - c) *Contract amendment with INGCO International for translation and interpretation services (2021-4400000578-3)*
  - d) *Contract with Maertens-Brenny Construction Co for work at Olson Middle (2021-13003)*
  - e) *Contract amendment with Now Micro for chromebooks servicing (2021-4400000914)*
  - f) *Contract with Sheehy Construction for work at Jenny Lind School (2021-12998)*
  - g) *Contract amendment with Unique Software for computer repair services (2021-4400000586-1)*
3. *Agreements*
  - a) *Phillips Pool Shared Use Agreement with Minneapolis Park and Recreation Board*

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

**b. Changes to Board Governance Policies – Attachment 1**

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

**VIII. NEW BUSINESS - NONE**

**IX. REPORTS FROM BOARD OF EDUCATION DIRECTORS**

**X. ADJOURNMENT**

**MOTION:** Director Arneson moved, seconded by Director Caprini that the Board of Education, Special School District No. 1, adjourn the meeting at 6:23 p.m. The motion to adjourn was put to a vote and carried out unanimously.

MINNEAPOLIS PUBLIC SCHOOLS  
RESOLUTION 2021-0013

RESOLUTION ADOPTING POLICY 8112; REVISING POLICIES 8140, 8210, 8120,  
8220, 8231, 8500, 8505, 8550; REPEALING POLICIES 8230, 8300, 8400, 1200; AND  
RENUMBERING POLICIES 8300, 8420.

WHEREAS, The Board's Policy Committee has recommended policy updates to ensure clear, consistent, and legally compliant Board operation and organization; and

WHEREAS, Necessary elements from previously utilized Board Protocols have been incorporated into policy and are no longer needed in a separate format.

THEREFORE BE IT RESOLVED, that the Board of Directors, Special School District No. 1 hereby adopts the changes as follows:

SECTION 1: **RENUMBER** “Policy 8410: Duties Of Directors” of the Minneapolis Public Schools Policies & Regulations is hereby *renumbered* as follows:

RENUMBER

Policy 8410: Duties Of Directors

Policy ~~8410~~8111: Duties Of Directors

SECTION 2: **ADOPTION** “Policy 8112: Governing Rules” of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

ADOPTION

Policy 8112: Governing Rules(*Added*)

1. **PURPOSE**

The purpose of this policy is to provide governing rules for the conduct of meetings of the school board.

2. **GENERAL STATEMENT OF POLICY**

An orderly school board meeting allows school board members to participate in discussion and decision of school district issues. Rules of order allow school board members the opportunity to review school-related topics, discuss school business items, and bring matters to conclusion in a timely and consistent manner.

3. **RULES OF ORDER**

Rules of order for school board meetings shall be as follows:

- a. Minnesota statutes where specified;
- b. Specific rules of order as provided by school board policy consistent with Minnesota statutes; and
- c. Robert's Rules of Order, Revised 11th Edition where not inconsistent with a. and b., above.

**SECTION 3:**        **REPEAL** “Policy 8230: Parliamentary Procedure” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

**REPEAL**

~~Policy 8230: Parliamentary Procedure (Repealed)~~

**1. PURPOSE**

The business of the District may more easily be conducted with an agreed upon set of rules of procedure. The purpose of this policy is to establish the standard to be used in conducting Board meetings.

**2. GENERAL STATEMENT OF POLICY**

- a. The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with Board policy and any special rules of order the Board may adopt from time to time.
- b. The Chairperson may appoint a parliamentarian to advise the Board who shall not be a Director.
- c. The Board may adopt a standard order of business for its meetings.

**~~Original Adoption:-~~**

~~04/25/1967 (as Policy 9335)~~

**~~Revision Dates:~~**

~~10/12/1971, 07/05/1972, 12/12/1972, 09/09/1975, 11/30/1976, 10/30/1979, 08/18/1992, 08/11/2009~~

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

- Policy 8200 (Annual Meeting)
- Policy 8210 (Meetings of the Board of Directors)
- Policy 8220 (Agenda)

**SECTION 4:****AMENDMENT** “Policy 8140: Election Of Officers” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 8140: ~~Election Of~~Board Officers

**1. PURPOSE**

The purpose of this policy is to establish the titles, duties, and terms of the officers of the Board of Directors and the procedure for their election.

**2. OFFICERS AND TERMS OF OFFICE**

- a. The following officers shall be elected from the duly elected and seated directors of the Board of Education.
  - i. Chair~~person~~;
  - ii. Vice Chair~~person~~;
  - iii. Clerk; and
  - iv. Treasurer.
- b. They shall hold their respective offices for one calendar year from the date of election, or to the end of their respective term of directorship whichever occurs first, or until their successors have been elected.
- c. Consecutive terms for officers are permitted.
- d. An officer may be elected for a different office for the term following their service in the first office.

**3. ELECTION OF OFFICERS**

- a. Officers shall be elected at the annual meeting of the Board of Directors.
- b. Any director may nominate any director, including him or herself, for any office.
- c. No second is required for a nomination.
- d. A slate of officers may be nominated for election.
- e. Voting for officers may be oral or by written ballot.
  - i. The default method is oral voting.
  - ii. A written ballot shall be done if a properly made and seconded motion is approved by a majority vote of the quorum of the meeting.
    - (1) A written ballot may be requested for each office separately.
    - (2) A written ballot may be requested for a single ballot electing all officers.
  - iii. If by written ballot:
    - (1) Each voter shall identify her or himself on the ballot.
    - (2) The chair shall announce the individual votes identifying each voter.
- f. Election to office requires the affirmative vote of a majority of the voters. Directors who abstain from a vote are not counted in the total of voters.
- g. In the event that no nominee receives the votes of a majority of those voting, a

second ballot shall be taken, eliminating from nomination all but the two candidates receiving the most votes on the previous vote. If this is not possible, successive ballots will be taken until it is possible, or until a vote results in an election.

- h. Directors may vote for themselves.
- i. Directors may not vote for someone not placed in nomination.

4. **OFFICER ELECTION RESPONSIBILITY**

- a. The Chair whose term is ending is responsible for conducting the elections of all officers. The newly elected chair will assume the duties of the office following the close of elections.
- b. The Clerk whose term is ending is responsible for providing such written ballots as may be called for in the election.

5. **DUTIES AND RESPONSIBILITIES**

a. *Chair*

- i. The chair, when present, shall preside at all meetings of the Board of Directors. in the absence of the chair:
  - (1) If the vice chair is in attendance, the vice chair shall preside at the meeting.
  - (2) if the vice chair is not in attendance, the clerk shall preside at the meeting.
  - (3) if the clerk is not in attendance, the treasurer shall preside at the meeting.
- ii. The chair shall represent the district in all actions and perform all the duties usually incumbent on such an officer.
- iii. In case of the absence, inability or refusal of the clerk to perform any of that office's duties, the chair may perform those duties, or may appoint a clerk pro tempore for that purpose.
- iv. In the case of the absence, inability or refusal of the treasurer to perform any of that office's duties, the chair shall appoint a treasurer pro tempore for that purpose.
- v. The chair shall act as the official spokesperson of the Board of Directors.
- vi. The chair shall respond on behalf of the Board in a timely manner to inquiries, requests, and correspondence directed to the Board as a whole.
- vii. The chair shall communicate with other directors regarding emergency matters and seek consensus on resolution of those matters, following the requirements of call and notice of emergency meetings.
- viii. The chair is not prohibited from offering resolutions, making or seconding motions, engaging in discussion or debate, or voting.
- ix. The chair shall chair the executive committee of the Board, which consists of the duly elected officers of the Board and the Superintendent of Schools.

b. *Vice Chair*

- i. The vice chair shall preside over any duly called and noticed meeting of

- the Board of Directors at which the Chair is not in attendance.
- ii. The vice chair shall act in the place of the chair for any of the chair's described duties in the case of the inability of the chair to act due to illness, incapacity or emergency.
- iii. The vice chair shall execute such other duties as may be assigned from time to time by the chair.

c. Clerk

- i. The clerk shall keep a record of all meetings of the district, the Board of Directors, and the committees of the Board of Directors.
- ii. The clerk shall notify all persons elected to the Board of their election.
- iii. The clerk shall perform all other duties specified by law.
- iv. The clerk shall act as time-keeper during delegations to the Board.

d. Treasurer

- i. The treasurer shall cause the funds of the district to be deposited in the official depository.
- ii. The treasurer shall cause the creation of all reports which may be called for by the Board and shall be responsible to provide for the payment of money authorized by a majority vote of the Board.
- iii. The treasurer shall perform all such duties as are otherwise required by law.

**6. OFFICERS APPOINTED PRO TEMPORE**

- a. The term of office of offices appointed pro-tempore by the chair, or vice chair acting as chair in the chair's absence, is the duration of the meeting at which the officer is appointed, or until the arrival of the elected officer, whichever is shorter.
- b. Officers appointed pro-tempore shall have the same rights and responsibilities as the duly elected officer during their term of appointment.
- c. Officers appointed pro-tempore are charged with additional responsibility to inform the duly elected officer of actions taken that do not appear in official minutes of the meeting.

**7. RESIGNATION, REMOVAL AND REPLACEMENT OF OFFICERS**

- a. An officer may resign by submitting a written statement resigning the office to which they have been elected by the Board to the Clerk. The Clerk shall submit a resignation to the Chair.
  - i. The officer receiving the resignation shall request the placement of the information as an agenda item at the next scheduled meeting of the Board.
  - ii. An officer may resign their office without simultaneously resigning their directorship.
- b. An officer may be removed by action of a majority of the remaining directors for cause at a regularly called and noticed meeting. The removal of an officer shall be included in the proposed agenda for the meeting. Removal from a board office shall not constitute removal from the Board. Cause shall include, but is not limited to:

- i. Failure to attend three consecutive regularly scheduled board meetings without a reasonable excuse;
  - ii. Refusal to perform the duties of the office on more than two occasions;
  - iii. Malfeasance in the execution of the duties of the office.
- c. In the event the officer proposed to be removed is the chair, the vice chair shall preside over the motion to remove the chair.
- d. An election of a replacement for a resigned or removed officer shall be held at the same meeting at which the resignation is announced or the removal is completed, following the regular procedure for the election of officers.

**Original Adoption:**

04/25/1967 (as Policy 9130)

**Revision Dates:**

12/12/1972, 09/09/1975, 08/11/2009, 01/11/2011

**Legal References:**

- Minn. Stat. §123B.14 (Officers of Independent School Districts)
- Minn. Stat. §128D.04 (District Like Independent District; Exception)

**MPS Policy Cross References:**

- Policy 8115 (Membership and Quorum)
- Policy 8200 (Annual Meeting)
- Policy 8230 (Parliamentary Procedure)
- Policy 8300 (Duties of Board Officers)

**SECTION 5:**            **REPEAL** “Policy 8300: Duties Of Board Officers” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

R E P E A L

~~Policy 8300: Duties Of Board Officers~~ (*Repealed*)

**1. PURPOSE**

The purpose of this policy is to delineate the duties, responsibilities and authority of the duly elected Officers of the Board of Directors.

**2. CHAIRPERSON**

- a. The chairperson, when present, shall preside at all meetings of the Board of Directors. in the absence of the chairperson:

- i. If the vice chairperson is in attendance, the vice chair shall preside at the meeting.
  - ii. if the vice chair is not in attendance, the clerk shall preside at the meeting.
  - iii. if the clerk is not in attendance, the treasurer shall preside at the meeting.
- b. The chairperson shall represent the district in all actions and perform all the duties usually incumbent on such an officer.
- c. In case of the absence, inability or refusal of the clerk to perform any of that office's duties, the chairperson may perform those duties, or may appoint a clerk pro tempore for that purpose.
- d. In the case of the absence, inability or refusal of the treasurer to perform any of that office's duties, the chairperson shall appoint a treasurer pro tempore for that purpose.
- e. The chairperson shall act as the official spokesperson of the Board of Directors.
- f. The chairperson shall respond on behalf of the Board in a timely manner to inquiries, requests, and correspondence directed to the Board as a whole.
- g. The chairperson shall communicate with other directors regarding emergency matters and seek consensus on resolution of those matters, following the requirements of call and notice of emergency meetings.
- h. The chairperson is not prohibited from offering resolutions, making or seconding motions, engaging in discussion or debate, or voting.
- i. The chairperson shall chair the executive committee of the Board, which consists of the duly elected officers of the Board and the Superintendent of Schools.

### **3. VICE CHAIRPERSON**

- a. The vice chairperson shall preside over any duly called and noticed meeting of the Board of Directors at which the Chairperson is not in attendance.
- b. The vice chairperson shall act in the place of the chairperson for any of the chairperson's described duties in the case of the inability of the chair to act due to illness, incapacity or emergency.
- c. The vice chairperson shall execute such other duties as may be assigned from time to time by the chairperson.

### **4. CLERK**

- a. The clerk shall keep a record of all meetings of the district, the Board of Directors, and the committees of the Board of Directors.
- b. The clerk shall notify all persons elected to the Board of their election.
- c. The clerk shall perform all other duties specified by law.
- d. The clerk shall act as time-keeper during delegations to the Board.

### **5. TREASURER**

- a. The treasurer shall cause the funds of the district to be deposited in the official depository.
- b. The treasurer shall cause the creation of all reports which may be called for by the Board and shall be responsible to provide for the payment of money

authorized by a majority vote of the Board.

c. The treasurer shall perform all such duties as are otherwise required by law.

#### **6. OFFICERS APPOINTED PRO TEMPORE**

a. The term of office of officers appointed pro-tempore by the chair, or vice chairperson acting as chair in the chair's absence, is the duration of the meeting at which the officer is appointed, or until the arrival of the elected officer, whichever is shorter.

b. Officers appointed pro-tempore shall have the same rights and responsibilities as the duly elected officer during their term of appointment.

c. Officers appointed pro-tempore are charged with additional responsibility to inform the duly elected officer of actions taken that do not appear in official minutes of the meeting.

#### **7. RESIGNATION, REMOVAL AND REPLACEMENT OF OFFICERS**

a. An officer may resign by submitting a written statement resigning the office to which they have been elected by the Board to the Clerk. The Clerk shall submit a resignation to the Chair.

i. The officer receiving the resignation shall request the placement of the information as an agenda item at the next scheduled meeting of the Board.

ii. An officer may resign their office without simultaneously resigning their directorship.

b. An officer may be removed by action of a majority of the remaining directors for cause at a regularly called and noticed meeting. The removal of an officer shall be included in the proposed agenda for the meeting. Removal from a board office shall not constitute removal from the Board. Cause shall include, but is not limited to:

i. Failure to attend three consecutive regularly scheduled board meetings without a reasonable excuse;

ii. Refusal to perform the duties of the office on more than two occasions;

iii. Malfeasance in the execution of the duties of the office.

c. In the event the officer proposed to be removed is the chairperson, the vice chairperson shall preside over the motion to remove the chairperson.

d. An election of a replacement for a resigned or removed officer shall be held at the same meeting at which the resignation is announced or the removal is completed, following the regular procedure for the election of officers.

#### **Original Adoption:**

~~04/25/1967 (as Policies 9210, 9220, 9240)~~

#### **Revision Dates:**

~~12/12/1972, 08/11/2009, 01/11/2011~~

#### **Legal References:**

- Minn. Stat. §123B.14 (Officers of Independent School Districts)
- Minn. Stat. 128D.04 (District Like Independent Districts; Exception)

~~MPS Policy Cross-References:~~

- Policy 1150 (Media Relations)
- Policy 8110 (Purposes and Role of the Board)
- Policy 8140 (Election of Officers)
- Policy 8230 (Parliamentary Procedure)

**SECTION 6:**            AMENDMENT “Policy 8210: Meetings Of The Board Of Directors” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 8210: Meetings Of The Board Of Directors

**1. PURPOSE**

The Board shall conduct its discussions and act on its business under a presumption of openness. At the same time, the Board recognizes and respects the privacy rights of individuals as provided by law. The Board recognizes that the Minnesota Open Meeting Law allows for exceptions to open meetings in order to transact certain business of the Board when the public interest is best served by closing a meeting. The purpose of this policy is to provide guidelines to assure the rights of the public to be present at Board meetings, while also protecting the individual’s rights to privacy, and to close meetings when the public interest so requires as recognized by law.

**2. GENERAL STATEMENT OF POLICY**

- a. Except as otherwise expressly provided by statute, all meetings of the Board shall be open to the public.
- b. Board meetings shall be closed only when expressly authorized by law.
- c. For the purpose of this policy the term “meeting” shall mean any gathering, excepting chance or social gatherings but including executive sessions, at which Directors discuss, decide or receive information as a group on issues related to the official business of the board, where:
  - i. at least a quorum or more of Directors of the School Board is present, or
  - ii. at least a quorum or more of members of a Board committee or subcommittee is present.
- d. The Board of Education may call the following types of meetings:
  - i. Regular Business Meetings
    - (1) The Board shall establish a regular schedule of meetings to conduct its business, receive recommendations from the

Superintendent and vote on resolutions brought before the Board as a whole.

- (2) The Board shall publish the schedule of such meetings annually.
- ii. Discussion Meetings The Board shall establish a schedule of discussion meetings in order to receive background information from the Superintendent and or district staff, to answer questions from the board, to consider different policy options and to allow for the sharing of perspectives of individual Board directors. No votes and no official actions will be taken at discussion meetings.
- iii. Retreats The Board shall hold periodic retreats to deliberate and consider issues related to the internal development of the board, to plan for future meetings and to consider different scenarios and options at the early stage of planning and policy discussions. No votes and no official action will be taken at retreats.
- iv. Special Meetings
  - (1) Special meetings of the Board may be called by the chairperson or clerk of the Board, or by three Directors acting collectively, if the chairperson refuses or fails to set such a meeting upon the request of three Directors.
  - (2) Only business that is specifically noted in the call of the meeting may be transacted, unless a unanimous vote of the total membership of the Board agrees to amend the agenda to allow other business.
- v. Emergency Meetings.
  - (1) In the event that circumstances, as determined by the judgment of the Board, require a meeting for immediate consideration of an issue, a special meeting may be called on an emergency basis.
  - (2) An emergency meeting, unless otherwise indicated in this policy, is a special meeting.
- vi. Recessed or Continued Meetings. Meetings of any type may be recessed or continued to another time and/or place. Such meetings shall continue the original condition of the meeting so recessed or continued.
- vii. Closed Meetings.
  - (1) Meetings may be closed for the following reasons, or as provided by law:
    - (A) Labor Negotiations Strategy
    - (B) Sessions Closed by the Bureau of Mediation Services
    - (C) Preliminary Consideration of Allegations or Charges
    - (D) Performance Evaluations
    - (E) Attorney-Client Discussions
    - (F) Certain Dismissal Hearings of Students or Teachers
    - (G) Certain Meetings with Non-renewed Coaches

- (H) Discussions of Certain Not Public Data
- (I) Strategic Decisions on Purchases and Sales of Property, however the actual purchase or sale of property must be approved at an open meeting.

(J) Security Matters

- (2) A regular or special meeting may be closed by a public, majority vote at the meeting. The specific statutory authority for closing the meeting shall be stated and a general description of the subjects to be discussed in the closed meeting shall be disclosed.

(3) Closed meeting topics, information, and any materials provided shall remain confidential and not public until such a time determined by the District's General Counsel and Responsible Data Authority.

viii. Other Meetings.

In the event of a health pandemic or an emergency declared under Minnesota Statutes Ch. 12 (Minnesota Emergency Management Act of 1996, as amended) a meeting of the Board may be held by telephone or other electronic means in compliance with law.

**3. NOTICE REQUIREMENTS**

- a. Any person may request in writing that notice be given to them for any special meeting called.
  - i. The written request may be sent to the Clerk of the Board either in physical or electronic form.
  - ii. The notice must be mailed or delivered, either physically or electronically at least three (3) days before the date of the meeting, the means of delivery to be at the Directors' discretion;
  - iii. The requestor may limit their request to specific subjects, in which case the Board shall only be required to give notice to those meeting when such a subject is part of the agenda.
  - iv. The Board may establish an expiration date on requests for notice of special meetings. If the Board establishes such a date, requestors shall be notified at least 60 days before the expiration date that a refileing is required for continued notice.
- b. Any news medium may request in writing that notice be given them for any emergency meeting called.
  - i. Notice shall be given as soon as practicable after notice has been given to the Directors.
  - ii. The written request must include a contact name and telephone number for such notices and may request an electronic address for such notices.
  - iii. Notice may be by electronic means when available at the discretion of the Directors.
- c. If a person receives actual notice of a meeting of the Board at least 24 hours before the meeting, all notice requirements are satisfied with respect to that

- person, regardless of the method of receipt of notice.
- d. Notice of Regular Meetings that have been changed from the published schedule as to time and/or place must be given as though the meeting is a special meeting.
  - e. If at a meeting that is recessed or continued the time and place of the continued or reassembled meeting is established, and the minutes of the recessed or continued meeting include that information, no further notice is required.

#### **4. MATERIALS SUPPORTING THE AGENDA**

- ~~a. Agenda, minutes of earlier meetings and materials requiring advanced study shall be sent to Directors in advance of the meeting at which they will be considered on a schedule agreed by the directors.~~
- ~~b. In any open meeting a copy of any printed materials, except those identified in paragraph 4.C (below), shall be available for inspection by the public while the Board considers their subject matter where the materials
  - ~~i. relate to the agenda items;~~
  - ~~ii. are prepared or distributed by the Board or its employees, and~~
  - ~~iii. are distributed to or are available to the Board.~~~~
- ~~c. Materials not classified by law as public shall not be available for inspection by the public.~~
- ~~d. Materials related to the agenda of a closed meeting are not available for inspection by the public.~~
- ~~e. The District may establish
  - ~~i. a process for persons to request personal copies of materials available for public inspection at an open meeting; and~~
  - ~~ii. a schedule of fees for the production of those copies~~~~

#### **5. RECORDINGS OF CLOSED MEETINGS**

- a. All closed meetings, except those closed due to attorney-client privilege, shall be electronically recorded.
  - i. If a meeting is closed during an otherwise open meeting which is being recorded electronically, the portion of the meeting that is closed will be recorded in a separate recording to be maintained separately from the recording of the open meeting.
  - ii. If a closed meeting has more than one (1) agenda item, each agenda item shall be recorded separately and maintained separately.
- b. Recordings of closed meetings shall be preserved by the district at a minimum for the following time periods, after which they shall be preserved according to the district's Records Retention Schedule:
  - i. Meetings closed to discuss labor negotiations strategy shall be preserved for two (2) years after the date the contract or agreement is signed.
  - ii. Meetings closed to discuss security matters shall be preserved for four (4) years after the date of the meeting.
  - iii. Meetings closed to discuss the purchase or sale of property, real or personal, shall be preserved for at least eight (8) years after the date of

- the meeting.
- iv. Meetings closed for all other permissible reasons shall be preserved for three (3) years after the date of the meeting.
- c. Recordings of closed meetings are classified as protected, non-public data which is not accessible to the public or any subject of the data, with the following exceptions:
    - i. Recordings of labor negotiations strategy meetings shall be reclassified as public data and made accessible to the public after all labor contracts for the budget period are signed.
    - ii. Recordings of meetings related to the purchase or sale of property shall be reclassified as public data and made accessible to the public after all real or personal property discussed at the meeting has been purchased or sold or the District has abandoned the purchase or sale.
    - iii. Any other closed meeting may be reclassified or released as required by the order of a court of competent jurisdiction.
  - d. Recordings able to be reclassified as public data above shall be monitored to assure that reclassification and refileing occurs as a matter of course.
  - e. Recordings of closed meetings shall be separately maintained from the recordings of open meetings, except those recordings that have been reclassified as public data under Paragraph 5.C. above.
  - f. Recordings of closed meeting shall be preserved in a secure location separate from recordings of open meetings.
  - g. All recordings of closed meetings shall be labeled with the following information:
    - i. the date of the closed meeting;
    - ii. the reason the meeting was closed (See above).
    - iii. the classification of the data as non-public, and in the case of reclassification under Paragraph 5.C. above, the date the data was reclassified, and the reason for the reclassification;
    - iv. the name of the staff member securing the recording;
    - v. the date the recording is filed.

**Original Adoption:**

04/25/1967 (as Policy 8330)

**Revision Dates:**

10/12/1971, 12/12/1972, 01/14/1975, 09/09/1975, 11/12/1991, 08/11/2009, 02/09/2010, 08/13/2013

**Legal References:**

- Minn. Stat. Ch 12 (Minnesota Emergency Management Act of 1996)
- Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
- Minn. Stat. Ch. 13D (Open Meeting Law)
- Minn. Stat. §121A.47, Subd. 5 (Student Dismissal Hearing)

- Minn. Stat. §122A.33, Subd. 3 (Coaches; Opportunity to Respond)
- Minn. Stat. §122A.40, Subd. 14 (Teachers Discharge Hearing)
- Minn. Stat. §179A.14, Subd. 3 (Labor Negotiations)
  
- Dept. of Administration Advisory Opinion 04-004 (February 3, 2004)
- Brown v. Cannon Falls Township, 723 N.W.2d 31 (Minn. App. 2006)
- Brainerd Daily Dispatch v. Dehen, 693 N.W.2d 435 (Minn. App. 2005)
- The Free Press v. County of Blue Earth, 677 N.W.2d 471 (Minn. App.2004)
- Prior Lake American v. Mader, 642 N.W.2d 729 (Minn. 2002)
- Star Tribune v. Board of Education, Special School District No. 1, 507 N.W.2d 869 (Minn. App. 1993)
- Minnesota Daily v. University of Minnesota, 432 N.W. 2d 189 (Minn. App. 1988)
- Moberg v. Independent School District No. 281, 336 N.W. 2d 510 (Minn. 1983)
- Sovereign v. Dunn, 498 N.W. 2d 62 (Minn. App. 1993), rev. denied. (Minn.1993)

**MPS Policy Cross References:**

- Policy 1040 (Student and Staff Data Protection)
- Policy 5200 (Citywide Discipline Policy)
- Policy 8115 (Membership and Quorum)
- Policy 8220 (Meeting Agenda)
- Policy 8230 (Parliamentary Procedure)

**SECTION 7:            AMENDMENT** “Policy 8120: Standing Committees” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 8120: Standing Committees

**1. PURPOSE**

Work of the Board of Directors is complex. To more properly serve the students and community the Board is permitted to designate committees to conduct preparatory work on matters that will be considered by the Board as a whole.

**2. GENERAL STATEMENT OF POLICY**

- a. The Board may establish standing committees.
- b. Committee appointments shall be agreed upon by the directors at the annual meeting.
- c. The Superintendent shall appoint members of the administration to serve the needs of the standing committees.
- d. All committees will report on their work, their recommendations and findings to the full Board at a duly noticed regular, special or emergency meeting of the Board.
- e. No committee shall have more than five (5) total members, with one (1)

- member being the Board Chair who shall be appointed to every committee.
- f. The Clerk shall be the chair of the Policy Committee.
- g. The Treasurer shall be the chair of the Finance Committee.
- h. The Board Chair shall be the chair of the Committee of the Whole.
- i. All other committees shall select their chair.
- j. Each Standing Committee shall determine its own meeting schedule.
  - i. Meetings shall be noticed in the same manner as regular board meetings.
  - ii. Agenda for each meeting shall be available to the public at the meeting.
  - iii. A copy of all materials prepared for a standing committee meeting that is given to the Directors shall be available at the meeting for public review.

**Original Adoption:**  
04/25/1967

**Revision Dates:**  
12/12/1972, 01/14/1975, 10/09/1990, 11/12/1991, suspended 3/1/0/2009, 08/11/2009

**Cross References:**

- Policy 8110 (Purposes and Role of the Board)
- Policy 8200 (Annual Meeting)
- Policy 8210 (Meetings of the Board of Directors)
- Policy 8220 (Agenda)

**SECTION 8:**AMENDMENT “Policy 8220: Agenda” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 8220: Agenda

**1. PURPOSE**

The purpose of this policy is to establish the parameters of Board meeting agenda, the process for the construction of the agenda and the distribution of agenda supporting materials prior to the meeting.

**2. GENERAL STATEMENT OF POLICY**

- a. The proposed agenda for each meeting of the board of directors shall be constructed cooperatively by the Board Chair~~person~~ and the Superintendent.
- ~~b. A request for an agenda item to be placed on any particular agenda joined in by at least three (3) directors shall cause the inclusion of the item on that proposed agenda.~~

- c. Individual board directors may suggest items for inclusion on the proposed agenda to the Board Chairperson. Such requests shall be made ten (10) days in advance of the business meeting. Unless the request is joined by two other directors, or similar requests are made by at least two other directors, the Chairperson has the discretion to place the item on the agenda or not.
- d. A proposed agenda may include an item designated as the consent agenda comprised of many individual items intended to be voted on as a block.
  - i. Consent agenda items may not include:
    - (1) major policy, budget or taxing decisions;
    - (2) bond awards;
    - (3) items related to the Superintendent's contract; or
    - (4) items related to the evaluation of the Superintendent's performance.
  - ii. Consent agenda items may include previously budgeted or authorized matters.
  - iii. The consent agenda public details shall be published along with the main agenda.
  - iv. Prior to the approval of the meeting agenda, consent agenda items may be tabled, removed to the main agenda, or deferred to a date certain. This action requires a properly made and seconded motion of a director approved by a majority vote of the quorum.
- e. The proposed agenda may be amended by the Board Chairperson in consultation with the Superintendent before the motion to approve the agenda.
- f. The agenda for a regular meeting may be amended by deletions through a motion approved during the regular meeting's adoption of the agenda.
- g. The agenda is adopted only by an affirmative vote of the directors at the duly noticed meeting.
- h. Additional items not included on the published agenda may be considered under new business upon the properly made and seconded motion of a director approved by a majority vote of the quorum during adoption of the agenda.

### 3. MATERIALS SUPPORTING THE AGENDA

~~Agenda, minutes of earlier meetings and materials requiring advanced study shall be sent to Directors in advance of the meeting at which they will be considered on a schedule agreed by the directors.~~

- a. Agenda, minutes of earlier meetings, and other materials requiring advanced study prior to vote on an item proposed by the Superintendent of Schools, shall be sent to Directors no fewer than seven (7) days in advance of the meeting, except in emergency situations.
- b. In any open meeting a copy of any printed materials, except those identified in paragraph 3c (below), shall be available for inspection by the public while the Board considers their subject matter where the materials:
  - i. relate to the agenda items;
  - ii. are prepared or distributed by the Board or its employees; and
  - iii. are distributed to or are available to the Board.
- c. Materials not classified by law as public shall not be available for inspection by

- the public.
- d. Materials related to the agenda of a closed meeting are not available for inspection by the public.
- e. The District may establish:
- i. a process for persons to request personal copies of materials available for public inspection at an open meeting; and
  - ii. a schedule of fees for the production of those copies; and
  - iii. a system for posting materials online.

**Original Adoption:**

04/25/1967 (as Policy 9332)

**Revision Dates:**

10/12/1971, 12/12/1972, 10/30/1979, 08/11/2009

**MPS Policy Cross References:**

- Policy 8200 (Annual Meeting)
- Policy 8230 (Parliamentary Procedure)

**SECTION 9: AMENDMENT “Policy 8231: Voting” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:**

A M E N D M E N T

Policy 8231: Voting

**1. PURPOSE**

There may be occasions when the full board is not in attendance at a regularly noticed and called meeting, and an even number of directors shall constitute the board of directors present and able to conduct the business of the meeting. The purpose of this policy is to establish the required number of votes to approve a matter when an even number of directors is voting.

**2. GENERAL STATEMENT OF POLICY**

- a. In all cases where board policy states that a majority of the directors, a simple majority, or a majority of the quorum must approve a motion, resolution or complete an election, the word majority shall mean:

- i. in the case where a quorum of the board is established by an even number of directors, but less than the full board is in attendance, half of

- the quorum number plus one is required, and
- ii. in the case where the full board is in attendance, half of the number of those in attendance rounded up to the next full number.
- b. In all other matters not directly controlled by board policy requiring a vote of the board of directors, approval of the motion made or resolution proposed shall be:
- i. in the case where a quorum of the board is established by an even number of directors, but less than the full board is in attendance, a vote of half of the quorum number plus one is required, and
  - ii. in the case where the full board is in attendance or quorum is established by an odd number of directors, a vote of half of the number of those in attendance rounded up to the next full number is required.
- c. Except as otherwise allowed or required by board policy votes taken during a meeting of the board of directors may be by voice vote at the discretion of the chairperson.
- d. Any Student Representative appointed to the Board shall not vote on any proposed board action.
- e. The Superintendent, or Superintendent's designee attending the meeting for the Superintendent, shall not vote on any proposed board action.
- f. If a Director abstains from voting on an issue, it is recommended they announce their reason for the abstention.

**Original Adoption:**

11/11/2011

**Revision Dates:**

08/13/2019

**MPS Policy Cross References:**

- Policy 8115 (Membership and Quorum)
- Policy 8140 (Election of Officers)
- Policy 8220 (Agenda)
- Policy 8520 (Policy Development)

**SECTION 10:**            **AMENDMENT** "Policy 8500: Board Director Development" of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 8500: Board Director Development

**1. PURPOSE**

The purpose of this policy is to guide Board and Board Director orientation, training, development and self-evaluation necessary in order to fulfill their obligation to be prepared for their duties. Board members shall be prepared to manage board governance, budget planning and monitoring, and issues arising due to their identity as employers.

## 2. GENERAL STATEMENT OF POLICY

- a. In order to perform their responsibilities to the electorate, the State and the students, and in recognition of the need for training and development for its directors, the Board encourages its directors to participate in professional development activities.
- b. Directors have an obligation to:
  - i. become informed on the proper duties and functions of a school board member,
  - ii. become familiar with issues that may affect the school district,
  - iii. acquire a basic understanding of school finance, and
  - iv. acquire sufficient knowledge to comply with federal, state and local laws, rules, regulations and school district policies.
- c. The Board shall determine at its January board meeting a proposed two-year calendar of board training. A minimum of two (2) training sessions per calendar year shall be established. Sessions may include, but are not limited to topics such as:
  - i. Board Governance
    - (1) Activities designed to improve the workings of the board as a whole, which may include, but is not limited to the following:
      - (A) communications
      - (B) teamwork
      - (C) shared decision making processes
      - (D) effective school boards
      - (E) leadership
      - (F) shared responsibility
    - (2) The processes of budget planning and monitoring, including, but not limited to:
      - (A) Capital Planning and budgeting
      - (B) School Finance, Levy determinations
      - (C) Specific Budget allocations (Integration, Transportation, Nutrition, Special Education, Community Education, Compensatory funding)
    - (3) The processes involved in employer issues
      - (A) Negotiation of Collective Bargaining Agreements
      - (B) Employee Discipline
    - (4) Other topics chosen by the board.
- d. Board Directors shall not discuss, decide or receive information as a group relating to the official business of the district during Board professional development training sessions.
- e. Occasionally, it may be appropriate for school board Directors to travel out of

state to fulfill their obligations.

- f. Board Directors are expected to report back to the Board with materials of interest gathered at out of district meetings and workshops attended by individual members.
- g. Directors shall engage annually in an evaluation of their collective performance as a school board. The evaluation shall be a used to guide further development sought by the Board.

3. **ORIENTATION OF DIRECTORS**

It is important that Directors of the Board begin their service with the necessary preparation to be a full and effective member of the Board upon the commencement of their term of office. The complexities of the governance, management and control of the District are such that orientation of duly elected Directors is appropriate prior to their taking office. The purpose of this policy is to establish what orientation will be provided to duly elected board Directors.

- a. The sitting Directors of the Board and the administrative staff shall assist each Director-elect, upon election or appointment, to understand:
  - i. the Board's functions and organization;
  - ii. the Board's policies;
  - iii. the procedures and operations of the District, and
  - iv. Minnesota Statutes affecting the District.
- b. Orientation may be accomplished through any of the following means:
  - i. Provision of reading and research materials; which may include:
    - (1) a copy of the Board's policies,
    - (2) materials selected from those prepared by the Minnesota School Boards Association and the Council of Great City Schools,
    - (3) Superintendent's Regulations and Administrative Rules.
  - ii. Attendance at Board meetings, whether regular, special, or discussion;
  - iii. Attendance at Board retreats;
  - iv. Provision as allowed by law of materials supporting the agenda of any Board meeting or retreat;
  - v. Scheduled individual meetings with
    - (1) the Board;
    - (2) the Superintendent;
    - (3) other administrative personnel for the purpose of discussing the person's functions; and other agencies when feasible or necessary.

**Original Adoption:**

11/12/1991 (as Policy 8220)

**Revision Dates:**

08/14/2007, 08/11/2009, 01/09/2018, 09/10/2019

**Legal References:**

- Minn. Stat. § 123B.09, Subdivision 2 (School Board Member Training)

**MPS Policy Cross References:**

- Policy 3331 (Travel Expenses-Non Employees)
- Policy 8410 (Duties of Directors)
- Policy 8505 (Director Travel)

**SECTION 11:**        **REPEAL** “Policy 8400: Orientation Of Directors” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

**REPEAL**

~~Policy 8400: Orientation Of Directors~~ (*Repealed*)

**1. PURPOSE**

It is important that Directors of the Board begin their service with the necessary preparation to be a full and effective member of the Board upon the commencement of their term of office. The complexities of the governance, management and control of the District are such that orientation of duly elected Directors is appropriate prior to their taking office. The purpose of this policy is to establish what orientation will be provided to duly elected board Directors.

**2. GENERAL STATEMENT OF POLICY**

- a. The sitting Directors of the Board and the administrative staff shall assist each Director-elect, upon election or appointment, to understand:
  - i. the Board’s functions and organization;
  - ii. the Board’s policies;
  - iii. the procedures and operations of the District, and
  - iv. Minnesota Statutes affecting the District.
- b. Orientation may be accomplished through any of the following means:
  - i. Provision of reading and research materials; which may include:
    - (1) to a copy of the Board’s policies,
    - (2) materials selected from those prepared by the Minnesota School Boards Association and the Council of Great City Schools.
    - (3) Superintendent’s Regulations and Administrative Rules.
  - ii. Attendance at Board meetings, whether regular, special, or discussion;
  - iii. Attendance at Board retreats;
  - iv. Provision as allowed by law of materials supporting the agenda of any Board meeting or retreat;
  - v. Scheduled individual meetings with

- (1) the Board;
- (2) the Superintendent;
- (3) other administrative personnel for the purpose of discussing the person’s functions; and other agencies when feasible or necessary.

**Original Adoption:**

04/25/1967 (as Policy 8210)

**Revision Dates:**

12/12/1972, 11/12/1991, 08/11/2009

**Legal References:**

- Minn. Stat. §123B.09 Subd. 2 (School Board Member Training)

**MPS Policy Cross-References:**

- Policy 8500 (Board Director Development)
- Policy 8505 (Director Travel)

**SECTION 12:**            **RENUMBER** “Policy 8420: External Representation And Memberships” of the Minneapolis Public Schools Policies & Regulations is hereby *renumbered* as follows:

RENUMBER

Policy 8420: External Representation And Memberships

Policy ~~8420~~8525: External Representation And Memberships

**SECTION 13:**            **AMENDMENT** “Policy 8505: Director Travel” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 8505: Director Travel

**1. PURPOSE**

The purpose of this policy is to establish the limits of travel within and without the state for the purposes of Board Director Development.

**2. APPROPRIATE TRAVEL**

- a. Travel for which the Director intends to seek reimbursement from the school district must be pre-approved by the Board Chair.
- b. Out of State Travel.
  - i. Travel outside the state is appropriate when the school board finds it proper for Directors to acquire knowledge and information necessary to allow them to carry out their responsibilities as school board directors.
  - ii. Travel to regional or national meetings of school board associations is presumed to fulfill this purpose.
  - iii. The Board, on a case by case basis will determine and limit the numbers of Directors authorized to attend specific workshops and conventions where the expenses involved warrant such limitations and the travel is to be paid from the Board budget.
- c. Within State Travel. Travel within the State of Minnesota is appropriate when the Board finds it proper for Directors to acquire knowledge and information necessary to allow them to carry out their responsibilities as directors.
- d. All airfare, hotel accommodations and car rental shall be arranged through the district-approved vendor.

3. **BUDGET AND EXPENDITURE AUTHORIZATION**

- a. The Board may determine an annual professional development budget including an individual director allocation.
- b. The Board Chair, in consultation with Board Staff, shall approve director professional development and related travel expenditure requests. Provided there is sufficient budget available in the requesting director's allocation, no reasonable request shall be denied.

4. **REIMBURSABLE EXPENSES**

Director travel expenses shall be reimbursed on the same basis as other non-employee travel. Expenses to be reimbursed may include transportation, meals, lodging, registration fees, required materials, parking fees, tips and other reasonable and necessary school district related expenses.

5. **REIMBURSEMENT**

- a. Amounts to be reimbursed shall be within the school board's approved budget allocations, including attendance at workshops and conventions.
- b. Requests for reimbursement must be itemized on the official school district form and are to be submitted to the designated administrator.
- c. Automobile travel shall be reimbursed at the Federal mileage rate set by the Internal Revenue Service.
- d. Commercial air transportation shall reflect economy fares.
- e. All credits or benefits issued by any airline, hotel or rental car company for travel arranged for Director travel shall accrue to the benefit of the district.

6. **COMPLIANCE WITH OTHER DISTRICT POLICIES AND REGULATIONS**

- a. Arrangement and reimbursement of travel expenses shall follow the district policy for non-employee travel.
- b. The Superintendent is authorized to promulgate regulations for travel processes including reimbursement.

## 7. ANNUAL REVIEW

This policy must be annually reviewed by the Board of Directors.

### Original Adoption:

11/12/1991 (as Policy 8220)

### Revision Dates:

08/11/2009

### Legal References:

- Minn. Stat. §15.435 (Airline Travel Credit)
- Minn. Stat. § 123B.09, Subdivision 2 (School Board Member Training)
- Minn. Stat. § 471.661 (Out-of-State Travel)
- Minn. Stat. § 471.665 (Mileage Allowances)
- Minn. Op. Atty. Gen. No. 1035 (August 23, 1999) (Retreat Expenses)
- Minn. Op. Atty. Gen. No. 161b-12 (August 4, 1997) (Transportation Expenses)

### MPS Policy Cross References:

- Policy 3331 (Travel Expenses: Non-employee)
- Policy 8410 (Duties of Directors)
- Policy 8500 (Board Director Development)

**SECTION 14:**        AMENDMENT “Policy 8550: Electronic Communication” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

### AMENDMENT

Policy 8550: ~~Electronic Communication~~ Communications and Community Relations

#### 1. PURPOSE AND GENERAL STATEMENT OF POLICY

~~The Board of Education, Special School District No. 1, Minneapolis Public Schools is committed to operating through the requirements of the Open Meeting Law. Electronic communication possibilities create special circumstances that, unless addressed, could lead to unintentional violations of that commitment. The purpose of this policy is to establish how individual directors should use electronic communications to communicate with each other and with the public.~~

Effective communication and board/community relations benefit the entire school district and community. The purpose of this policy is to establish clear, consistent, and compliant procedures for all electronic communications involving School Board Directors. Use of electronic communication (e-mail, blogs, and social media) should

conform to the same standards of judgment, propriety and ethics as other forms of school board related communication.

## **2. APPLICABILITY AND DEFINITIONS**

This policy applies to all communication by School Board Directors conducted via electronic means related to official district business, whether by a district-issued or personal device.

### a. Definitions:

- i. “Electronic communication” means any communication conducted other than verbally, including but not limited to via email, social media, text messages, chat system, or comment functions.
- ii. “Social media platform” means internet and mobile-based applications, websites and functions, other than email, with a focus on immediacy, interactivity, user participation, and information sharing. These venues include social networking sites, forums, blogs, vlogs, microblogs, online chat sites, and video/photo posting sites or any other such similar output or format. Examples include Facebook, Instagram, Twitter, YouTube, NextDoor, TikTok, Snapchat, Vimeo and emerging new web-based platforms generally regarded as social media or having many of the same functions as those listed.
- iii. “Content” means any posts, writings, material, documents, photographs, graphics, videos, links, or other information that is created, posted, distributed, or transmitted via Social Media.
- iv. “Official district business” means any matter over which School Board or School District has any authority, administrative duties, or advisory duties.
- v. “District-utilized social media platforms” means any system used in an official and consistent capacity by the District’s Communication Department.
- vi. “Government Data” means data, both public and not public, as defined by the MN Government Data Practices Act and/or the Family Educational Rights and Privacy Act (FERPA).
- vii. “Constituent” means a person residing with the election district of a School Board Director.
- viii. “Board Staff” means the Board Administrator and Executive Assistant to the Board.

## **3. ELECTRONIC COMMUNICATION AMONG DIRECTORS**

## **4. GENERAL STATEMENT OF POLICY**

- a. Use of electronic communication (e-mail, blogs, and social media) should conform to the same standards of judgment, propriety and ethics as other forms of school board related communication.
- b. Directors shall not use electronic communication of any kind e-mail as a substitute for deliberations at duly called and noticed board meetings or for other communications or business properly confined to board meetings.
- c. ~~Board members~~ Directors should be aware that electronic communications,

including attachments, received or prepared for use in board business or containing information relating to board business are likely to be regarded as public records, which may be inspected by any person upon request, unless otherwise made confidential by law.

- d. ~~Directors~~ ~~Board members~~ shall avoid reference to confidential information about employees, students or other matters in electronic communications because of the risk of improper disclosure. Board members should comply with the same standards as district employees with regard to confidential information.
- e. Electronic communication of meeting materials should generally be conducted in a one-way communication from the Chair, Clerk, or ~~Clerk's~~ their designee to the Directors.
- f. Inquiries regarding meeting materials should be directed directly back to the Chair, Clerk or ~~the clerk's~~ their designee. If the clarification, or answer to the inquiry is one of value to other Directors, the Chair, Clerk, or ~~Clerk's~~ their designee may send follow-up materials or information to the Board.
- g. During a public meeting Directors shall not communicate via electronic means with members of the public. Directors may communicate with District Staff or other Board Members on process issues.
- h. Directors wishing to share information with other members should do so through the Chair, Clerk, or ~~Clerk's~~ their designee. Such information shall not invite response or discussion outside of a public meeting. Any materials so distributed that relate to agenda items must be made available to the public.
- i. Directors may communicate with one other Director via electronic means.
- j. Directors shall not forward individual communications to other directors.
- k. Directors who receive list-serve distributions, electronic newsletters, or participates in electronic discussion forums where other Directors are likely to participate should not reply to any distribution or comment so that the reply is copied to the entire distribution group, or any part of the group that might include other Directors. The Director may reply directly to a sender of a message.

## 5. COMMUNICATION WITH CONSTITUENTS

- a. Individual communication between one director and one constituent are considered not public data, unless either party decides to make it public. Communication involving more than one director, or any district staff, are presumed to be public data.
- b. Directors must not convey any message on behalf of the entire board, unless that matter that has been approved by majority vote of the Board.
- c. Directors shall submit any constituent inquiry that requires district staff support for a response by e-mail to Board Staff.
- d. Board staff will coordinate with district staff to provide a response to the Director and/or constituent.
- e. The Board office and district staff will make every effort to respond consistently within a reasonable amount of time. If a substantial amount of time is required to prepare a response, staff will let the director know.

6. **COMMUNICATION WITH DISTRICT STAFF**

- a. Outside of a duly noticed Board or Committee meeting, any requests for information must be submitted through the Board Office and not directly to district staff.
- b. Beyond basic information, any requests for staff action must be made directly to the Superintendent and a copy to the Board Administrator in writing to prevent the Board from directing the work of District staff or expecting District staff to adjust their work schedules.

7. **SOCIAL MEDIA**

Social media has become an increasingly important part of our ability to communicate with families, students, staff, and the community. The Board recognizes the need to embrace this valuable avenue of communication and engagement in order to serve our students and constituents. The Board also recognizes the need to use these powerful tools responsibly in an ever-changing environment. The purpose of this section is to establish procedures and limitations to ensure effective and legal use of these tools.

- a. If a Director wishes to utilize any social media platform to communicate on official district business matters or on any subject or topic using their title of School Board Director, they must adhere to the provisions in this section, including:
  - i. Compliance with Board Policy 4038 and any related regulations or procedures
  - ii. Limit use to district-utilized platforms through the accounts established by District Staff, which shall be retained by the district after the director leaves office
  - iii. Requirements of the MN Open Meeting Law
  - iv. Requirements of the MN Data Practices Act
- b. Any communication regarding official district business on any personal social media platforms is subject to this policy, whether the Director uses a district-issued account or personal device.
- c. Campaign-related activity is prohibited on district-established social media platforms. Directors shall maintain a separate account for these purposes, while using caution to not engage in official district business.
- d. Directors must consult with Board Staff, Communications Staff, or the District's General Counsel before blocking users or deleting or hiding posts or comments on district-established social media accounts.

8. **SCHOOL VISITS BY BOARD DIRECTORS**

- a. Directors shall work with the Board Office to schedule a visit and to communicate the purpose of the visit.
- b. The visit should be scheduled so as to provide the school principal the courtesy of advance notice, to avoid potential conflicts with student testing, staff evaluations, or other critical activity necessitating the attention or presence of the school principal.
- c. In the event of such conflict, the Board Office will schedule the visit for a mutually convenient time.

d. The principal or designee will accompany Directors while visiting their school and be available to answer any questions that may arise and/or provide additional context to what is being observed.

**9. PUBLIC PARTICIPATION AND BOARD MEETINGS**

The Board of Directors of Special School District No. 1 encourages all citizens to support the District's mission. The Board is dedicated to compliance with the Minnesota Open Meeting law. Board Meetings also serve as a means of communication with the public regarding district business. The Board also recognizes the importance of hearing the interests and concerns of citizens regarding the schools in formulating District policy and pursuing the District's mission.

a. All citizens are welcome to attend Board meetings not legally closed to the public.

b. Meetings of the Board are conducted for the purpose of carrying on the business of the schools. They are therefore not public meetings, but meetings held in public.

c. A journal recording the action taken at the meeting shall be kept showing how each director voted on resolutions and motions. The journal may be posted online and shall be available during regular business hours for public view at the District's central office.

d. In order that the Board may fairly and adequately discharge its responsibility, citizens shall be requested to direct requests, presentations and proposals to the Superintendent. The Superintendent or Superintendent's designee will advise the proposer according to presentation rules established by the Board.

e. The Board may establish a process to receive comments during regular business board meetings. The current process can be found here: <https://board.mpls.k12.mn.us/comment>.

**10. APPLICABILITY**

~~This policy applies regardless of whether the electronic communication is taking place:~~

~~a. on a:~~

~~i. district-provided computer, or electronic device,~~

~~ii. personal computer, or electronic device,~~

~~iii. computer or electronic device provided by the Director's employer~~

~~b. through a:~~

~~i. district provided e-mail account,~~

~~ii. personal e-mail account or address~~

~~iii. social network page or website~~

~~iv. email address provided by the Director's employer.~~

**Original Adoption:**

08/11/2009

**Revision Dates:**

8/14/2015

**Legal References:**

- Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
- Minn. Stat. Ch. 13D (Open Meeting Law)

**MPS Policy Cross References:**

- Policy 1040 (Student and Staff Data Protection)
- Policy 6415 (Internet and Educational Network Use)
- Policy 8210 (Meetings of the Board of Directors)
- Policy 8220 (Agenda)

**SECTION 15:**            **REPEAL** “Policy 1200: Board Meetings And Public Participation” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

**REPEAL**

~~Policy 1200: Board Meetings And Public Participation~~ (*Repealed*)

**1. PURPOSE**

The Board of Directors of Special School District No. 1 encourages all citizens to support the District’s mission. The Board is dedicated to compliance with the Minnesota Open Meeting law. Board Meetings also serve as a means of communication with the public regarding district business. The Board also recognizes the importance of hearing the interests and concerns of citizens regarding the schools in formulating District policy and pursuing the District’s mission.

**2. GENERAL STATEMENT OF POLICY**

- a. All citizens are welcome to attend Board meetings not legally closed to the public.
- b. Meetings of the Board are conducted for the purpose of carrying on the business of the schools. They are therefore not public meetings, but meetings held in public.

**3. VOTING RECORDS**

- a. A journal recording the action taken at the meeting shall be kept showing how each director voted on resolutions and motions.
- b. The journal shall be available during regular business hours for public view at the District’s central office.

**4. PUBLIC PRESENTATIONS**

- a. In order that the Board may fairly and adequately discharge its responsibility, citizens shall be requested to direct requests, presentations and proposals to the Superintendent. The Superintendent or Superintendent's designee will advise the proposer according to presentation rules established by the Board.
- b. The Board may establish rules for public reports, presentations, requests and proposals. The intent of the rules includes, but is not limited to:
  - i. allowing a fair and adequate opportunity for all persons who wish to be heard;
  - ii. allowing the Superintendent to:
    - (1) take direct action; or
    - (2) recommend action to the Board when established district policies apply to the report, presentation, request or proposal.
  - iii. providing adequate time for the Board to obtain necessary information and to develop Board direction on the topic where:
    - (1) no existing district policy applies;
    - (2) a change of district policy is proposed; or
    - (3) an exception to existing policy is specifically requested.
  - iv. assuring that time so devoted does not interfere with the agenda fulfillment of the Board.
- c. Requests, presentations, and proposals to the Board from members of the public may be made at times designated by the Board.
  - i. The Board may establish time limits for individual and group presentations.
  - ii. The Board may establish time on a regular business meeting agenda for presentations that are limited as to subject matter to those items on the meeting's agenda.
  - iii. The Board may establish times for presentations on any topic.
- d. Persons wishing to address the board may be required to register their request in writing.
- e. The Board may make rules as to which public presentation times are broadcast.
- f. Board adopted rules regarding public presentation shall be published

**Original Adoption:**

04/25/1967

**Revision Dates:**

10/12/1971, 01/20/1973, 11/25/1975, 11/30/1976, 11/10/2009

**Legal References:**

- Minn. Stat. Chapter 13D (Minnesota Open Meeting Law)

**MPS Policy Cross References:**

- Policy 1040 (Student and Staff Data Protection)

- Policy 1150 (Media Relations)
- Policy 1300 (Participation by the Public)
- Policy 1541 (Response to Violence and Disruption)
- Policy 1580 (Soliciting, Peddling and Canvassing on District Grounds)
- Policy 8200 (Annual Meeting)
- Policy 8210 (Meetings of the Board of Directors)
- Policy 8220 (Meeting Agenda)
- Policy 8231 (Voting)
- Policy 8410 (Duties of Directors)

**SECTION 16:**            **EFFECTIVE DATE** Section 7 in the amendment to Policy 8505 shall be effective July 1, 2021. All other changes shall be effective immediately upon approval.

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

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

Presiding Officer

Attest

\_\_\_\_\_  
Kim Ellison, Chair, Minneapolis  
Public Schools

\_\_\_\_\_  
Josh Pauly, Clerk, Minneapolis Public  
Schools

# Minneapolis Board of Education

Legislative  
Update

May 11, 2021

# Legislative Update

*Josh Downham, Director, Government Relations*

# 2021 Regular Session Wrapping Up

- Regular session must adjourn on May 17
- Two year state budget must be adopted by June 30
- House - Senate conference committees working on budget bills
- Legislative Leaders and Governor Walz attempting to reach agreement on budget targets for conference committees
- Additional issues making negotiations challenging:
  - Criminal justice and policing reforms
  - Governor's continued use of emergency authority
  - Control over allocation of America Rescue Plan funds (\$2.6 billion)
  - Overall size of state budget and tax policy differences

# Omnibus E-12 Education Conference Committee

**House conferees:** Rep. Jim Davnie (Chair), Rep. Ruth Richardson, Rep. Hodan Hassan, Rep. Laurie Pryor and Rep. Ron Kresha

**Senate conferees:** Sen. Roger Chamberlain (Chair), Sen. Zach Duckworth, Sen. Gene Dornink, Sen. Justin Eichorn and Sen. Chuck Wiger

Omnibus education bills contain provisions related to early education, education policy and education finance:

- House bill allocates **\$724 million** in Pre-K - 12 funding and **\$48 million** in early education funding over current law
- Senate bill allocates **\$152 million** in Pre-K - 12 funding over current law

# Provisions in Omnibus Education Bills

House Omnibus Education Bill	Senate Omnibus Education Bill
2% general education increase each year	none
Links general education formula to inflation	none
\$29 mil increase in English Learner funding	none
\$78 mil in special education funding	none
\$38 million for recruitment and retention of teachers of color and American Indian teachers	\$18 million for recruitment and retention of teachers of color and American Indian teachers
none	Education Savings Accounts (vouchers)
Board renewal of current operating levies	none



## **Cruz Guzman Lawsuit Tentative Settlement**

- Informational hearing in the House Education Finance Committee
- No Republican author in the Senate
- No hearing in the Senate

## **Page Constitutional Amendment**

- Hearing in the House Education Policy Committee, no amendments or votes taken
- No hearing in the Senate
- Constitutional amendments typically considered in non-budget sessions

## Next Steps

- Urge Senators to agree to \$750 million over current law for public schools
- Encourage them to adopt the House provision tying the general education formula to inflation
- Highlight the needs of schools, families and students when you call or email
- Ask your local legislator to talk to House and Senate Leadership about these critical issues
- Thank Governor Walz and the Minnesota House for prioritize public schools and students

# Questions?



# Minneapolis Public Schools 2021-22 Budget

May 11, 2021

# FY 2021-22 Budget Proposal

May 11, 2021

# Proposed Resolution

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

June 8, 2021

## RESOLUTION TO APPROVE THE DISTRICT'S 2021-2022 BUDGET

WHEREAS, the District's budget is as follows:

	REVENUE	EXPENSES
General Operating Fund	\$518,494,679	\$520,081,147
General Fund Grants	\$126,427,520	\$126,427,520
General Fund Special Revenue	\$9,000,000	\$9,000,000
Food Service Fund	\$22,344,000	\$22,344,000
Food Service Fund Grants	\$38,148	\$38,148
Community Service Fund	\$26,560,928	\$28,628,664
Community Service Fund Grants	\$6,306,484	\$6,306,484
Capital Projects Fund	\$84,235,000	\$125,625,000
Debt Service Fund	<u>\$96,960,244</u>	<u>\$96,960,244</u>
Total	\$890,387,003	\$935,411,207

AND WHEREAS, there is a planned use of Q Comp designated fund balance of \$672,036, a planned use of Extended Learning designated fund balance of \$914,432 in the General Operating Fund, a planned use of Community Service Fund designated fund balance of \$2,067,736, and a planned use of Capital Projects Fund designated fund balance of \$41,390,000.

NOW, THEREFORE BE IT HEREBY RESOLVED, the Board of Directors of Special School District No. 1 approves the above mentioned revenue and expenditure budget for the fiscal year 2021-2022.

Signed by:

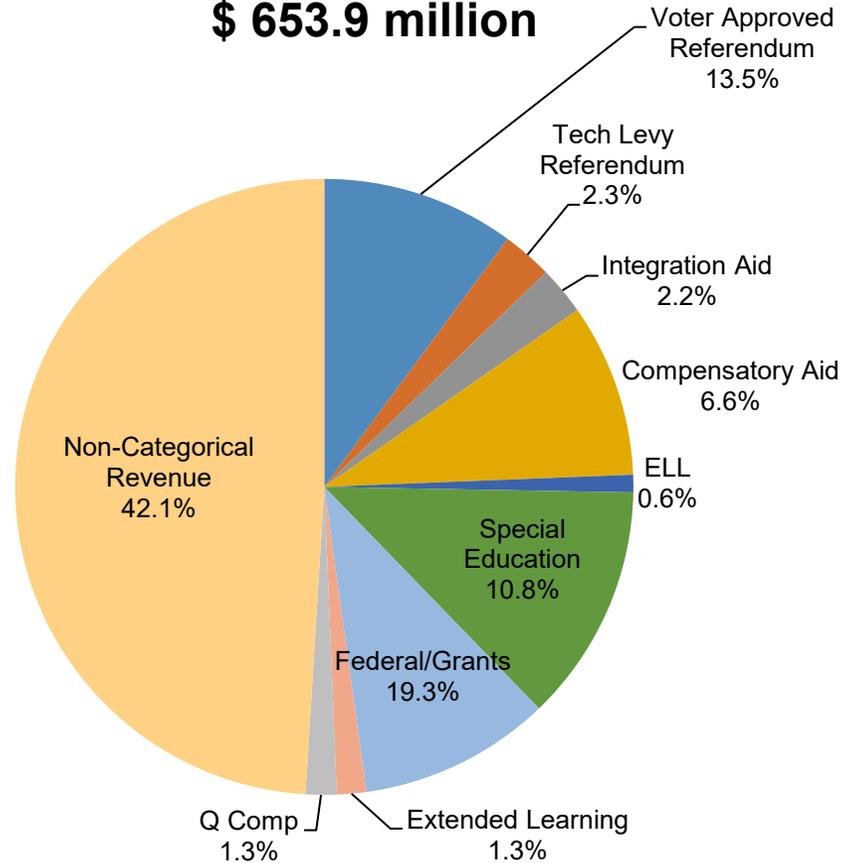
\_\_\_\_\_  
Kim Ellison Date  
Board of Education Chairperson

\_\_\_\_\_  
Josh Pauly Date  
Board of Education Clerk

# FY 2021-22 Budget

# 2021-22 Projected General Fund Revenue

## 2021-22 Projected Revenue: \$ 653.9 million



Voter Approved Referendum	\$88,111,362
Tech Levy Referendum	\$14,791,925
Integration Aid	\$14,138,083
Compensatory Aid	\$43,077,023
ELL	\$4,006,800
Special Education	\$70,862,571
Federal/Grants	\$126,427,520
Extended Time	\$8,376,529
Q Comp	\$8,755,874
Non-Categorical Revenue	\$275,374,512
<b>Total Revenue</b>	<b>\$653,922,199</b>

# Department Priorities

# Department General Fund Priorities

- Increase for mental health support (\$1.2M)
- Increase for middle school athletics (\$250K)
- Science curriculum adoption (\$800K)
- Management Analyst for Data Practice Compliance added to Board Office (\$111K)
- Special Education – increased budget for tuition billing (\$1M)
- Additional Social Worker, Psychologist, Nurse, and Counselor positions (\$1.5M)
- Teaching & Learning – 5<sup>th</sup> grade music teachers (\$1.5M)
- Set aside to address unfinished learning for students (\$8.0M)
- Universal access and hotspots (\$11.3M)
- MTSS professional development (\$800K)
- Health and Safety (\$750K)

# FY 2021-22 Budget Summary Department Allocations

Department	Total General Fund 2021-22	Total Allocation ALL FUNDS 2021-22
<b>Board of Education</b>	\$548,497	\$548,497
Board Office	\$371,896	\$371,896
Total Division	\$920,393	\$920,393
<b>Superintendent Office</b>	\$1,670,442	\$1,670,442
Office of Associate Superintendents	\$923,877	\$923,877
Athletics	\$3,804,714	\$3,804,714
Contract Alternative Department	\$981,973	\$981,973
Contract Schools	\$6,421,760	\$6,421,760
Homeless Highly Mobile & Foster Care	\$1,218,538	\$1,218,538
Health Services	\$5,329,955	\$5,762,364
Spec Ed Department	\$10,796,670	\$10,796,670
Adaptive Physical Education	\$1,750,560	\$1,750,560
Mental Health Support	\$1,304,780	\$1,304,780
MPS Deaf/Hard of Hearing	\$1,812,542	\$1,812,542
Occupational/Physical Therapist	\$4,826,720	\$4,826,720
Psychology Services	\$3,581,354	\$3,581,354
SEA Cadre	\$916,348	\$916,348
Social Work Services	\$371,487	\$371,487
Spec Ed Due Process Clerical	\$581,646	\$581,646
Spec Ed Interpreters	\$826,880	\$826,880
Spec Ed Monitoring & Compliance	\$666,471	\$666,471
Spec Ed Program 1	\$1,548,486	\$1,548,486
Spec Ed Program 3	\$1,761,878	\$1,761,878
Spec Ed Program 4	\$906,724	\$906,724
Spec Ed Support	\$624,138	\$624,138
Speech Language Clinicians	\$9,964,622	\$9,964,622
Total Division	\$62,592,565	\$63,024,974
<b>General Counsel/Legal</b>	\$1,869,162	\$1,925,467
Expulsions and Transfers	\$206,364	\$206,364
Office of Equality & Civil Rights	\$309,541	\$309,541
Total Division	\$2,385,067	\$2,441,372

# FY 2021-22 Budget Summary Department Allocations

Department	Total General Fund 2021-22	Total Allocation ALL FUNDS 2021-22
<b>Office of Senior Executive Officer</b>	\$670,689	\$670,689
Engagement & External Relations	\$1,827,267	\$1,827,267
Family Resource Center	\$293,862	\$293,862
Marketing & Communications	\$1,783,958	\$1,783,958
Office of the Ombudsperson	\$361,757	\$361,757
Student Placement & Enrollment Mgmt	\$1,147,561	\$1,147,561
<b>Total Division</b>	<b>\$6,085,094</b>	<b>\$6,085,094</b>
<b>Office of Academics</b>	<b>\$596,849</b>	<b>\$596,849</b>
Academic Programming	\$0	\$0
Teaching & Learning	\$18,315,456	\$18,315,456
Educator Professional Development	\$1,504,550	\$1,504,550
AVID	\$1,083,763	\$1,083,763
On-line Learning	\$1,351,203	\$1,351,203
College Career Readiness	\$1,519,571	\$1,519,571
STEM/CTE	\$495,416	\$495,416
Guidance & Counseling	\$846,735	\$846,735
Check & Connect	\$658,549	\$658,549
KBEM	\$924,637	\$924,637
Non Public Guidance & Counseling	\$0	\$800,366
Multilingual	\$3,393,121	\$3,393,121
K- 8 Extended Learning Admin	\$8,086,979	\$8,621,556
6-8 Extended Learning After School	\$1,154,420	\$1,154,420
6-8 Extended Learning Summer School	\$590,429	\$590,429
K - 5 Extended Learning/After School	\$2,954,468	\$2,954,468
K - 5 Extended Learning/Summer School	\$1,840,105	\$1,840,105
9-12 Extended Learning Summer School	\$627,761	\$627,761
9-12 Extended Learning After School	\$201,047	\$201,047
Student Activities	\$300,000	\$300,000
Gear Up	\$150,000	\$150,000
Office of Black Male Student Achievement	\$1,475,159	\$1,475,159
Community Education Youth & Adult	\$257,299	\$6,131,936
Minneapolis Kids	\$0	\$6,866,903
Community Program Admin	\$0	\$998,582
Adult Basic Education	\$326,484	\$6,746,163

# FY 2021-22 Budget Summary Department Allocations

	Total General Fund 2021-22	Total Allocation ALL FUNDS 2021-22
<b>Department</b>		
Full Service Community Schools	\$0	\$655,301
Early Childhood Family Ed Program 1	\$270,872	\$4,782,355
ECFE Support	\$0	\$268,702
Early Childhood	\$564,679	\$2,510,830
Early Childhood Prog 2	\$444,951	\$956,107
Teen Parent Services	\$1,062,388	\$1,168,854
Indian Education	\$1,865,228	\$1,865,228
<b>Total Division</b>	<b>\$52,862,119</b>	<b>\$82,356,122</b>
<b>Information Technology</b>	<b>\$18,892,174</b>	<b>\$28,892,174</b>
Design & Training	\$976,467	\$976,467
Enterprise Infrastructure	\$1,122,128	\$1,331,064
Enterprise Systems	\$279,536	\$279,536
IT Field Support Group 1	\$1,357,673	\$1,357,673
IT Field Support Group 2	\$1,482,371	\$1,482,371
IT Operations	\$848,311	\$848,311
IT Service Management	\$156,915	\$156,915
IT Solution Center	\$1,230,414	\$1,230,414
<b>Total Division</b>	<b>\$26,345,989</b>	<b>\$36,554,925</b>
<b>Accountability Research &amp; Evaluation</b>	<b>\$1,142,830</b>	<b>\$1,142,830</b>
Accountability, Innovation & Research	\$173,188	\$173,188
Research & Assessment	\$2,068,911	\$2,088,911
Equity & Integration	\$2,062,683	\$2,062,683
Social Emotional Learning	\$737,828	\$737,828
Positive School Wide Engagement	\$576,000	\$576,000
Accountability & Evaluation	\$581,565	\$581,565
Funded Programs/Accountability & Evaluation	\$2,219,616	\$2,219,616
NCLB Admin/Accountability & Evaluation	\$1,794,995	\$1,794,995
Non Public Schools/Accountability & Evaluation	\$2,293,467	\$2,293,467
Non Public Staff	\$0	\$0
<b>Total Division</b>	<b>\$13,651,083</b>	<b>\$13,671,083</b>

# FY2021-22 Budget Summary Department Allocations

Department	Total General Fund 2021-22	Total Allocation ALL FUNDS 2021-22
<b>Operations</b>	\$657,271	\$1,139,354
Capital Projects, Const & Maintenance	\$26,303	\$88,752,106
Construction Planning Group A	\$0	\$821,991
Construction Planning Group B	\$0	\$756,411
Facilities Planning	\$2,880,000	\$3,123,552
Utilities	\$13,131,881	\$13,131,881
Operational & Security Services	\$962,218	\$962,218
High School Specialists	\$834,761	\$834,761
Citywide Specialists	\$722,825	\$722,825
District Communication Center	\$1,492,634	\$1,492,634
Environmental Health & Safety	\$1,136,867	\$1,136,867
Electric Shop	\$171,574	\$1,651,057
Electronics Shop	\$319,949	\$1,276,992
Carpenter Shop	\$0	\$2,207,167
Paint Shop	\$0	\$1,861,772
Pipefitting Shop	\$79,825	\$5,599,567
Fire Sprinkler Shop	\$412,664	\$463,264
Plant Maintenance	\$0	\$6,510,084
Plumbing Shop	\$87,166	\$1,668,871
Sheetmetal Shop	\$689,824	\$4,421,674
Grounds	\$1,494,981	\$1,565,694
Plant Operations	\$4,014,680	\$4,014,680
Engineers to Schools Zone 1	\$7,273,630	\$7,273,630
Engineers to Schools Zone 2	\$8,508,727	\$8,508,727
Transportation	\$36,936,687	\$36,936,687
Mail Center	\$151,306	\$151,306
Culinary Wellness Services	\$0	\$22,356,643
<b>Total Division</b>	<b>\$81,985,773</b>	<b>\$219,342,415</b>

# FY2021-22 Budget Summary Department Allocations

Department	Total General Fund 2021-22	Total Allocation ALL FUNDS 2021-22
<b>Chief Financial Officer</b>	\$1,499,566	\$1,622,312
Accounting & Finance	\$1,089,617	\$1,350,418
Accounts Payable & Vendor Support	\$328,979	\$328,979
Budget Operations	\$1,114,613	\$1,114,613
Finance	\$204,000	\$204,000
Grants Accounting	\$381,604	\$381,604
Payroll	\$466,151	\$466,151
Procurement	\$445,577	\$631,784
Grants Office	\$249,743	\$249,743
Risk Management	\$145,416	\$249,963
Total Compensation	\$879,472	\$879,472
<b>Total Division</b>	<b>\$6,804,738</b>	<b>\$7,479,039</b>
<b>Chief of Human Resources</b>	\$1,357,952	\$1,357,952
Grow Your Own	\$0	\$0
HRIS	\$563,943	\$563,943
Human Resources	\$193,815	\$193,815
Teacher Development	\$5,233,833	\$5,233,833
Labor/Employee Relations	\$499,750	\$619,343
Talent Acquisition	\$1,554,033	\$1,640,788
Talent Management	\$280,659	\$280,659
Union Leadership	\$670,708	\$670,708
Reserve Teachers	\$5,000,000	\$5,000,000
<b>Total Division</b>	<b>\$15,354,693</b>	<b>\$15,561,041</b>
Achieve Mpls	\$180,000	\$180,000
Contingency CDD & Staff Adjustment	\$3,000,000	\$3,000,000
<b>Grand totals</b>	<b>\$272,167,514</b>	<b>\$450,616,458</b>

# School Allocations

# Predictable Staffing

- **Predictable Staffing Continues for SY2021-2022**
- Principals/Assistant Principals | Secretaries | Office Assistants (middle and high schools) | Academic Specialists | Classroom Teachers/Prep | Health Service Assistants | Counselors | Security Monitors (middle and high schools) | Associate Educators | Social Workers

# FY2021-22 Budget Summary School Allocations

School Allocations Comparisons			
Enrollment	32,292	31,078	-1,214
ELL Students	6,205	5,727	-478
Funding Type	FY 20-21 Allocation	FY 21-22 Allocation	Difference between FY 20-21 & FY 21-22
Principals/Asst Principals	\$19,225,322	\$19,820,327	\$595,005
Class Size Referendum	\$72,284,496	\$68,211,819	(\$4,072,677)
Class Size General Fund	\$72,704,038	\$67,561,612	(\$5,142,426)
Basic Per Student	\$14,168,096	\$14,183,794	\$15,698
Career Tech Education	\$2,650,295	\$2,860,915	\$210,620
School Within A School	\$1,952,705	\$1,839,732	(\$112,973)
Translation/Language Line	\$320,000	\$320,000	\$0
Comp Ed 1031	\$44,881,311	\$41,770,968	(\$3,110,343)
Special Ed SERT	\$18,285,995	\$17,595,526	(\$690,469)
Special Education Citywide Program	\$61,835,100	\$60,696,144	(\$1,138,956)
Special Education Citywide Prog - Federal	\$2,311,916	\$1,458,215	(\$853,701)
ELL	\$5,065,227	\$3,301,056	(\$1,764,171)
ELL - Referendum	\$11,716,536	\$11,553,694	(\$162,842)
Development Dual Language - Referendum	\$204,656	\$50,016	(\$154,640)
IB	\$1,310,141	\$1,799,492	\$489,351
Advanced Academics	\$954,624	\$2,976,896	\$2,022,272
Differentiation Specialists - Referendum	\$2,711,643	\$2,706,833	(\$4,810)
Magnet Schools	\$799,941	\$2,676,584	\$1,876,643
Small School Adjustment	\$268,401	\$221,600	(\$46,801)
Targeted Programming	\$3,018,654	\$4,068,925	\$1,050,271
Athletic Directors	\$771,417	\$788,438	\$17,021
Q Comp-21	\$3,254,888	\$3,238,716	(\$16,172)
Integration AVID	\$1,893,071	\$1,740,552	(\$152,519)
Integration RIS	\$2,005,101	\$1,042,312	(\$962,789)
Integration BARR Coordinator	\$102,329	\$100,032	(\$2,297)
Integration HS Teaching Pathway	\$81,862	\$220,070	\$138,208
Voluntary Pre-Kindergarten	\$1,304,214	\$638,264	(\$665,950)
High 5	\$3,554,468	\$4,359,109	\$804,641
Fund 4 High 5	\$991,591	\$1,322,953	\$331,362
Title I	\$12,668,443	\$11,225,435	(\$1,443,008)
Title I Homeless Highly Mobile	\$41,980	\$0	(\$41,980)
Title II	\$40,000	\$40,000	\$0
Title IV	\$402,324	\$0	(\$402,324)
Other Grants	\$1,798,181	\$1,665,732	(\$132,449)
Funded Programs	\$3,467,873	\$1,803,834	(\$1,664,039)
<b>Total:</b>	<b>\$369,046,839</b>	<b>\$353,859,595</b>	<b>(\$22,801,297)</b>

# Budget Assumptions

- Enrollment decline of approximately 1,349 students.
- Predictable staffing model at schools will continue in FY21-22.
- The FY21-22 is balanced using ESSER II funds.

# COVID-19 Assumptions

- FY22 budget uses \$7M of ESSER I and \$1M of GEER carryforward.
- Of the Initial award of \$71,005,780 in ESSER II dollars, this budget uses \$64.1M.
- This budget does not include any American Rescue Plan dollars as they have not yet been awarded.

# Budget Alignment to the Board's Values

# Budget Alignment to the Board's Values

## Human Resources

- Strategies to recruit and retain staff of color
- Predictable staffing, including differentiation specialist
  - Ongoing implementation of the Predictable Staffing model to support equitable school staffing levels

## Finance

- Fund Balance restoration
- Balanced Budgets
- Support Central offices and Schools

## Research, Evaluation & Assessment (REA)

- School climate resources to support climate framework that will improve student retention, family and staff experiences, and student learning, Equity and Restorative Practices professional development
- Additional investment in parent and youth participatory evaluation
- Additional resources to support magnet schools for integrated learning opportunities

# Budget Alignment to the Board's Values

## IT Services

- Creation of training resources and learning modules
- Support of software systems and data platforms
- Technology support for all staff who deliver instruction aligned to the district priorities

## Special Education

- Investment in Math Recovery which is an intervention that addresses number sense goals on student IEPs
- Realignment of Citywide programming to be more equitable in where the programming is located and the addition of special education staff at targeted sites to reduce the need for students to move to another school due to needing more intensive interventions.
- Continued investment in special education reading investments across grade bands.

## Operations

- Invested in additional plant operations resources for cleaning and disinfecting
- Continued air quality mitigations
- Support for the district's Emergency Management functions

# Budget Alignment to the Board's Values

## External Relations

- Additional investment in interpretation and translation services
- Additional investment in videography to support EL families
- Additional investment in improving school websites

## Academics

- Addition of school counselors in partnership with the Office of Higher Education
- MTSS across grade levels
- Increasing dual language allocation for curriculum development, resources, materials, and professional development

# QUESTIONS?

# To learn more:

Visit [www.mpls.k12.mn.us](http://www.mpls.k12.mn.us) and click on 'Budget'

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

June 15, 2021

**RESOLUTION TO APPROVE THE DISTRICT'S 2021-2022 BUDGET**

**WHEREAS**, the District's budget is as follows:

	REVENUE	EXPENSES
General Operating Fund	\$518,494,679	\$520,081,147
General Fund Grants	\$126,427,520	\$126,427,520
General Fund Special Revenue	\$9,000,000	\$9,000,000
Food Service Fund	\$22,344,000	\$22,344,000
Food Service Fund Grants	\$38,148	\$38,148
Community Service Fund	\$26,560,928	\$28,628,664
Community Service Fund Grants	\$6,306,484	\$6,306,484
Capital Projects Fund	\$84,235,000	\$125,625,000
Debt Service Fund	<u>\$96,960,244</u>	<u>\$96,960,244</u>
Total	\$890,367,003	\$935,411,207

**AND WHEREAS**, there is a planned use of Q Comp designated fund balance of \$672,036, a planned use of Extended Learning designated fund balance of \$914,432 in the General Operating Fund, a planned use of Community Service Fund designated fund balance of \$2,067,736, and a planned use of Capital Projects Fund designated fund balance of \$41,390,000.

**NOW, THEREFORE BE IT HEREBY RESOLVED**, the Board of Directors of Special School District No. 1 approves the above mentioned revenue and expenditure budget for the fiscal year 2021-2022.

Signed by:

\_\_\_\_\_  
Kim Ellison  
Board of Education Chair

\_\_\_\_\_  
Date

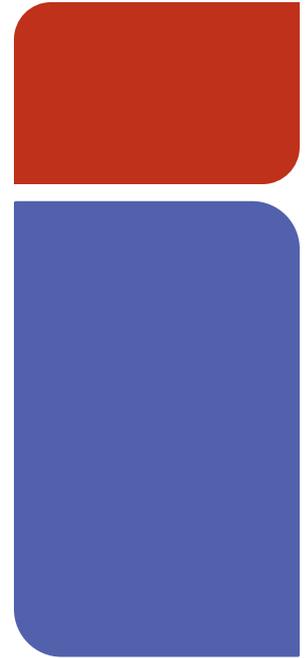
\_\_\_\_\_  
Josh Pauly  
Board of Education Clerk

\_\_\_\_\_  
Date

# Minneapolis Public Schools Multi Year Capital Plan 2021 - 2025

*FY 21/22 Update*

May 11, 2021



- Update on current capital projects
- Review capital planning process
- Recommended capital plan changes
- 5-year Capital plan budget

# Capital Planning Update - Completed

- Project scoping for new magnet locations and academic needs
- Completed feasibility studies for Bethune and Andersen CDD projects
- Facility needs inventory for Special Education within CDD program placement
- Initiating external stakeholder engagement in project design for CTE, North High and Andersen capital projects
- Finalized design for Harrison expansion
- Facility modifications for FAIR – Wellstone co-location
- ADA studies for all schools

# Capital Planning Update – In Process

## **Continued design and bidding for summer 2021 construction:**

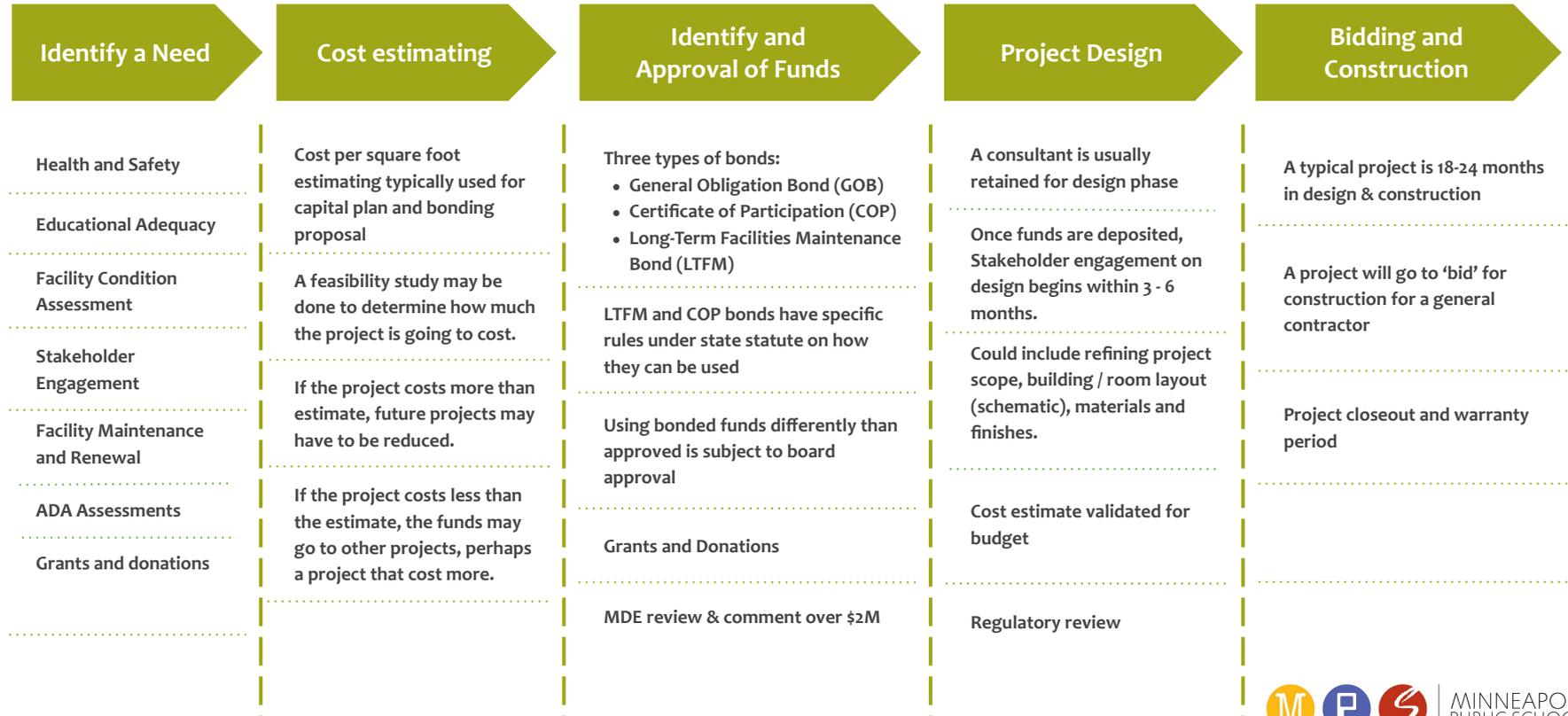
- Safe and welcoming entrances at Anwatin, Bryn Mawr, Field, Folwell, Northeast, Olson, Wenonah, Hmong International, Jenny Lind
- Outdoor track replacement Henry and track resurfacing at Southwest
- Multi-year project completion at Waite Park (entrance and kitchen/lunchroom)
- Magnet program year 1 improvements at Andersen and Franklin
- Renovations and addition at Bethune for Arts magnet (September)
- Harrison program expansion
- Kenny corridor ceiling and lighting replacement
- Multi-site renovations for special education services with CDD
- Lyndale ventilation replacement
- Heritage Academy and Wellstone program moves
- Full service community schools - Cityview and Green

# Capital Planning Update – In Process

## Planning for upcoming projects:

- Hale kitchen
- Safe & welcoming entrances at Barton, Northrop, Nellie Stone, Anthony, Field, Lake Harriet Upper, Pillsbury
- CTE and North High improvements
- Sullivan robotics
- Bethune Art Magnet
- Page entrance and science labs

# Capital Planning Process



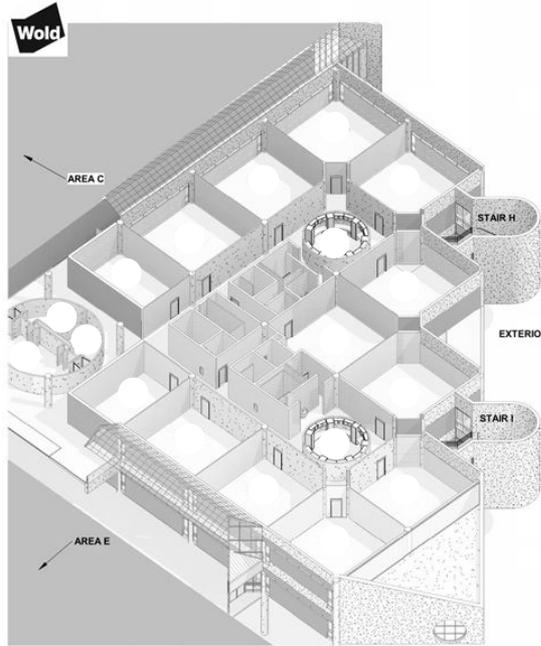
# Specific Plan Changes by Site

# Andersen Community and Dual Language Middle School

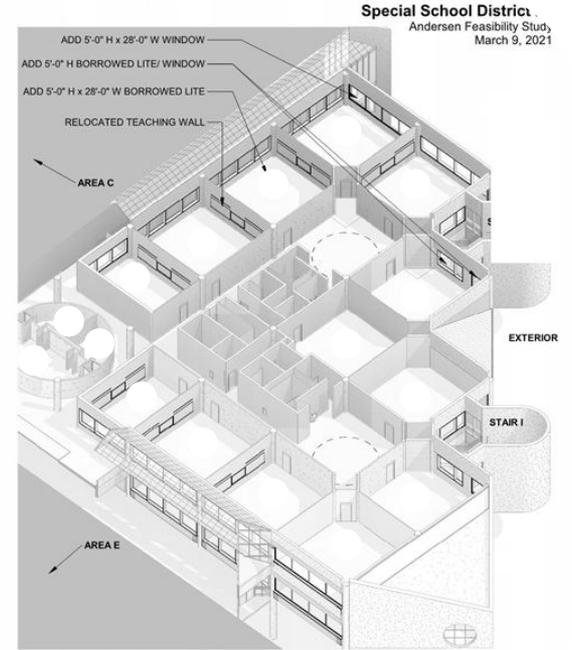
ANDERSEN	Current	Current	Proposed	Proposed	Notes
	Funding	Funding	Funding	Funding	
Description	Year	Amount	Year	Amount	
FFE Upgrades	FY22/23	\$865,550	FY23/24	\$865,550	Delay to support Single user RR. No funding change
Toilet Modifications	FY22/23	\$512,160	FY22/23	\$700,000	Increase funding from feasibility report
Single User Restrooms	FY23/24	\$806,652	FY22/23	\$600,000	Change to move earlier. Reduce funding per feasibility report
Kitchen/lunchroom	FY22/23	\$6,369,990	FY22/23	\$6,369,990	No change
Kitchen/lunchroom (new)			FY21/22	\$1,361,037	Re-allocate daylighting funds to early start Lunchroom
Kitchen/lunchroom (new)			FY22/23	\$2,000,000	Supplemental funds for upgrades to new kitchen/lunchroom
Technology Space	FY23/24	\$1,149,479	FY23/24	\$800,000	Reduce funding from feasibility report
Science Labs Type 1	FY20/21	\$1,690,128	FY20/21	\$1,690,128	No change
Science Labs Type 2	FY20/21	\$2,554,398	FY20/21	\$2,554,398	No change
Daylighting	FY21/22	\$3,361,037	FY21/22	\$2,000,000	Reduce to \$2M and move funding. Sidelighting.
Performance Space	FY23/24	\$1,131,553	FY23/24	\$1,131,553	Would be included in the cafeteria space. No change
		\$18,440,947		\$20,072,656	

- Move single user restrooms ahead a year and reduce number, based on feasibility report.
- Move some funding for technology space (Robotics, Maker spaces) to other uses at Andersen
- Add funding for kitchen / lunchroom from the day lighting which also allows the kitchen / lunchroom project to start a year earlier
- Side lighting (putting windows in classrooms) is less expensive and a more preferred option than a light well from roof.

## Sidelighting Study: Conceptual drawing



EXISTING - AREA B 3D VIEW



2 DAYLIGHTING STRATEGIES - AREA B 3D VIEW



## Centralized food prep and serving: Conceptual drawing



# Bethune

## Performance Center: Conceptual Rendering

- Performance space, dance space, art, band, choir and family center spaces.
- Existing funding identified that supports the construction and renovation
- Construction starts in 2021 and completed in summer 2022



## Dance Studio: Conceptual Rendering



# Franklin

Franklin	Current	Current	Proposed	Proposed	Notes
	Funding	Funding	Funding	Funding	
Description	Year	Amount	Year	Amount	
Performance Space	FY23/24	\$2,163,396	FY23/24	\$500,000	Reduced to support needed improvements
Science Lab Upgrades	FY21/22	\$1,120,350	FY21/22	\$1,120,350	No change
Technology Space	FY21/22	\$47,119	FY21/22	\$0	Move funding to Sullivan for Robotics lab
Performance Space (FFE)	FY23/24	\$1,149,479	FY23/24	\$0	Not needed. Auditorium seating is newer.
		\$4,480,344		\$1,620,350	

- Further review of Franklin performance space, proposed capital investment can be reduced due to recent renovations to space
- Robotics lab (Technology space) funded through small capital projects to be complete this summer
- Science lab upgrades in scoping and design

## Auditorium



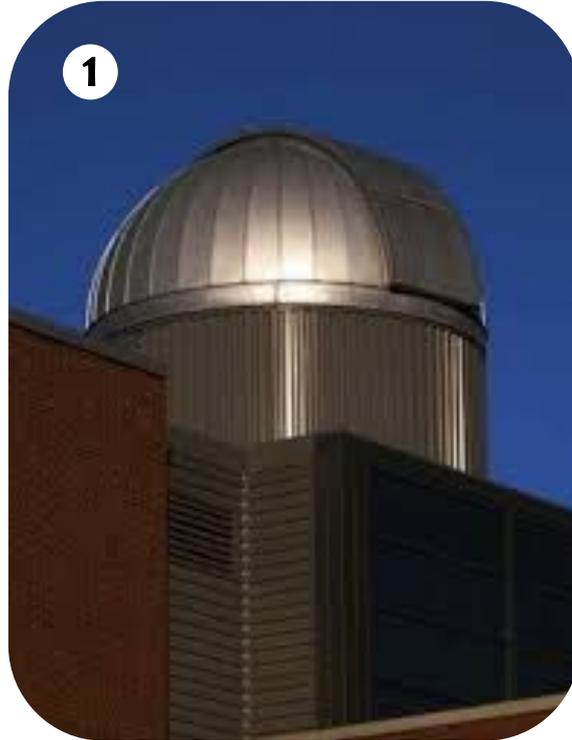
# Hall

Hall	Current	Current	Proposed	Proposed	Notes
	Funding	Funding	Funding	Funding	
Description	Year	Amount	Year	Amount	
Observatory	FY22/23	\$1,120,350	FY21/22	\$1,120,350	Move to one year earlier
		\$1,120,350		\$1,120,350	

- Move funding up one year so Observatory project design can begin
- With accelerated funding, Observatory should be complete for fall 2022

# Hall Observatory

1. Macalester College
2. Jackson Middle School  
Anoka Hennepin

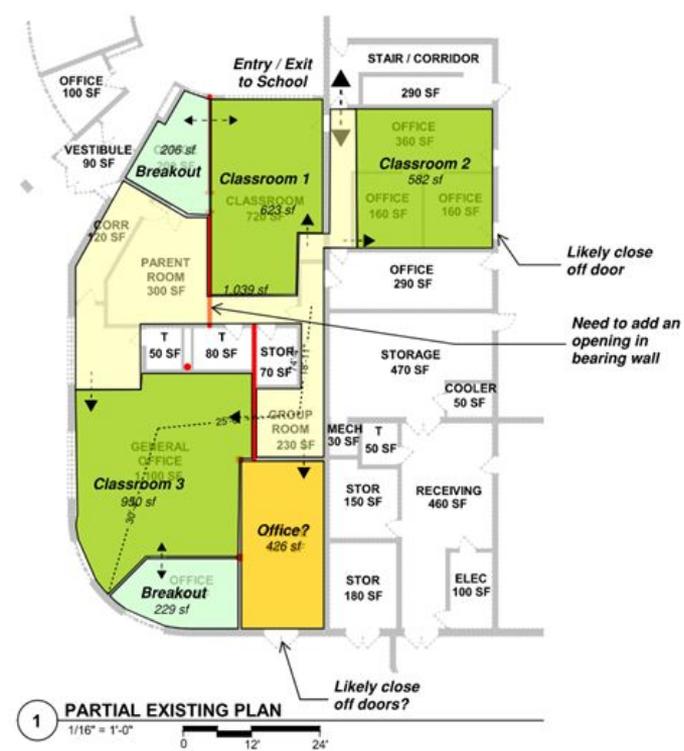


# Harrison

Harrison	Current	Current	Proposed	Proposed	
	Funding	Funding	Funding	Funding	
Description	Year	Amount	Year	Amount	Notes
Renovate HNA space	FY21/22	\$1,120,350	FY20/21	\$0	using multi-site SPED funding

- Had proposed funding in the upcoming bond cycle to convert former leased space into additional instructional space for Harrison students
- Accelerating renovation to complete this summer

## Summer 2021 scope of renovations



# Jefferson

Jefferson	Current	Current	Proposed	Proposed	Notes
	Funding	Funding	Funding	Funding	
Description	Year	Amount	Year	Amount	
Performance Space	FY22/23	\$258,801	FY21/22	\$258,801	Moved to one year earlier
Science Labs	FY22/23	\$426,800	FY21/22	\$426,800	Moved to one year earlier
FFE	FY23/24	\$739,926	FY23/24	\$739,926	No change
Lunchroom finishes	FY24/25	\$1,014,418	FY24/25	\$500,000	update lunchroom finishes
		\$2,439,945		\$1,925,527	

- Minor adjustments to proposed funding
- Accelerate improvements
- Additional improvements for special education and new furniture planned for summer 2021

# North

North	Current	Current	Proposed	Proposed	Notes
	Funding	Funding	Funding	Funding	
Description	Year	Amount	Year	Amount	
Technology	FY21/22	\$3,226,608	FY21/22	\$3,226,608	No change
CTE	FY20/21	\$26,743,901	FY20/21	\$26,743,901	No change
Design Supplement	FY21/22	\$853,600	FY21/22	\$853,600	No change
FFE	FY21/22	<b>\$2,516,754</b>	FY21/22	<b>\$1,396,404</b>	Reduced to support Hall Observatory
FEE (new)			<b>FY22/23</b>	<b>\$1,120,350</b>	Replacement funding
Performance Space	FY22/23	\$2,279,912	FY22/23	\$2,279,912	No change
Kitchen Lunchroom	FY24/25	\$6,600,000	FY24/25	\$6,600,000	No change
Entrance	FY24/25	\$5,000,000	FY24/25	\$5,000,000	No change
Electrical/mechanical/elevator	FY21/22	\$8,053,161	FY21/22	\$8,053,161	No change
HVAC System Renewal	FY22/23	\$8,962,800	FY22/23	\$8,962,800	No change
HVAC System Renewal	FY23/24	\$9,410,940	FY23/24	\$9,410,940	No change
HVAC System Renewal	FY24/25	\$9,881,487	FY24/25	\$9,881,487	No change
Daylighting (new)				<b>\$831,020</b>	FY18 LTFM for exterior work
Daylighting (new)				<b>\$700,000</b>	FY 21 Fund transfer from Kenny supplemental funds
Theatrical rigging (new)			FY20/21	<b>\$200,000</b>	Repair/replace rigging system and curtains
		<b>\$83,529,163</b>		<b>\$85,260,183</b>	

- Building wide improvements
- Additional funding for exterior lighting, daylighting and repair to theatrical rigging

# Sullivan / Anishinabe

Sullivan	Current	Current	Proposed	Proposed	Notes
	Funding	Funding	Funding	Funding	
Description	Year	Amount	Year	Amount	
Robotics Lab	FY22/23	\$47,119	FY21/22	\$90,000	moved to one year earlier and added funds for space renovations
Robotics Lab (new)			FY21/22	\$47,119	moved from Franklin
		\$47,119		\$137,119	

- Proposed conversion of one of two media centers into a robotics lab
- Accelerate and increase budget for build out

# Robotics Field



# Multi-Year Capital Plan – as approved June 2020

Fiscal Year	CDD Projects	Non CDD Project	LTFM	Total	Delayed Project	Bond Surplus / (Deficit)	Annual Bonding Max
2021	\$38,460,628	\$24,417,488	\$31,995,045	\$94,873,161	\$6,146,440	\$19,752	\$88,746,473
2022	\$19,178,629	\$24,318,005	\$39,934,590	\$83,431,224		\$806,175	\$84,237,399
2023	\$33,649,239	\$20,703,648	\$30,314,982	\$84,667,870		\$1,246,345	\$85,924,215
2024	\$27,148,535	\$25,008,137	\$32,527,582	\$84,684,254		\$2,644,526	\$87,329,180
2025	\$23,562,905	\$20,137,490	\$35,915,936	\$79,616,330		\$9,130,144	\$88,746,474
<b>Total</b>	<b>\$141,999,936</b>	<b>\$114,584,768</b>	<b>\$170,688,135</b>	<b>\$427,272,839</b>	<b>\$6,146,440</b>	<b>\$13,846,942</b>	<b>\$434,983,741</b>

# Multi-Year Capital Plan – FY 21/22 revision

Fiscal Year	CDD Projects	Non CDD Project	LTFM	Total	Delayed Project	Bond Surplus / (Deficit)	Annual Bonding Max
2021	\$38,460,628	\$24,417,488	\$31,995,045	\$94,873,161	\$6,146,440	\$19,752	\$88,746,473
2022	\$19,954,230	\$23,197,655	\$39,934,590	\$83,086,475		\$1,150,924	\$84,237,399
2023	\$33,238,309	\$20,703,648	\$30,314,982	\$84,256,939		\$1,667,276	\$85,924,215
2024	\$24,045,080	\$25,008,137	\$32,527,582	\$81,580,799		\$5,748,381	\$87,329,180
2025	\$22,958,487	\$20,137,490	\$35,915,936	\$79,011,913		\$9,734,561	\$88,746,474
<b>Total</b>	<b>\$138,656,734</b>	<b>\$113,464,418</b>	<b>\$170,688,135</b>	<b>\$422,809,287</b>	<b>\$6,146,440</b>	<b>\$18,320,894</b>	<b>\$434,983,741</b>

# Multi-Year Capital Plan – FY 21/22 Revision

## The update to the multi-year capital plan provides for:

- Accelerating CDD investments for new magnets
- Non-CDD investments continue to focus on district priorities and investments in technology, cycle of replacement and maintenance
- Long Term Facility Maintenance investments focus on critical infrastructure maintenance for fire/life safety, HVAC and back-up systems and to address facility conditions across the system

# Board Resolution

- Board action is needed to approve the changes to the capital plan.
- This includes an \$83,086,475 bond amount in Year 2
- Operations will be requesting Board approval to the kitchen/lunchroom design supplement (FY 2021) from the Kenny project and reallocate to North for daylighting.
- The plan will be re-evaluated each year for priorities and needs and updates proposed to the multi-year plan.
- The capital plan is both a projection and a snapshot of what we know at this time.

Thank you

## Minneapolis Public Schools

### List A: All Employees: Tuesday, May 11, 2021

#### Hiring - Licensed

Nahal Afsharjavan	Early Contract Hires	Teacher, Music	4/12/2021
Erik Arntson	Early Contract Hires	Teacher, Music	4/12/2021
Sonia Beccaria	Early Contract Hires	Teacher, World Languages (Spanish)	4/12/2021
Diane Bell	Jenny Lind	Teacher, Elementary	4/12/2021
Paul Benson	Early Contract Hires	Teacher, Music	4/12/2021
Carla Bode	Early Contract Hires	Teacher, TOSA General	4/12/2021
Latia Childers	Early Contract Hires	Teacher, TOSA General	4/12/2021
Sian Davis	Early Contract Hires	Teacher, Special Education	4/12/2021
Amanda Driesen	Early Contract Hires	Teacher, TOSA General	4/12/2021
Kia Dunn	Early Contract Hires	Teacher, World Languages (Spanish)	4/12/2021
Aimon Dwan	Early Contract Hires	Teacher, Music	4/12/2021
Justin Ellenson	Early Contract Hires	Teacher, Special Education	4/12/2021
Tyanna Gross	Early Contract Hires	Teacher, TOSA General	4/12/2021
Sonja Hakanson	Early Contract Hires	Teacher, TOSA General	4/12/2021
Katherine Jolley	Early Contract Hires	Teacher, Music	4/12/2021
Jahrari Love	Early Contract Hires	Teacher, TOSA General	4/20/2021
Thomas Mccomas	Early Contract Hires	Teacher, Special Education	4/12/2021
Garrett Morth-Mccormick	Early Contract Hires	Teacher, Special Education	4/12/2021
Kara Noble	Early Contract Hires	Teacher, TOSA General	4/12/2021
Rafael Silva	Early Contract Hires	Teacher, Music	4/12/2021
Bridget Stephens	Early Contract Hires	Teacher, Special Education	4/12/2021

## Minneapolis Public Schools

### List A: All Employees: Tuesday, May 11, 2021

#### Hiring - Licensed

Jared Waln	Early Contract Hires	Teacher, Music	4/12/2021
Michael Zahner	Early Contract Hires	Teacher, Music	4/12/2021

#### Hiring - Non Licensed

Maryama Abdalla	Transportation	Bus Aide	4/5/2021
Sarah Baube	Non-Public Staff	Associate Educator	4/5/2021
Marilyn Beattie	Transportation	School Bus Driver In Training	4/5/2021
Matthew Bell	Engineers, Zone 2	Custodian	4/12/2021
Colleen Cummings	Cityview	Associate Educator	4/13/2021
Ebrena Dempster	Health Services	Licensed Practical Nurse	4/13/2021
Glenn Dworsky	Grounds	Grounds Equipment Operator	4/27/2021
Kaitlyn Dwyer	Whittier Community School	Special Education Assistant	4/13/2021
Abebe Galate	Engineers, Zone 1	Custodian	4/12/2021
Anton Gray	Lyndale Elementary	Special Education Assistant	4/20/2021
Laterris Jacobs	Barton Open	Health Services Assistant	4/27/2021
Jenan Jacobson	Special Ed Due Process Clerical	Office Specialist, Due Process	4/27/2021
Alexandra King-Dale	Hall International	Special Education Assistant	4/13/2021
Quesah Leewaye	Engineers, Zone 1	Custodian	4/12/2021
Mary Malone	Folwell Performing Arts	School Administrative Manager	4/12/2021
Abigail Marcano-Perez	Sheridan	Associate Educator	4/13/2021
Brandi Marshall	Engineers, Zone 1	Custodian	4/12/2021
Larry Mitchell	Engineers, Zone 1	Custodian	4/12/2021

## Minneapolis Public Schools

### List A: All Employees: Tuesday, May 11, 2021

#### Hiring - Non Licensed

Dianna Myles	Non-Public Staff	Associate Educator	3/15/2021
Richard Neil	CWS, Site Group 2	School Cook, Lead	4/13/2021
Marisol Ortiz Garcia	Kenny Elementary	Associate Educator	4/13/2021
Suzanne Quinnell	Engineers, Zone 2	Custodian	4/12/2021
Latoya Redmon	CWS, Site Group 1	Food Service Assistant	4/1/2021
Elizabeth Roberts	Talent Acquisition	HR Front Desk Representative	5/4/2021
Anthony Schaden	Harrison Education Center	Special Education Assistant	4/13/2021
Savannah Sisk	Transition Plus	Special Education Assistant	4/27/2021
Cedar Thomas	Seward Montessori School	Associate Educator	3/15/2021
Lonnie Thomas	Engineers, Zone 2	Custodian	4/12/2021
Emma Thomley	Lake Harriet Upper (Fulton)	Associate Educator	4/13/2021
Etta Winje	Pillsbury Math/Science/Technology	Special Education Assistant	5/10/2021

**Discharges**

**Licensed**

**Non-Licensed**

Associate Educator	04-19-2021	2021-5-ER-4457
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**Probationary Separations**

**Licensed**

Teacher	06-30-2021	2021-5-ER-4488
Teacher	06-30-2021	2021-5-ER-4489
Teacher	06-06-2021	2021-5-ER-4490

**Licensed, Staff Reduction**

**Non-Licensed**

Custodian	05-11-2021	2021-5-ER-4504
School Bus Driver	04-29-2021	2021-5-ER-4473
Special Education Assistant	05-07-2021	2021-5-ER-4492

**Non-Licensed, Staff Reduction**

**Layoffs**

**Licensed**

**Non-Licensed**

**Administrative Contract Non-Renewals**

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
AMAZEworks**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and Equity, Integration dated 5/11/2021 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and AMAZEworks (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and AMAZEworks (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 4/29/2021 through 6/30/2021 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000644

1. *Original contract amount:* \$93,700
2. *Accumulative contract amount:* \$196,100

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

**Section:** Exhibit A and 3.1 Total Obligation

**Description:** Exhibit A: Scope of Work – Materials – Grade level literacy book boxes (PreK-5) includes 20 books and two printed curriculum guides per box for each grade level. Schools could include but could change Windom, Sheridan, Lake Harriet.

**3.1** - District’s total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$196,100. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

**AMAZEworks:**

*Rebecca Slaby*

Signature: [Rebecca Slaby \(Apr 30, 2021 07:49 CDT\)](#) \_\_\_\_\_

Name: Rebecca Slaby

Title: Executive Director

Date: Apr 30, 2021 \_\_\_\_\_

# Amendment AMAZEworks for signatures

Final Audit Report

2021-04-30

Created:	2021-04-30
By:	Donna Thotland (donna.thotland@mpls.k12.mn.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfG5ilDUUcnUZeZ5q6oqY43EPyhbcXiW-

## "Amendment AMAZEworks for signatures" History

-  Document created by Donna Thotland (donna.thotland@mpls.k12.mn.us)  
2021-04-30 - 11:17:41 AM GMT- IP address: 205.215.177.1
-  Document emailed to Rebecca Slaby (rebecca@amazeworks.org) for signature  
2021-04-30 - 11:19:09 AM GMT
-  Email viewed by Rebecca Slaby (rebecca@amazeworks.org)  
2021-04-30 - 11:38:29 AM GMT- IP address: 64.233.172.103
-  Document e-signed by Rebecca Slaby (rebecca@amazeworks.org)  
Signature Date: 2021-04-30 - 12:49:17 PM GMT - Time Source: server- IP address: 207.153.9.187
-  Agreement completed.  
2021-04-30 - 12:49:17 PM GMT

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND**  
Canvas Health

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Canvas Health) dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Canvas Health ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Canvas Health ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 4/26/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000579

1. *Original contract amount:* \$90,000
2. *Accumulative contract amount:* \$153,333.33

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

Section 1.1 - to provide mental health services to Lucy Laney, FAIR, Bmroughs, Hale, Field, Lake Harriet Lower, Lake Harriet Upper, Kenny and Armatage Schools to D-AO-Special Education.

Section 3.1 Total Obligation. District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed \$153,333.33. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract

**Description:** Expansion of school mental health to Hale, Field, Lake Harriet Lower, Lake Harriet Upper, Kenny and Armatage and additional mental health support during summer school.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

**Canvas Health:**

Signature: 

Name: Matthew Eastwood

Title: CEO

Date: 5/3/2021

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
Change Inc.**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Change Inc.) dated 05/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Change Inc. ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Change Inc. ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 4/26/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000523

1. *Original contract amount:* \$276,000
2. *Accumulative contract amount:* \$317,333.32

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

**Section:** This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Change Inc, "Contractor" (collectively "parties") and will provide Mental Health Services at Edison High School, Jefferson Community, Folwell, Green Central, Hmong Academy, Pillsbury, Marcy, Northeast Middle, Waite Park, Sheridan and Transition Plus, Stadium View and Washburn High schools

3.1 **Total Obligation.** District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed \$317,333.32. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract

**Description:** Expansion of school mental health to Stadium View and increase capacity at Edison High and Washburn High Schools. Provide additional mental health support during summer school at Edison High School, Pillsbury, Northeast Middle and Transition Plus schools.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

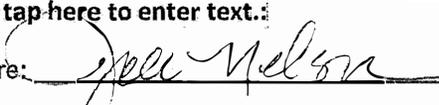
Signature: \_\_\_\_\_

\_\_ Name: Kim Ellison

Title: Board Chair

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

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

Name: Jody Nelson

Title: Executive Director

Date: 5/3/2021

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
NAWAYEE CENTER SCHOOL**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and NAWAYEE CENTER SCHOOL dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and NAWAYEE CENTER SCHOOL ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and NAWAYEE CENTER SCHOOL ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000544

1. *Original contract amount:* \$502,751.68
2. *Accumulative contract amount:* \$612,179.68

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

**Section:** 3.1 District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$612,179.68. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Accounts for Contract Reconciliation Based on Contract Agreement, reconciliation may begin in January 2021 if necessary, to reconcile a total amount paid to the school with the total amount due based on actual enrollment. After February 15th, 2021, a final adjustment payment to or refund from the school will be made based on the actual ADMs for 2019-20

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

**NAWAYEE CENTER SCHOOL:**

Signature: Joseph C Rice

Name: Joseph C. Rice

Title: Executive Director

Date: 4/29/21

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
AMERICAN INDIAN OIC- TAKODA PREP**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and AMERICAN INDIAN OIC- TAKODA PREP dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and AMERICAN INDIAN OIC- TAKODA PREP ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and AMERICAN INDIAN OIC- TAKODA PREP ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000548

1. *Original contract amount:* \$439,961
2. *Accumulative contract amount:* \$540,466.25

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

**Section: 3.1** - District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$540,466.25. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Accounts for Contract Reconciliation. Based on Contract Agreement, reconciliation may begin in January 2021 if necessary, to reconcile a total amount paid to the school with the total amount due based on actual enrollment. After February 15th, 2021, a final adjustment payment to or refund from the school will be made based on the actual ADMs for 2019-20.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

AMERICAN INDIAN OIC- TAKODA PREP:

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

Name: Christy Irgang

Title: Education Director

Date: 4/29/21

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL dated 5/11/2021 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000554

1. *Original contract amount: \$496,503.52*
2. *Accumulative contract amount: \$537,117.52*

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

**Section:** 3.1 - District’s total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$537,117.52. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Accounts for Contract Reconciliation - Based on Contract Agreement, reconciliation may begin in January 2021 if necessary, to reconcile a total amount paid to the school with the total amount due based on actual enrollment. After February 15th, 2021, a final adjustment payment to or refund from the school will be made based on the actual ADMs for 2019-20.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

**PROJECT FOR PRIDE IN LIVING- LNAS HIGH SCHOOL:**

Signature: *Antonio Cardona*

Name: Antonio Cardona

Title: Vice President of Career Readiness

Date: 04/30/2021

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
EAST SIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and EASTSIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and EASTSIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and EASTSIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000542

1. *Original contract amount:* \$691,548.77
2. *Accumulative contract amount:* \$693,482.00

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

**Section:** 3.1 - District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$693,482.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Accounts for Contract Reconciliation. Based on Contract Agreement, reconciliation may begin in January 2021 if necessary, to reconcile a total amount paid to the school with the total amount due based on actual enrollment. After February 15th, 2021, a final adjustment payment to or refund from the school will be made based on the actual ADMs for 2019-20.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

**EASTSIDE NEIGHBORHOOD SERVICES- MENLO PARK HIGH SCHOOL:**

Signature: Margie Rask

Name: Margie Rask

Title: Vice President of Programs

Date: 5/4/21

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
Crisis Prevention Institute Inc.**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Crisis Prevention Institute Inc. dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Crisis Prevention Institute Inc. ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Crisis Prevention Institute Inc. ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 8/3/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: AMD-13045

1. *Original contract amount: 95,190*
2. *Accumulative contract amount: 157,190*

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

**Section:** Exhibit A and Sec 3.1 District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed \$157,190. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Exhibit A - Additional INCI training for MPS Staff

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

**Contractor:**

Signature: *Nick Schreiter*

Name: Nick Schreiter

Title: Sales Contract Specialist

Date: 5/4/21

**AMENDMENT #13031 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
Whelan Security (dba GardaWorld Security Services)**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Whelan Security\_(dba GardaWorld Security Services dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Whelan Security\_(dba GardaWorld Security Services ("Contractor")) (collectively "parties').

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Whelan Security\_(dba GardaWorld Security Services ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: MAS-12816

1. *Original contract amount: \$130,806.00*
2. *Accumulative contract amount: \$150,806.00*

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

**Section: Exhibit A and Section 3.1**

**Description:** Operational and Security Services requests approval for a contract amendment with Whelan Security\_(dba GardaWorld Security Services in the amount of \$20,000 to accommodate the increase in the security officers salary.

Section: 3.1 Total Obligation.

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed \$150,806.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

Whelan Security\_(dba GardaWorld Security Services

Signature: *Luke Hutsell*  
Luke Hutsell (Apr 28, 2021 12:28 EDT)

Name: Luke Hutsell

Title: Regional Vice President

Date: Apr 28, 2021

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
Joshua Downham**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and Joshua Downham dated 5/11/2021 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and Joshua Downham (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and Joshua Downham (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2022 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000638

1. *Original contract amount:* Year 1: \$99,375, Year 2: \$99,375 = 198,750.00
2. *Cumulative contract amount:* Year 1: \$109,375, Year 2: \$99,375 = 208,750.00

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

**Section: Exhibit A and 3.1**

**Description:** Special sessions called to renew Governor Walz emergency authority and more frequent district meetings to cover time and expenses until the end of the fiscal year

**Section 3.1:** District’s total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed **\$109,375 for year 1** and **\$99,375 for year 2 = \$208,750.00** Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

Signature:

\_\_\_\_\_

Name: Kim Ellison

Title: Board Chair

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

**Contractor:**

Signature:

A handwritten signature in black ink, appearing to read "P. Downham", written over a horizontal line.

Name: Joshua Downham

Title: Owner

Date: 4-21-2021







# AIA® Document A101® – 2017

## **Standard Form of Agreement Between Owner and Contractor** where the basis of payment is a Stipulated Sum

**AGREEMENT** made as of the twenty-ninth day of April in the year 2021  
(In words, indicate day, month and year.)

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

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

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

Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

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

Patrick Henry High School Running Track Reconstruction  
1900 42<sup>nd</sup> Avenue North  
Minneapolis, MN 55412

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

Anderson-Johnson Associates, Inc.  
7575 Golden Valley Road, Suite 200  
Minneapolis, MN 55427

The Owner and Contractor agree as follows.

### **ADDITIONS AND DELETIONS:**

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

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

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

Init.

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**User Notes:**

(3B9ADA52)

## TABLE OF ARTICLES

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

### EXHIBIT A INSURANCE AND BONDS

#### ARTICLE 1 THE CONTRACT DOCUMENTS

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

#### ARTICLE 2 THE WORK OF THIS CONTRACT

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

#### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

*(Check one of the following boxes.)*

The date of this Agreement.

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

Established as follows:

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

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

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

#### § 3.3 Substantial Completion

§ 3.3.1 The Contractor shall achieve Substantial Completion of the entire Work:

*(Check one of the following boxes and complete the necessary information.)*

Init.

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User Notes:

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

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

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

*(Table Deleted)*

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

#### ARTICLE 4 CONTRACT SUM

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

##### § 4.2 Alternates

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

*(Table Deleted)*

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

*(Paragraph Deleted)*

*(Table Deleted)*

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

*(Paragraph Deleted)*

*(Table Deleted)*

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

*(Paragraph Deleted)*

*(Table Deleted)*

§ 4.5 Liquidated damages

Init.

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

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

*(Paragraph Deleted)*

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

## **ARTICLE 5 PAYMENTS**

### **§ 5.1 Progress Payments**

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

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

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

*(Paragraph Deleted)*

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

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

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

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

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

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

- .1 The aggregate of any amounts previously paid by the Owner;

Init.

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

### § 5.1.7 Retainage

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

*(Paragraph Deleted)*

5% (five percent)

§ 5.1.7.1.1 The following items are not subject to retainage:

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

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

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

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

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

*(Paragraph Deleted)*

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

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

### § 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

Init.

- .2 a final Certificate for Payment has been issued by the Architect.
- .3 all lien waivers and IC134 forms have been delivered to the Owner.

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

**§ 5.3 Interest**

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

**§ 5.4 Prompt Payment to Subcontractors**

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

**ARTICLE 6 DISPUTE RESOLUTION**

**§ 6.1 Initial Decision Maker**

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

**§ 6.1.1 Mediation**

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

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

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

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

**§ 6.2 Binding Dispute Resolution**

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

*(Check the appropriate box.)*

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

Init.

Litigation in a court of competent jurisdiction

Other (*Specify*)

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

#### **ARTICLE 7 TERMINATION OR SUSPENSION**

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

**§ 7.1.1** If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:  
*(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)*

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

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

#### **ARTICLE 8 MISCELLANEOUS PROVISIONS**

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

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

Diedra Geye  
1250 West Broadway Avenue  
Minneapolis, MN 55411

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

Brad Nelson  
Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

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

Init.

**§ 8.5 Insurance and Bonds**

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

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

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

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

**§ 8.7** Other provisions:

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

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

**ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS**

**§ 9.1** This Agreement is comprised of the following documents:

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

January 31, 2020

- .5 Drawings

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

- .6 Specifications

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

- .7 Addenda, if any:

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

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

- .8 Other Exhibits:

*(Paragraphs Deleted)*

[EXH-B Project Charter](#)

Init.

| (Paragraph Deleted)

| EXH-C Owner Insurance  
EXH-D Project Schedule

| (Paragraph Deleted)

| (Table Deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

.9 Other documents, if any, listed below:

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

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

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

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

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

Jonathan M. Peterson, President  
\_\_\_\_\_  
(Printed name and title)

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

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 18:14:44 ET on 04/29/2021.

## PAGE 1

**AGREEMENT** made as of the twenty-ninth day of April in the year 2021

...

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

...

Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

...

Patrick Henry High School Running Track Reconstruction  
1900 42<sup>nd</sup> Avenue North  
Minneapolis, MN 55412

...

Anderson-Johnson Associates, Inc.  
7575 Golden Valley Road, Suite 200  
Minneapolis, MN 55427

## PAGE 2

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

...

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

## PAGE 3

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

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**User Notes:**

(3B9ADA52)

...

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

...

**Portion of Work**

**Substantial Completion Date**

...

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

...

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

...

**Item**

**Price**

...

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

...

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

...

**Item**

**Price**

**Conditions for Acceptance**

...

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

...

*(Identify each allowance.)*

...

**Item**

**Price**

...

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

...

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

...

**Item**

**Units and Limitations**

**Price per Unit (\$0.00)**

...

**§ 4.5** Liquidated damages, if any: damages

**PAGE 4**

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

...

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

...

Owner.

...

**§ 4.6** Other:

...

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

...

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

...

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

...

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

...

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

## PAGE 5

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

...

5% (five percent)

...

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

...

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

...

**§ 5.1.7.3** ~~Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:~~ determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect

and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

...

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

...

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

## PAGE 6

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

...

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

...

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

...

*(Insert rate)*

...

## **§ 5.4 Prompt Payment to Subcontractors**

...

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

...

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

...

**§ 6.1.1 Mediation**

...

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

...

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

...

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

...

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

**PAGE 7**

Litigation in a court of competent jurisdiction

...

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

...

Diedra Geye  
1250 West Broadway Avenue

Minneapolis, MN 55411

...

Brad Nelson  
Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

**PAGE 8**

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

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

...

January 31, 2020

...

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

...

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

...

[EXH-B Project Charter](#)

**PAGE 9**

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

...

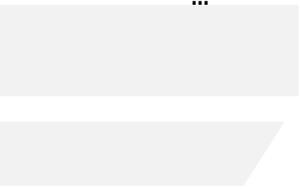
[EXH-C Owner Insurance](#)

...

[EXH-D Project Schedule](#)

...

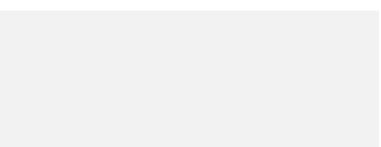
The Sustainability Plan:



Title

Date

Pages



## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 18:14:44 ET on 04/29/2021 under Order No. 7576952334 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

---

*(Signed)*

---

*(Title)*

---

*(Dated)*



# AIA® Document A101® – 2017 Exhibit A

## Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the twenty-ninth day of April in the year 2021  
(In words, indicate day, month and year.)

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

Partick Henry High School Running Track Reconstruction  
1900 42<sup>nd</sup> Avenue North  
Minneapolis, MN 55412

**THE OWNER:**  
(Name, legal status and address)

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

**THE CONTRACTOR:**  
(Name, legal status and address)

Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

### TABLE OF ARTICLES

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

#### ARTICLE A.1 GENERAL

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

#### ARTICLE A.2 OWNER’S INSURANCE

##### § A.2.1 General

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

#### ADDITIONS AND DELETIONS:

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

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

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

**§ A.2.2 Liability Insurance**

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

**§ A.2.3 Required Property Insurance**

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

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

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

**Causes of Loss**

**Sub-Limit**

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

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

**Coverage**

**Sub-Limit**

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

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

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

**§ A.2.3.3 Insurance for Existing Structures**

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

Init.

**§ A.2.4 Optional Extended Property Insurance.**

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

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

- § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.
  
- § A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
  
- § A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
  
- § A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
  
- § A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
  
- § A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
  
- § A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

**§ A.2.5 Other Optional Insurance.**

The Owner shall purchase and maintain the insurance selected below.

Init.

/

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

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

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

Coverage

Limits

### ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

#### § A.3.1 General

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

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

**§ A.3.1.3 Additional Insured Obligations.** To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

#### § A.3.2 Contractor's Required Insurance Coverage

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

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

#### § A.3.2.2 Commercial General Liability

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

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;

Init.

- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

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

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

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

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

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

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

*(Paragraph deleted)*

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

*(Paragraphs deleted)*

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

### **§ A.3.3 Contractor's Other Insurance Coverage**

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

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

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

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

*(Paragraphs deleted)*

**§ A.3.4 Performance Bond and Payment Bond**

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

*(Specify type and penal sum of bonds.)*

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

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

**ARTICLE A.4 SPECIAL TERMS AND CONDITIONS**

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

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

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:22:46 ET on 04/30/2021.

## PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the twenty-ninth day of April in the year 2021

...

Partick Henry High School Running Track Reconstruction  
1900 42<sup>nd</sup> Avenue North  
Minneapolis, MN 55412

...

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

...

Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

## PAGE 2

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

## PAGE 4

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

...

~~§ A.3.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than —(\$ —) each occurrence, —(\$ —) general aggregate, and —(\$ —) aggregate for products-completed operations hazard, as defined in EXH-C Owner Insurance providing coverage for claims including~~  
**PAGE 5**

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

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

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

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

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

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

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

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

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

~~§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than —(\$ —) per claim and —(\$ —) in the aggregate, as defined in EXH-C Owner Insurance.~~

**PAGE 6**

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

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

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

~~[ — ] § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to~~

the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:  
*(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*

- ~~§ A.3.3.2.2 Railroad Protective Liability Insurance~~, with policy limits of not less than ~~(\$ )~~ per claim and ~~(\$ )~~ in the aggregate, for Work within fifty (50) feet of railroad property.
- ~~§ A.3.3.2.3 Asbestos Abatement Liability Insurance~~, with policy limits of not less than ~~(\$ )~~ per claim and ~~(\$ )~~ in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- ~~§ A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all risks" completed value form.~~
- ~~§ A.3.3.2.5 Property insurance on an "all risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.~~
- ~~§ A.3.3.2.6 Other Insurance~~  
*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*

**Coverage**

**Limits**

**§ A.3.4 Performance Bond and Payment Bond**

## Exhibit B - Project Charter

### Project Name and Number:

FY21 Patrick Henry High School Running Track Reconstruction  
Official Publication No. 21-2121

### Contractor:

Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

### Description:

To furnish all labor, materials, equipment, and incidentals to complete all work for  
FY21 Patrick Henry High School Running Track Reconstruction  
project, in accordance with Drawings and Specifications prepared by:

Anderson-Johnson Associates, Inc. 7575 Golden Valley Road Suite 200, Minneapolis, MN 55427

Article 9.5 Drawings: April 5, 2021  
9.6 Specifications dated: April 5, 2021  
9.7 Addenda dated: Addendum #1 dated April 23, 2021

### Contract Sum:

The total contract sum shall be:

**\$ 1,123,000.00**

Alternates: N/A

Conditions: N/A

Allowances: N/A

Unit Prices: N/A

## Exhibit C - Owner's Insurance

### Project Name and Number:

Special School District No. 1  
Official Publication No. 21-2121  
FY21 Patrick Henry High School Running Track Reconstruction

**Contractor:** Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

### Insurance Requirements for Contractors

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

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

##### a. Commercial General Liability

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

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

##### b. Automobile Insurance

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

##### c. Workers Compensation

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

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

i. Per Claim	\$ 2,000,000
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For Projects with an estimated construction cost of over \$10,000,000 or major structural work, additional Aggregate coverage of \$4,000,000 is required.

## Exhibit C Owner's Insurance

### e. Manned or Unmanned Aircraft Coverage (if used)

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

### f. Property Insurance

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

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

### g. Builders "all risk" Insurance

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

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

### h. Umbrella Liability

i. Aggregate limit	\$ 5,000,000
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This insurance is required only for projects larger than \$10,000,000 in total construction costs.

## Exhibit D - Project Schedule

### Project Name and Number:

Special School District No. 1  
Official Publication No. 21-2121  
FY21 Patrick Henry High School Running Track Reconstruction

### Contractor:

Peterson Companies, Inc.  
8326 Wyoming Trail  
Chisago City, MN 55013

### Description:

reconstruction of the existing running track at Patrick Henry High School.

### Schedule:

Description	Date
Construction Commences	June 14, 2021
Substantial Completion-all work except track surface system	August 20, 2021
Substantial Completion-track surface system	September 30, 2021
Final Completion	October 15, 2021
1-year Warranty Inspection	September 30, 2022

 **AIA** Document A201™ – 2017**General Conditions of the Contract for Construction**

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

**THE OWNER:**  
(Name, legal status and address)

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

**THE ARCHITECT:**  
(Name, legal status and address)

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- 1 GENERAL PROVISIONS
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- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES

**ADDITIONS AND DELETIONS:**

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

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

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

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## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 Basic Definitions

#### § 1.1.1 The Contract Documents

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

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

#### § 1.1.2 The Contract

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

#### § 1.1.3 The Work

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

#### § 1.1.4 The Project

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

#### § 1.1.5 The Drawings

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

#### § 1.1.6 The Specifications

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

#### § 1.1.7 Instruments of Service

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

#### § 1.1.8 Initial Decision Maker

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

## § 1.2 Correlation and Intent of the Contract Documents

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

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

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

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

## § 1.3 Capitalization

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

## § 1.4 Interpretation

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

### § 1.4.2

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

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

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

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

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

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

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

### **§ 1.6 Notice**

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

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

### **§ 1.7 Digital Data Use and Transmission**

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

### **§ 1.8 Building Information Models Use and Reliance**

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

## **ARTICLE 2 OWNER**

### **§ 2.1 General**

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

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

### **§ 2.2 Evidence of the Owner's Financial Arrangements**

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

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

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

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

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

### **§ 2.3 Information and Services Required of the Owner**

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

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

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

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

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

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

### **§ 2.4 Owner's Right to Stop the Work**

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

### **§ 2.5 Owner's Right to Carry Out the Work**

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

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

## **ARTICLE 3 CONTRACTOR**

### **§ 3.1 General**

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

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

### **§ 3.1.2**

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

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

### **§ 3.2 Review of Contract Documents and Field Conditions by Contractor**

#### **§ 3.2.1** The Contractor

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

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

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

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

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

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

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

### **§ 3.3 Supervision and Construction Procedures**

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

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

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

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

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

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

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

### **§ 3.4 Labor and Materials**

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

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

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

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

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

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

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

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

### **§ 3.5 Warranty**

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

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

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

responsibilities.

### § 3.6 Taxes

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

### § 3.7 Permits, Fees, Notices and Compliance with Laws

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

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

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

### § 3.7.4 Concealed or Unknown Conditions

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

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

### § 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

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

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

### **§ 3.9 Superintendent**

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

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

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

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

### **§ 3.10 Contractor's Construction and Submittal Schedules**

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

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

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

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### § 3.11 Documents and Samples at the Site

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

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

### § 3.12 Shop Drawings, Product Data and Samples

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

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

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

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

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

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

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

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

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

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

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

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

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

### **§ 3.13 Use of Site**

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

### **§ 3.14 Cutting and Patching**

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

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

### **§ 3.15 Cleaning Up**

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

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

### **§ 3.16 Access to Work**

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

### **§ 3.17 Royalties, Patents and Copyrights**

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

### **§ 3.18 Indemnification**

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

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

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

## **ARTICLE 4 ARCHITECT**

### **§ 4.1 General**

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

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

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

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

#### **§ 4.2 Administration of the Contract**

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

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

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

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

#### **§ 4.2.4 Communications**

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

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

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

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

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

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

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

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

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

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

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

## **§ 5.3 Subcontractual Relations**

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

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

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

#### **§ 5.4 Contingent Assignment of Subcontracts**

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

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

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

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

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

### **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

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

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

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

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

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

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

### **§ 6.2 Mutual Responsibility**

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

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

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

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

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

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

### **§ 6.3 Owner's Right to Clean Up**

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

## **ARTICLE 7 CHANGES IN THE WORK**

### **§ 7.1 General**

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

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

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

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

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

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

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

## **§ 7.2 Change Orders**

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

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

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

## **§ 7.3 Construction Change Directives**

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

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

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

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

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

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

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

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

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

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

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

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

#### § 7.4 Minor Changes in the Work

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

### ARTICLE 8 TIME

#### § 8.1 Definitions

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

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

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

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

## § 8.2 Progress and Completion

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

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

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

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

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

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

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

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

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

## § 8.3 Delays and Extensions of Time

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

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

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

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

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

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

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **§ 9.1 Contract Sum**

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

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

### **§ 9.2 Schedule of Values**

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

### **§ 9.3 Applications for Payment**

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

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

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

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

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

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

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

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

#### **§ 9.4 Certificates for Payment**

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

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

#### **§ 9.5 Decisions to Withhold Certification**

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

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

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

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

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

### § 9.6 Progress Payments

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

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

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

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

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

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

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

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

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

### § 9.7 Failure of Payment

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

### § 9.8 Substantial Completion

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

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

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

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

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

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

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

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

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

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

### **§ 9.9 Partial Occupancy or Use**

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

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

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

### **§ 9.10 Final Completion and Final Payment**

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

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

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

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

**§ 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## **§ 9.11 DAMAGES FOR DELAY**

**§ 9.11.1** The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule.

**§ 9.11.2** If the Contractor is delayed by the Owner, Architect, or any agent or employee of any of the foregoing, the Contractor's sole and exclusive remedy for the delay shall be the right to a time extension for completion of the Contract and not damages. This paragraph does not preclude Contractor's recovery of damage for contractor-caused delays under other provisions of the Contract Documents.

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **§ 10.1.1 Safety Precautions and Programs**

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

**§ 10.1.2** The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone else.

### **§ 10.2 Safety of Persons and Property**

**§ 10.2.1** The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

#### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Paragraphs 15.1.4 and 15.1.5.

#### § 10.3 Hazardous Materials and Substances

§ 10.3.1 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCV) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor.

1. Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.
2. The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or

contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.

**§ 10.3.2** The Contractor shall not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB)

**§ 10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.3.

**§ 10.3.4** If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. The Owner, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

**§ 10.3.5** The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

**§ 10.3.6** Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes Section 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

**§ 10.3.7** The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

**§ 10.3.8** The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

**§ 10.4** The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were required by the Contract Documents.

## **§ 10.5 MISCELLANEOUS GENERAL PROVISIONS**

**§ 10.5.1** In occupied facilities from the time the Work is begun until the Contract is completed, the Contractor shall be responsible for coordinating care and control of their contracted responsibilities with the Owner on the construction premises. The Contractor shall maintain all the Contractor's Work areas on the Project site in first class condition during term of operation under this Contract.

**§ 10.5.2** The Contractor shall give full protection to existing adjacent buildings and occupants. The Contractor shall replace or repair, at the Contractor's own expense, all damage to existing buildings, sidewalks, curbs, drives, fences, planters, signage, monuments, lawns, plants, trees, and shrubbery arising as a result of Work performed under the Contract.

**§ 10.5.3** Utilities encountered, whether shown on Project Drawings or not, shall be protected and maintained in service until moved or abandoned. The Contractor shall exercise care in the excavation around such utilities as may be shown on the Project Drawings or otherwise found, and which are not to be moved, replaced, or abandoned, and shall restore any damaged items or Work to the same conditions (or better) as existed prior to starting Work. Utilities or other service shown to be abandoned shall be maintained in service until facilities are provided, tested, and ready to use. The Contractor shall take all reasonable precautions in working in the area of excavation to avoid personal injury or property damage resulting from interception or interruption of electrical, telephone, sewer, water, gas, or other services, and shall also cause all Subcontractors, Sub-subcontractors material suppliers, laborers, and other persons on the construction premises to take such precautions. The location and nature of such concealed or buried services is not guaranteed or completely indicated by Owner or Architect.

**§ 10.5.4** The Contractor shall at all times take reasonable and adequate precautions to protect the Work from damage by the elements, including flooding, rainstorms, windstorms, and any other elements or natural events, etc., and shall not expose the Work of any other contractor to such damages. Where the Contractor, any Subcontractor, or any Sub-subcontractor prepares or erects any material during any season of the year when freezing weather may be anticipated, the Contractor shall employ (and shall cause such Subcontractor or Sub-subcontractor to employ) such methods as may be necessary to render such Work equal in every respect to similar Work done under favorable conditions and the Contractor shall exercise (and shall cause any such Subcontractor or Sub-subcontractor to exercise) reasonable care and diligence to prevent its damage or deterioration. The Contractor shall be responsible for maintaining the building in a dry condition until acceptance. The Contractor shall be responsible for any damage from water, as well as for damage, collapse, or failure of any part of the building caused by excess water undermining or creating pressures on the structures.

**§ 10.5.5** The Contractor shall not sue any internal combustion machinery that causes noxious, harmful, or toxic fumes inside an enclosed building. When use of internal combustion machinery is unavoidable inside enclosed buildings, the Contractor shall obtain written approval from the Owner prior to use of the machinery and shall provide full ventilation to the outside of the enclosed building for the exhaust of the internal combustion machinery. The Contractor shall locate internal combustion machinery outside an enclosed building so that the exhaust fumes will not enter the building through vent ducts, doors, windows, or other openings in the building.

**§ 10.5.6** If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all reasonable costs and expenses thereby incurred.

## **§ 10.6 EMERGENCIES**

In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

## **ARTICLE 11 INSURANCE AND BONDS**

### **§ 11.1 Contractor's Insurance and Bonds**

**§ 11.1.1** The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement, in EXH-C.3 Owner Insurance, or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C.3 Owner Insurance and shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

§ 11.1.4 In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

§ 11.1.5 Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

§ 11.1.6 The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from

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an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

## § 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

## § 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

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## § 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

#### **§11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

**§ 11.6.1** Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

**§ 11.6.2** In order to be acceptable as a surety, Contractor's bonding company must hold a "Certificate of Authority" acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

**§ 11.6.3** The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

**§ 11.6.4** The Contractor shall furnish two (2) originals of the Bonds to the Architect within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

### **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

#### **§ 12.1 Uncovering of Work**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

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## § 12.2 Correction of Work

### § 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby.

### § 12.2.2 After Substantial Completion

**§ 12.2.2.1** If, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner and/or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner and/or Architect shall give such notice promptly after discovery of the condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial completion by the period of time between Substantial completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner and/or Architect shall give such notice promptly after discovery of the condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation from the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.

**§ 12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 12.2.4** If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

**§ 12.2.5** The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

**§ 12.2.6** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the contract documents. Establishment of the time period of one year as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

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### § 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### § 13.2 Successors and Assigns

**§ 13.2.1** The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 13.2.2** The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### § 13.3 Rights and Remedies

**§ 13.3.1** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

**§ 13.3.2** No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### § 13.4 Tests and Inspections

**§ 13.4.1** Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. The Owner shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

**§ 13.4.2** If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give a minimum of two (2) working days' notice to the Architect of when and where tests and inspections are to be made so that the Architect may observe procedures. The Owner shall bear such costs, except as provided in Subparagraph 13.4.3.

**§ 13.4.3** If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

**§ 13.4.4** Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

### § 13.5 NON-DISCRIMINATION

§ 13.5.1 All contracts between the Owner and companies providing goods and services under the Contract Documents (including the Architect and Contractor) shall contain the following equal opportunity and civil right clause:

"During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

Upon request, the provider shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The provider shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

The provider acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.5.2 During the completion of the work and all other services required by the Contract Documents, the Architect and Contractor agree that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Architect and Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

Architect and Contractor acknowledge that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

§ 13.6 No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the

representations of the Owner or Architect, or by inspections, tests, or approvals required or performed by the Owner or Architect or anyone else.

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

### § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

**§ 14.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

#### **§ 14.3 Suspension by the Owner for Convenience**

**§ 14.3.1** The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

**§ 14.3.2** The Contract Sum and Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

#### **§ 14.4 Termination by the Owner for Convenience**

**§ 14.4.1** The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

**§ 14.4.2** Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

*(Paragraph Deleted)*

### **ARTICLE 15 CLAIMS AND DISPUTES**

#### **§ 15.1 Claims**

##### **§ 15.1.1 Definition**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

##### **§ 15.1.2 Time Limits on Claims**

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

##### **§ 15.1.3 Notice of Claims**

**§ 15.1.3.1** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the claimant first recognizes the

condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

**§ 15.1.3.2** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

#### **§ 15.1.4 Continuing Contract Performance**

**§ 15.1.4.1** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

**§ 15.1.4.2** The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

#### **§ 15.1.5 Claims for Additional Cost**

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

#### **§ 15.1.6 Claims for Additional Time**

**§ 15.1.6.1** If the Contractor wishes to make a Claim for any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

**§ 15.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

#### **§ 15.2 Initial Decision**

**§ 15.2.1** Claims, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for action. A decision by the Architect, as provided by Subparagraph 15.2.2, shall be required as a condition precedent to action at law or litigation of a Claim between the Contractor and Owner as to all such matters arising prior to the date final payment is due, regardless if (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to action at law or litigation in the event (1) the position of  
*(Paragraph Deleted)*

Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 15.2.2 within the ten (10) days after the Claim is made, (4) ten (10) days, which decision shall be final subject to action at law as provided in paragraph 15.3. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

**§ 15.2.2** The Architect will review Claims and take one or more of the following preliminary actions within ten (10) days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part stating reasons for the rejection, (4) recommend approval of the Claim by the other party, or (5) suggest a compromise. If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or

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requested by the Architect, the Architect shall notify the parties in writing that the Architect's decision will be made within ten (10) days, which decision shall be final subject to action at law as provided in Paragraph 15.3.

§ 15.2.3 If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.

§ 15.2.4 If a Claim has not been resolved, the party making the Claim shall, within ten (10) days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim, or (3) notify the Architect that the initial Claim stands.

§ 15.2.5 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven (7) days, which decision shall be final and binding on the parties but subject to action at law. Upon expiration of such time period, the Architect will render to the parties the Architect's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.6 in the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

*(Paragraph Deleted)*

### § 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

# Additions and Deletions Report for AIA® Document A201™ – 2017

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

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## PAGE 1

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

## PAGE 2

### EXH-A Project Charter

...

### EXH-C.3 Owner Insurance

## PAGE 10

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

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### §-Work.

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### § 1.1.2 The Contract

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The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. ~~The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~ Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2017.

## PAGE 11

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the ~~indicated-intended~~ results.

...

**§ 1.2.1.1** The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. ~~If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable.~~ In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

...

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

...

#### § 1.4.2

...

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

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

...

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

...

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

## PAGE 12

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

...

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

...

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

...

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

#### PAGE 13

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

...

**§ 2.3.4** ~~The~~ If requested by the Contractor and reasonably required for the Project, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The Contractor ~~shall be entitled to rely on the accuracy of information furnished by the Owner but~~ shall exercise proper precautions relating to the safe performance of the Work.

...

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

#### PAGE 14

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ three-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services and expenses made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the ~~Owner.~~ Owner within ten (10) days following written request for payment delivered by the Owner to the Contractor. If the

Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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### § 3.1.2

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

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~~§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.~~The Contractor

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~~§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made Subparagraph 2.2.3 and shall immediately report to the Architect errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Document unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing or believing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction and shall bear responsibility for any additional costs, delays, and damages resulting from such failure to immediately report any such errors, inconsistencies, or omissions which the Contractor may discover.~~

...

known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.§ 3.2.1.1 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the contract documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect immediately in writing.

...

~~§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.~~**3.2.1.2 The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may**

PAGE 15

~~§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Paragraph 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.~~

...

~~Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor~~**§ 3.2.2 The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Paragraph 3.12.**

...

~~shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~**§ 3.2.3 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for interpretation or information where such information was available to the Contractor from a careful study and comparison of the Contract Documents, Field Conditions, Owner Provided Information, Contractor Prepared Coordination Drawings, or prior Project Correspondence or Documentation.**

...

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

...

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

...

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

...

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

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§-operations.

...

### **§ 3.4 Labor and Materials**

PAGE 16

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents require Work to be performed after regular working hours or should the Contractor elect to perform Work after regular working hours, the additional cost of such Work shall be borne by the contractor.

...

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

...

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

...

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

the reason for the unavailability of a specified item and be accompanied by such additional data and information as may be necessary in the discretion of the Owner and the Architect to establish the acceptability of the proposed substitute.

...

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

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### **§ Substitutions.**

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### **§ 3.5 Warranty**

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

...

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

PAGE 17

### **§ responsibilities.**

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### **§ 3.6 Taxes**

...

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

...

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

...

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than ~~14~~ten (10) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

**PAGE 18**

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

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

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

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**§-Owner.**

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**§ 3.10 Contractor's Construction and Submittal Schedules**

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

Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

...

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

#### PAGE 19

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

...

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

...

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

#### PAGE 20

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

...

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

...

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor

except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. the Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

...

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

## PAGE 21

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

...

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

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## ARTICLE fees.

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## ARTICLE 4 ARCHITECT

### PAGE 22

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

...

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

...

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

...

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

...

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

...

~~Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the~~ **§ 4.2.3** The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

...

**§ 4.2.3** On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. Contractor's responsibility as provided in Paragraph 3.3. The Architect will not be responsible for the Contractor's failure to perform carry out the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

...

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

...

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

...

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

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

...

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

...

**§ 4.2.12** Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations

and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.

**PAGE 24**

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

...

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

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

...

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

...

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

Owner and the Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

**PAGE 25**

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

...

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

...

**§-Contractor.**

...

**§ 5.4 Contingent Assignment of Subcontracts**

**PAGE 26**

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

...

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

for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not ~~apparent~~ reasonably discoverable.

...

**§ 6.2.3** ~~The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction. Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.~~

...

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

...

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

...

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

...

**§ 7.1.2** A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. ~~An order for a minor change in the Work may be issued by the Architect alone.~~

## PAGE 27

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

...

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

1. For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost,
2. For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor.
3. For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost.
4. For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor.

5. Costs to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.6.
6. In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over \$500 be approved without such itemization.

...

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

**PAGE 28**

- 3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others; others~~ (at rates approved by the Owner);

...

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

...

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

...

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

...

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

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

...

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

...

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

...

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

...

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

...

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

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

...

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

**§ 8.3.1** If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) or (4) by other causes that the Contractor asserts, and the Architect determines, justify delay, then subject to the conditions hereinafter set forth, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine. Requests for extensions of time for causes enumerated above will be considered by the Architect only under the following conditions:

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

...

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

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## **ARTICLE 15.**

...

## ARTICLE 9 PAYMENTS AND COMPLETION

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

...

**§ 9.3.1** At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents. The form of Application for Payment shall be a notarized AIA Document G702, Application and Certification for Payment, supported by AIA Document G703, Continuation Sheet.

...

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

...

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

...

~~or supplier, unless such Work has been performed by others whom the Contractor intends to pay.~~ **§ 9.3.1.3** Contractor shall provide lien waivers for itself for the current payment application and for Subcontractors, Sub-subcontractors, and suppliers for the pervious payment application before the Contractor has earned or has the right to receive payment for the specific items of work or materials covered by the lien waivers. All lien waivers shall be provided in the form required by the Owner. This Paragraph shall not limit other obligations of the Contractor contained elsewhere to provide lien waivers.

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

...

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

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

...

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

...

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

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

...

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

...

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

...

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

...

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

PAGE 35

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

...

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

...

~~shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.~~ **§ 9.8.7** The Architect shall make inspection(s) for Substantial Completion and Final Completion in accordance with the AIA Document B101 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

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

#### PAGE 36

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, ~~effect and will not be canceled or allowed to expire until at least sixty (60) days' prior written notice has been given to the Owner,~~ (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6) if required by the Owner, including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.~~

...

### **§ 9.11** DAMAGES FOR DELAY

...

§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule.

...

§ 9.11.2 If the Contractor is delayed by the Owner, Architect, or any agent or employee of any of the foregoing, the Contractor's sole and exclusive remedy for the delay shall be the right to a time extension for completion of the Contract and not damages. This paragraph does not preclude Contractor's recovery of damage for contractor-caused delays under other provisions of the Contract

...

**ARTICLE Documents.**

...

**ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

...

**§ 10.1.1 Safety Precautions and Programs**

...

**§ 10.1.2** The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone

...

**§-else.**

...

**§ 10.2 Safety of Persons and Property**

**PAGE 37**

If either party suffers injury or ~~damaged~~ damages to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery, ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Paragraphs 15.1.4 and 15.1.5.

...

~~§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not~~

~~addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCV) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect in writing. The Work in the~~

...

~~§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor. By Change Order, the Contract Time~~

- ~~1. Except where otherwise stated in the Contract Documents, no hazardous material work of any nature shall be performed by the Contractor pursuant to this Contract.~~
- ~~2. The term "hazardous materials" includes, but is not limited to, asbestos, toxic chemicals, acids, alkalis, irritants, contaminants, or other pollutants, together with any other waste, material, substance, pollutants, or contaminant, all or a portion of which is or would be designated as hazardous waste or substance under applicable local, state, or federal laws, ordinances, codes, rules, or regulations.~~

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~~§ 10.3.2 The Contractor shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB)~~

...

~~§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner, or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.3.3.~~

...

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. The Owner, Contractor, and Architect shall then proceed in the same manner described in Subparagraph 10.3.1.

...

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

...

§ 10.3.6 Regulations concerning the availability of information and employee training in the use and handling of "hazardous substances" and "harmful physical agents", as set forth in the Employee Right-to-Know Act of 1983, Minnesota Statutes Section 182.65 to 182.676 are incorporated herein by reference as if fully set forth herein.

...

§ 10.3.7 The Contractor shall furnish three Material Safety Data Sheets to the Owner for each material used in the Work that is classified by the Employee Right-to-Know Act of 1983 as a "hazardous substance" or a "harmful physical agent."

...

§ 10.3.8 The Contractor shall label, in generally accepted and/or standardized fashion, all containers on the work site containing "hazardous substances" or as "harmful physical agents." This shall include factory containers and all subsequent containers used in the Work.

...

§ 10.4 The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were required by the Contract Documents.

...

## § 10.5 MISCELLANEOUS GENERAL PROVISIONS

...

§ 10.5.1 In occupied facilities from the time the Work is begun until the Contract is completed, the Contractor shall be responsible for coordinating care and control of their contracted responsibilities with the Owner on the

construction premises. The Contractor shall maintain all the Contractor's Work areas on the Project site in first class condition during term of operation under this Contract.

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§ 10.5.2 The Contractor shall give full protection to existing adjacent buildings and occupants. The Contractor shall replace or repair, at the Contractor's own expense, all damage to existing buildings, sidewalks, curbs, drives, fences, planters, signage, monuments, lawns, plants, trees, and shrubbery arising as a result of Work performed under the Contract.

...

§ 10.5.3 Utilities encountered, whether shown on Project Drawings or not, shall be protected and maintained in service until moved or abandoned. The Contractor shall exercise care in the excavation around such utilities as may be shown on the Project Drawings or otherwise found, and which are not to be moved, replaced, or abandoned, and shall restore any damaged items or Work to the same conditions (or better) as existed prior to starting Work. Utilities or other service shown to be abandoned shall be maintained in service until facilities are provided, tested, and ready to use. The Contractor shall take all reasonable precautions in working in the area of excavation to avoid personal injury or property damage resulting from interception or interruption of electrical, telephone, sewer, water, gas, or other services, and shall also cause all Subcontractors, Sub-subcontractors material suppliers, laborers, and other persons on the construction premises to take such precautions. The location and nature of such concealed or buried services is not guaranteed or completely indicated by Owner or Architect.

...

§ 10.5.4 The Contractor shall at all times take reasonable and adequate precautions to protect the Work from damage by the elements, including flooding, rainstorms, windstorms, and any other elements or natural events, etc., and shall not expose the Work of any other contractor to such damages. Where the Contractor, any Subcontractor, or any Sub-subcontractor prepares or erects any material during any season of the year when freezing weather may be anticipated, the Contractor shall employ (and shall cause such Subcontractor or Sub-subcontractor to employ) such methods as may be necessary to render such Work equal in every respect to similar Work done under favorable conditions and the Contractor shall exercise (and shall cause any such Subcontractor or Sub-subcontractor to exercise) reasonable care and diligence to prevent its damage or deterioration. The Contractor shall be responsible for maintaining the building in a dry condition until acceptance. The Contractor shall be responsible for any damage from water, as well as for damage, collapse, or failure of any part of the building caused by excess water undermining or creating pressures on the structures.

...

§ 10.5.5 The Contractor shall not sue any internal combustion machinery that causes noxious, harmful, or toxic fumes inside an enclosed building. When use of internal combustion machinery is unavoidable inside enclosed buildings, the Contractor shall obtain written approval from the Owner prior to use of the machinery and shall provide full ventilation to the outside of the enclosed building for the exhaust of the internal combustion machinery. The Contractor shall locate internal combustion machinery outside an enclosed building so that the exhaust fumes will not enter the building through vent ducts, doors, windows, or other openings in the building.

...

§ 10.5.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by

the Contract Documents, the Owner shall ~~reimburse~~ indemnify the Contractor for all cost and expense thereby incurred. reasonable costs and expenses thereby incurred.

...

#### § ~~10.4 Emergencies~~ 10.6 EMERGENCIES

...

In an emergency affecting safety of persons or property, the Contractor shall ~~act, at the Contractor's discretion,~~ act to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

...

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the ~~Agreement~~ Agreement, in EXH-C.3 Owner Insurance, or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is ~~located.~~ located and which carry a Best's rating of A- or higher or are otherwise acceptable to the Owner. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished. The Contractor shall furnish Certificates of Insurance acceptable to the Owner which shall specifically set forth evidence of all coverage required by Article 11 and EXH-C.3 Owner Insurance and shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance.

...

The Contractor shall not allow insurance required by this Agreement to lapse, be canceled, reduced in limits or coverage, non-renewed, or materially changed or have restrictive modifications added during the life of this Agreement, including the periods of required coverage. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

...

If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, all additional certificates evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

...

§ 11.1.3.1 Acceptable insurance certificates are AIA Document G705, CICC of Minnesota Form 701, and/or ACORD form of the American Insurance Institute.

...

Failure of the Owner to collect certificates does not void the requirements to obtain insurance.

...

The acceptance of any certificate of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood the Owner and Architect do not in any way represent that the insurance specified in these articles are sufficient or adequate to protect the Contractor's interest or liabilities, but are merely minimum requirements.

...

The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage and limits.

...

**§ 11.1.4** In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or terminate this Agreement under Paragraph 14.2. The Contractor shall be liable to the Owner for providing all coverage, defense, and payments that would have been provided by any insurance that the Contractor failed to procure and maintain as required by the Contract Documents.

...

**§ 11.1.5** Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

...

**§ 11.1.6** The Contractor and any of its Subcontractors, Sub-subcontractors, agents and employees, and any separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers Compensation Policy in favor of the Owner and Architect. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

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**§ 11.2.1** The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

...

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

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**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

...

**§ 11.6.1** Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

...

**§ 11.6.2** In order to be acceptable as a surety, Contractor's bonding company must hold a "Certificate of Authority" acceptable to the U.S. Treasury Department and be listed in the Department's current publication of "Bond Qualifiers" with underwriting limitations not less than ten percent (10%) above the Contract Sum.

...

**§ 11.6.3** The surety of the Bonds shall be by a corporate surety company authorized to do business in the state in which Work is being performed under this Contract and acceptable to the Owner. The conditions of the bonds shall meet requirements of the statutes of the state where Work is being performed and all other applicable provisions of state law.

...

**§ 11.6.4** The Contractor shall furnish two (2) originals of the Bonds to the Architect within ten (10) days after notification of award and before execution of the Contract. Failure to do so shall constitute a violation of terms of the proposal and provide grounds for forfeiture of bid security.

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs-The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. thereby.

...

**§ 12.2.2.1** ~~In addition to the Contractor's obligations under Section 3.5, if, If,~~ within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it ~~promptly~~promptly (and any other property damaged or removed in effecting the correction) after receipt of notice from the Owner and/or Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner and/or Architect shall give such notice promptly after discovery of the condition. During the one year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5. This period of

...

**§ 12.2.2.2** ~~The one year period for correction of Work one year shall be extended with respect to portions of Work first performed after Substantial Completion completion by the period of time between Substantial Completion and the actual completion of that portion of the Work. completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the contract and termination of the Contract. The Owner and/or Architect shall give such notice promptly after discovery of the~~

...

**§ 12.2.2.3** ~~The one year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2. condition. The expiration of the above one year or any other specified time period, or any other period prescribed by the law, shall not relieve the Contractor of the obligation form the expense to correct any latent defect in the work or deficiencies which are not readily ascertained, including but not limited to, defective materials and quality of work performed, defects attributable to material substitutions for special materials, substandard performance or otherwise not in compliance with the Contract Documents. Such latent defects or deficiencies shall be corrected as provided in this Paragraph 12.2. Following the correction or replacement of any of the Work, as above specified, the Contractor shall correct any defects or deficiencies in the corrected or replaced materials and workmanship which is found within one year after the date of correction or replacement.~~

...

**§ 12.2.4** If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may correct or remove it and store the salvageable materials or equipment all at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after

deducting costs and damages that should have been borne by the Contractor, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

...

~~§ 12.2.5~~ The Contractor shall bear the cost of correcting destroyed or damaged ~~construction of the Owner or Separate Contractors, construction,~~ whether completed or partially completed, ~~caused by the Contractor's or the Owner or separate contractors caused by the Contractor's~~ correction or removal of Work ~~that which~~ is not in accordance with the requirements of the Contract Documents.

...

~~§ 12.2.5~~ **12.2.6** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the ~~Contract Documents. Establishment of the one-year period for correction of Work as described in Section contract documents. Establishment of the time period of one year as described in Subparagraph 12.2.2~~ relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's Contractor's liability with respect to the Contractor's Contractor's obligations other than specifically to correct the Work.

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**§ 13.4.1** Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. ~~Unless otherwise provided, the Contractor~~ The Owner shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, ~~and shall bear all related costs of tests, inspections, and approvals authority.~~ The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may ~~be present for observe~~ such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

...

**§ 13.4.2** If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give ~~timely a minimum of two (2) working days'~~ notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense observe procedures. The Owner shall bear such costs, except as provided in Subparagraph 13.4.3.

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### **§ 13.5 InterestNON-DISCRIMINATION**

...

~~Payments due and unpaid under the Contract Documents shall bear interest~~ **§ 13.5.1** All contracts between the Owner and companies providing goods and services under the Contract Documents (including the Architect and Contractor) shall contain the following equal opportunity and civil right clause:

...

"During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from the date payment full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

...

Upon request, the provider shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The provider shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

...

The provider acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

...

~~due at~~ This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

...

the rate the parties agree upon **§ 13.5.2** During the completion of the work and all other services required by the Contract Documents, the Architect and Contractor agree that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Architect and Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

...

Architect and Contractor acknowledge that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

...

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. **§ 13.6** No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner or Architect, or by inspections, tests, or approvals required or performed by the Owner or Architect or anyone else.

**§ 14.3.2** The Contract Sum and Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent

...

**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

**§ 15.1.3.1** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within ~~21~~ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ten (10) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

...

**§ 15.1.3.2** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

**§ 15.1.4.1** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. -Subject to paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

§ 15.1.6.1 If the Contractor wishes to make a Claim for ~~an~~any increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

...

#### § 15.1.7 Waiver of Claims for Consequential Damages 15.2 Initial Decision

...

~~The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~ § 15.2.1 Claims, including those alleging an error or omission by the Architect, shall be referred initially to

...

- ~~1~~ damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and the Architect for action. A decision by the Architect, as provided by Subparagraph 15.2.2, shall be required as a condition precedent to action at law or litigation of

...

- ~~2~~ damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work. a Claim between the Contractor and Owner as to all such matters arising prior to the

...

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents. date final payment is due, regardless if (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to action at law or litigation in the event (1) the position of~~

...

#### § 15.2 Initial Decision

...

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 15.2.2 within the ten (10) days after the Claim is made, (4) ten (10) days, which decision shall be final subject to action at law as provided in paragraph 15.3. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the

Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

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~~§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: Architect will review Claims and take one or more of the following preliminary actions within ten (10) days of receipt of a Claim: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim, part stating reasons for the rejection, (4) recommend approval of the Claim by the other party, or (5) suggest a compromise. If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect shall notify the parties in writing that the Architect's decision will be made within ten (10) days, which decision shall be final subject to action at law as provided in Paragraph 15.3.~~

...

~~§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense. If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.~~

...

~~§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part. If a Claim has not been resolved, the party making the Claim shall, within ten (10) days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim, or (3) notify the Architect that the initial Claim stands.~~

...

~~§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven (7) days, which decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution to action at law. Upon expiration of such time period, the Architect will render to the parties~~

...

~~§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1. the Architect's written decision relative to the~~

...

**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision. Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

...

**§ 15.2.7** ~~In 15.2.6~~ in the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a ~~Contractor's~~ Contractor's default, the Owner may, but is not obligated to, notify the surety and request the ~~surety's~~ surety's assistance in resolving the controversy.

...

**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

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**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

...

**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

...

**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

...

## § 15.4 Arbitration

...

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

...

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

...

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

...

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

...

## § 15.4.4 Consolidation or Joinder

...

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

...

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not

~~constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

...

**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.



## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Minneapolis Public Schools, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:38:16 ET on 11/28/2018 under Order No. 8259021829 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

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*(Signed)*

---

*(Title)*

---

*(Dated)*

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
Ratwik, Roszak & Maloney, P.A.**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Ratwik, Roszak & Maloney, P.A. dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Ratwik, Roszak & Maloney, P.A. ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Ratwik, Roszak & Maloney, P.A. ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000592

1. *Original contract amount: 95,000.00*
2. *Accumulative contract amount: 165,000.00*

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

**Section: IV. Terms**

**Description:** Regarding general legal services, the Independent Contractor will perform work as requested by the General Counsel regarding matters in litigation, matters filed with administrative agencies, or actions filed in the courts, AS WELL AS investigation and/or legal services that may involve harassment, discrimination, sexual harassment, and other policy compliance issues. Also, the independent contractor shall assist the District with these matters in the instance of increased litigation.

For a total amount not to exceed \$165,000.00 (One hundred and sixty-five thousand dollars and 00/100 cents.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Chair of the Board

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

Ratwik, Roszak & Maloney, P.A

Signature: 

Name: Margaret Skelton

Title: Shareholder

Date: 4/27/21

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**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
Russ Davis Wholesale Inc**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Russ Davis Wholesale Inc dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and Russ Davis Wholesale Inc ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and Russ Davis Wholesale Inc ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000685

1. *Original contract amount: \$1,000,000*
2. *Accumulative contract amount: \$1,600,000*

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

**Section: Exhibit A and Section 3.1**

**Description:** Culinary & Wellness Services requests approval for a contract amendment with Russ Davis Wholesale Inc. in the amount of \$600,000 for to pay invoices related to produce and supplies purchase due to increase in purchases with vendor

**Section: 3.1 Total Obligation.**

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed \$1,600,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

(The remainder of this page intentionally left blank.)

**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

**Russ Davis Wholesale Inc:**

Signature: Cricket James

Name: Cricket James

Title: Account Manager – School Specialist

Date: 4-27-2020

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND**

**The Mental Health Collective (dba Watercourse Counseling Center)**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and The Mental Health Collective (dba Watercourse Counseling Center) dated 4/13/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and The Mental Health Collective (dba Watercourse Counseling Center) ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and The Mental Health Collective (dba Watercourse Counseling Center) ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 3/22/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000524

1. *Original contract amount:* \$170,000
2. *Accumulative contract amount:* \$241,666.65

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

**Section:**

**1.1** to provide mental health services to Andersen United, Emerson Spanish Dual Immersion, Loring, Lyndale, Bancroft, Whittier, City view, Wellstone, Sanford, Keewaydin, Sullivan Community, Northrop, Dowling, Barton and Wenonah Schools to D-AO-Special Education.

**3.1 Total Obligation** - District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed \$241,666.65. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Expansion of school mental health to Northrop, Dowling, Barton and Wenonah Schools. Implementation of a Mental Health Support Line and additional mental health support during summer school

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

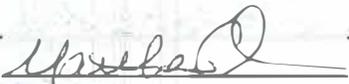
Signature: Kim Ellison

Name: Board Chair

Title:

Date:

**Contractor:**

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

Name: Martha Oisen

Title: Executive Director

Date: 4/21/21

**AMENDMENT #1 TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
Unique Software**

This Amendment ("Amendment") to the Contract between Special School District No. 1 and **Unique Software** dated 5/11/2021 ("Contract") is made and entered into by and between Special School District No.1 ("District") and **Unique Software** ("Contractor") (collectively "parties").

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law ("District") and **Unique Software** ("Contractor") entered into a contract titled CONTRACT FOR SERVICES for a period between 7/1/2020 through 6/30/2021 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 44000005986

1. *AMD#1 contract amount: \$110,000.00*
2. *Accumulative contract amount: \$187,784.00*

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

**Section:** Exhibit A and 3.1 Total Obligation

**Description:** Increasing contract amount to cover computer repair services due to COVID as the District continues Hybrid/Distance Learning.

3.1 - District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed \$187,784.00. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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SPECIAL SCHOOL DISTRICT NO. 1

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

Name: Kim Ellison

Title: Board Chair

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

**Unique Software:**

Signature: Deb Walz

Name: Deb Walz

Title: Chief Financial Officer

Date: 05/03/21

**AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOLS DISTRICT NO.1 AND  
Washburn Center for Children**

This Amendment (“Amendment”) to the Contract between Special School District No. 1 and Washburn Center for Children dated 5/11/2021 (“Contract”) is made and entered into by and between Special School District No.1 (“District”) and Washburn Center for Children (“Contractor”) (collectively “parties”).

WHEREAS, Special School District No.1, a special school district created and existing under Minnesota law (“District”) and Washburn Center for Children (“Contractor”) entered into a contract titled CONTRACT FOR SERVICES for a period between 4/1/2020 through 6/30/2021 (“Contract”), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000525

1. *Original contract amount:* \$210,000
2. *Accumulative contract amount:* \$236,666.33

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

**Section:** This Contract is entered into between Special School District No. 1, “District”, a special school district created and existing under the laws of Minnesota, and Washburn Center for Children “Contractor” (collectively “parties”) to provide Mental Health Services to Seward, Jenny Lind Bethune, Nellie Stone, Sanford, Bryn Mawr, Hall Schools, Hiawatha and Howe to D-AO-Special Education.

3.1 Total Obligation. District’s total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed \$236,666.33. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

**Description:** Expansion of mental health services in to Hiawatha and Howe schools and additional mental health support at Sanford and Nellie Stone for summer school.

Except as herein amended, the terms, conditions and provisions of the contract shall apply to and govern the provisions of this Amendment.

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**SPECIAL SCHOOL DISTRICT NO. 1**

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

Name: Kim Ellison

Title: Board Chair

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

**Washburn Center for Children:**

Signature:  \_\_\_\_\_  
1D838B40028E46F...

Name: Tom Steinmetz

Title: CEO

Date: 5/4/2021

**SPECIAL SCHOOL DISTRICT NO. 1**  
**Board of Education**

May 11, 2021

**RESOLUTION TO APPROVE EQUAL TREATMENT IN TRANSPORTING STUDENTS FUNDING TO NON-PUBLIC SCHOOLS**

**WHEREAS**, Minnesota Statutes Section 123B.84-.87 titled Equal Treatment in Transporting Students (“Statute”), ensures that all students in the State of Minnesota who are required to attend elementary and secondary schools receive equal treatment in transportation to school; and

**WHEREAS**, The Statute allows the Board of nonpublic schools to either utilize Special School District No. 1 transportation or the nonpublic school may provide its own transportation; and

**WHEREAS**, Special School District No. 1 receives transportation funding from the State of Minnesota for students residing in the city of Minneapolis; and

**WHEREAS**, When a nonpublic school elects to provide its own transportation, then Special School District No. 1 must provide ninety-five percent of funding it receives from the State of Minnesota to the nonpublic school and is allowed to hold five percent for administration purposes; and

**WHEREAS**, Four nonpublic schools, including DeLaSalle High School, Minnehaha Academy, Cristo Rey Jesuit School and Hope Academy elected to provide their own transportation during the 2020-2021 school year; and

**WHEREAS**, Special School District No. 1 is required by statute to pay the funds to the identified schools.

**NOW, THEREFORE BE IT RESOLVED** that the Board of Directors of Special School District No. 1 authorizes the following Equal Treatment in Transporting Students funding owed:

DeLaSalle High School  
388 students @ \$231.17 = \$89,693.96 less 5% administrative costs = \$85,209.26

Minnehaha Academy  
290 students @ \$231.17 = \$ 67,039.30 less 5% administrative costs = \$63,687.33

Cristo Rey Jesuit School  
50 students @ \$231.17 = \$ 11,558.50 less 5% administrative costs = \$10,980.58

Hope Academy

189 students @ \$231.17 = \$ 43,691.13 less 5% administrative costs= \$41,506.57

Signed by:

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Kim Ellison  
Board of Education Chairperson

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Date

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Josh Pauly  
Board of Education Clerk

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Date

**SPECIAL SCHOOL DISTRICT NO. 1**

**Board of Education**

**May 11, 2021**

**WHEREAS**, Minneapolis Public Schools has applied to host an AmeriCorps member from the Minnesota GreenCorps, a program of the Minnesota Pollution Control Agency (MPCA), for the 2021-2022 program year; and

**WHEREAS**, if the MPCA selects Minneapolis Public Schools, the organization is committed to implementing the proposed project as described in the host site application, and in accordance with pre-scoped position description; and

**WHEREAS**, the MPCA requires that Minneapolis Public Schools enter into a host site agreement with the MPCA that identifies the terms, conditions, roles and responsibilities;

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, that the Board of Directors of Special School District No. 1 hereby agrees to enter into and sign a host site agreement with the MPCA to carry out the member activities specified therein and to comply with all of the terms, conditions, and matching provisions of the host site agreement and authorizes and directs Superintendent of Schools to sign the grant agreement on its behalf.

\_\_\_\_\_  
Kim Ellison  
Board of Education Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Josh Pauly  
Board of Education Clerk

\_\_\_\_\_  
Date



**Instructions:** The Minnesota GreenCorps (MN GreenCorps) program is an AmeriCorps program coordinated by the Minnesota Pollution Control Agency (MPCA). **Please complete the application, answer all questions, and send via email to [mngreencorps.pca@state.mn.us](mailto:mngreencorps.pca@state.mn.us).** For more information, refer to the *Minnesota GreenCorps host site application guide*. Applications must be submitted electronically by **5:00 p.m. Central Time on Tuesday, March 16, 2021.**

**Please note:**

- In an effort to allocate MN GreenCorps member positions and resources to various communities, organizations will not generally receive more than two member positions per year.
- Current or past host sites are not guaranteed selection as a 2021-2022 host site.
- Operation of the 2021-2022 program year is contingent on funding. Confirmation of funds may not be available before the application deadline.
- MN GreenCorps host sites must have at least one full-time paid employee. The minimum supervision requirement is at least 0.08 full-time equivalent (FTE) of a professional staff's time to supervise one MN GreenCorps member or at least 3.2 hours per week.
- Member activities may not include assisting organizations with meeting requirements, coming into compliance, or avoiding fines from any local, state, or federal laws or regulations.

## I. Applicant and project information

Name of legal applicant organization: Special School District No. 1 – Minneapolis Public Schools (Loring Community School)

Mailing address: 2600 44th Avenue North

City: Minneapolis State: MN Zip code: 55412

Applicant contact: Carly Siewert Title: Family & Community Liaison

Phone: (612) 466-0562 Email: carly.siewert@mpls.k12.mn.us

Website address: mpls.k12.mn.us

What type of host site is your organization (check one):  **New**  **Current or past host site**

**Contact information for authorized representative:** Individual responsible for signing legal agreements, including the Minnesota GreenCorps Host Site Agreement, in your organization. (see *sample Host Site Agreement on the MN GreenCorps website*)

Authorized representative name: Ed Graff Title: Superintendent of Schools

Mailing address: 1250 W Broadway Ave

City: Minneapolis State: MN Zip code: 55411

Phone: 612-668-0200 Fax: \_\_\_\_\_

Email: mpssup@mpls.k12.mn.us

**Please indicate your organization type:**

- Government agency (local, regional, state, tribal, or federal)  
*(Examples include cities, counties, tribal governments, park districts, regional planning organizations, watershed districts, etc.)*
- School district
- 501(c) (3) non-profit organization (**Note:** you must submit proof of 501(c) (3) status with your application)
- Not-for-profit institutions of higher education

Please indicate the member position type for which you are applying (must only select one). Details of the member position descriptions can be found in the *Minnesota GreenCorps host site application guide*.

- Air Pollutant Reduction
- Community Readiness and Outreach
- Green Infrastructure Improvements
- Waste Reduction, Recycling, and Organics Management

## II. Narrative questions

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Before responding to the following questions in the text box provided, review the pre-scoped position description and member prohibited activities (under section II of the *Minnesota GreenCorps host site application guide*).

Examples of prohibited member activities include attempting to influence legislation, advocacy for or against proposed legislation, providing a direct benefit to a for-profit business, writing a grant application to any federal agency, clerical work or research unless such activities are incidental to the member's direct service activities. AmeriCorps members cannot displace or replace previously employed, striking, or laid-off workers (see the *Non-displacement policy* of the *Host site application guide*).

### Project scope and outcomes

#### 1. Provide an overview of the member project you propose.

Loring Community School, a public elementary in North Minneapolis, proposes to host a 1.0 MSY GreenCorps member to implement school-wide waste diversion, reduction, and recycling systems for utilization by its 450-strong student body and related faculty. As a new member of the Family & Community Liaison team that partners closely with Loring/MPS' Facilities services team, the member will have a particular focus on the following:

- 1) Pilot the implementation of recycling and waste diversion programs in the Loring school cafeteria (where all items are currently being placed in the trash) through new recycling bins, signage, and procedural development.
- 2) Provide campus-wide education to school faculty, students, and families on the implementation of waste reduction, recycling, and organics initiatives.
- 3) Develop systems to conduct waste audits, track and evaluate fidelity to newly-implemented recycling/waste diversion programs. Liaise with MPS Culinary & Wellness Services to share out results of pilot program.
- 4) Partner with MPS Community Education to develop/facilitate a "Green Ambassadors" after-school program to be implemented at Loring in the spring Community Ed session. This program will focus on student leadership development to promote eco-friendly systems change at Loring and influencing campus-wide behavior change.
- 5) Partner with like-minded community groups in education and outreach activities, including Loring's onsite Kids Cook! program (environmental education/organics composting), the Loring PTA (family-focused environmental education), and Hennepin County Green Partners program staff.

The Loring Community GreenCorps (LCG) member will have the opportunity to develop and implement real, tangible change that creates an immediate impact on campus sustainability practices, while facilitating educational activities to inspire a new generation of environmental leadership at Loring.

#### 2. Indicate performance measures that the project aligns with by checking the corresponding box and inputting estimated results. For example, if your project involves retrofits, check the "retrofit public structures" box and input estimated results such as number of buildings retrofitted and estimated energy savings. The service project may address any of the performance measures in any of the categories. Projects must align with at least one performance measure outlined below; alignment with two or more measures is encouraged.

##### Waste reduction

- Reduce food waste through organics recycling:* Members will implement waste prevention or organics recycling resulting in pounds of organics prevented or diverted from the waste stream. Projects should focus on residential, institutional, or other public facilities.
- Divert waste:* Members will integrate sustainable waste management practices into daily operations at host site and community facilities to recycle, compost, prevent, or otherwise divert material from the waste stream.

##### Input estimated results (i.e., number of pounds of waste diverted):

- 7,500 lbs of food waste will be diverted through organics recycling implemented during the 2021-2022 school year as a result of the LCG member's activities.

**Input estimated results:**

- 5,500 lbs of waste will be recycled/ diverted from landfills via GreenCorps pilot program implementation in the 2021-2022 school year as a result of the LCG member’s activities.

**Outreach and education**

- Educate or train individuals in environmental stewardship:* Members will educate and/or train individuals on environmental stewardship to improve land, air, and water quality.
- Motivate individuals to change behavior or promise to change behavior:* Members will provide education and training that will result in individuals changing behavior or making a promise or pledge to change behavior to lessen environmental impact.
- Mobilize and/or engage volunteers in community service projects:* Members will recruit, train, and/or engage community members in local service projects.

**Input estimated results (i.e., number of individuals receiving education):**

- 250 Loring students will receive education on waste diversion, recycling, and composting via new lunchroom/classroom practices implemented by the GreenCorps member.
- 10-15 students will learn environmental leadership via participation in Green Ambassadors after-school program.
- 50 Loring parents will be engaged in organics recycling education facilitated by GreenCorps member and Kids Cook! personnel.
- 10 volunteers will be recruited to assist in staffing community education events and guest-presenting to Green Ambassadors after-school program students.

**Input estimated results (i.e., number of individuals committing to behavior change):**

- 75% of educational attendees will commit to behavior change as documented via post-training surveys and monitoring of lunchroom waste diversion.

**Other**

- This project engages areas of environmental justice concern, per the *EJ Story map* found on the MPCA’s website <http://mpca.maps.arcgis.com/apps/MapSeries/index.html?appid=f5bf57c8dac24404b7f8ef1717f57d00>.

**Input estimated results (i.e., communities engaged):**

The project will engage and provide education to the Loring School student body of 450 scholars and their families. 70.5% of Loring students identify as students of color and 65-70% qualify for free or reduced-price lunch. Loring’s student population resides entirely in North Minneapolis, the majority of students hailing from Webber-Camden and Victory neighborhoods, with a significant percentages of students residing in the greater Camden area (includes Folwell, McKinley, Cleveland, Shingle Creek, and Lind-Bohanon neighborhoods).

- This projects addresses chloride reduction (i.e., road salt and water softeners)

**Input estimated results (i.e., the mechanism for chloride reduction):**

**Workplan**

**Member position goal statement:**

**In one to two sentences, please summarize the overall goal of the proposed member project:**

The Loring Community GreenCorps member will work with school faculty, students, families, and partners to implement community-wide waste reduction, recycling, and organics management initiatives onsite at Loring School. The LCG will similarly develop an after-school "Green Ambassadors" program to develop student leaders in partnership with MPS Community Ed, and partner with community groups to facilitate community education to Loring parents and interested community members.

**Complete the table below outlining a Workplan for the proposed member position. Members serve a total of 1,700 hours from September 2021 to August 2022, and there are already 300 hours for training activities included in the template below. Please input service activities totaling 1,400 hours. See the *Minnesota GreenCorps host site application guide* to reference the pre-scoped member position description and review the types of activities that fall under essential and marginal functions. See sample workplans on the MN GreenCorps’ website at <http://www.pca.state.mn.us/mngreencorps>.**

Member activities	Activity details/results	Timeline	Hours
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MN GreenCorps Trainings MN GreenCorps required orientation and quarterly trainings. Other trainings, workshops, and conferences.  Civic engagement activities. Host Site Trainings.	Members attend all required MN GreenCorps trainings, including the three-day orientation in September and quarterly trainings. Members participate in other trainings, workshops, and conferences to gain technical and professional skills to prepare them for service. Members participate in civic engagement activities to broaden their experience and further engage in their community.	September – August	~300 hours
Supervisor/team meetings	Weekly 1:1s and team meetings (2 hrs X 40 weeks= ~80 hrs)	September - June	~80
Pilot the implementation of recycling and waste diversion programs in the Loring school cafeteria through new recycling bins, signage, and procedural development.	-Work with Facilities and administrative staff to plan full-cycle recycling systems -Assist in Hennepin County Business Recycling Grant Request -Develop plan for purchasing/placement of new recycling bins/ signage, revisions to lunchroom procedures -Collaborate with central office staff as needed for systems implementation.	September - October	~300
Provide campus-wide education to school faculty, students, and families on the implementation of waste reduction, recycling, and organics initiatives.	-Develop curriculum, communications and space plan, and infographics needed to communicate new systems -Facilitate in-classroom (or lunchroom) education to staff and students on new recycling/ organics procedures and their importance	October- November	~120
Develop systems to conduct waste audits, track and evaluate fidelity to newly-implemented recycling/waste diversion programs.	- Develop waste audit tracking & evaluation procedures and plan for ongoing monitoring. - Team with facilities/culinary staff to ensure fidelity to waste audit procedures. - At year-end, liaise with MPS Culinary & Wellness Services and district leadership to share out results of pilot program.	November- June	~300
Partner with MPS Community Education to develop/facilitate a “Green Ambassadors” after-school program to be implemented at Loring in the spring Community Ed session.	- Develop Green Ambassadors after-school program curriculum and activities in tandem with Community Ed staff. - Conduct marketing & communication activities to encourage after-school enrollment in spring Community Ed session. -Assist community ed teacher in after-school program presentations/activities	November- May	~450
Partner with like-minded community groups in education and outreach activities: Kids Cook!, Loring PTA, Victory Neighborhood Association, and Hennepin County Green Partners program staff.	- Convene or participate in quarterly planning meetings with school & neighborhood “greening” groups to network, share information, and plan community outreach/ education activities. -Lead volunteer recruitment and organics recycling/ composting education activities on behalf of community greening collaborative. -Assist in event planning, management, and training facilitation as needed.	September - May	~150

## Community need/involvement

1. Describe how the proposed project will have a positive environmental impact on the community or communities your organization serves. The MN GreenCorps program prioritizes host site projects that support communities with higher concentrations of low-income residents and people of color, including tribal communities. The MPCA’s criteria and interactive mapping tool are on the MPCA’s website at <http://mpca.maps.arcgis.com/apps/MapSeries/index.html?appid=f5bf57c8dac24404b7f8ef1717f57d00>.

Please indicate if the project will serve under-represented, economically disadvantaged, or rural populations:

The project will inspire behavior change and immediate environmental impacts at a large urban public school, resulting in thousands of pounds of waste recycled and the education/ development of young environmental leaders. Loring Community School currently lacks recycling systems in its cafeteria/food management, and although it has begun implementing environmental education in recent years, budget constraints greatly limit the school's ability to fund dedicated environmental instruction/activities for the student body. The project's plan to incorporate collaboration with onsite Community Education (for after school programming and community outreach) is both innovative and sustainable. Loring Community School is located in and serves multiple surrounding census tracts that are both 'global majority' and exceed 40% of residents reporting income less than 185% of the federal poverty level. Loring has a student population of 450 students, 70.5% of whom identify as students of color and 65%-70% of whom qualify for free or reduced-price lunch.

2. **How will the proposed MN GreenCorps member position engage community members and/or mobilize volunteers?**

The Loring Community GreenCorps member will implement a multi-faceted workplan to engage community members (and volunteers). This includes (1) educating Loring students and staff on the implementation and evaluation of waste reduction, recycling, and organics initiatives at Loring; (2) partnering with Community Ed to develop/implement a student leadership-focused after-school program; (3) Community education events to teach interested families/community members about sustainability practices (e.g. organics recycling at home or other areas of interest); and (4) partnering with local community groups (Kids Cook!, Loring PTA, Victory Neighborhood Association, etc.) to recruit and mobilize volunteers to assist in community education events and/or present to Green Ambassadors after-school students.

3. **If your member project requires support from other partners, either internally (e.g., different departments like IT, facilities maintenance, etc.) or externally (e.g., a school district), please list these partners below, and describe how the partnership will work. What actions will you take as the host organization to ensure that partners fully support and engage in the project?**

***As applicable, to demonstrate a commitment by these partner departments or organizations, provide letters of support as attachments when submitting this application (list the attachments below):***

- Internal collaboration:
  - Facilities maintenance: The Loring Community GreenCorps (LCG) member will partner with Facilities maintenance staff at Loring and the district to develop and implement recycling & waste reduction (including organics recycling) in the school cafeteria.
  - Classroom teachers/school administration: With the full support of Principal Ryan Gibbs and knowledge that school faculty and parents have requested more sustainable practices at Loring, the LCG member will partner with classroom teachers and school administration to teach students (and faculty) about new recycling programs and monitor implementation fidelity.
  - Community Education: Loring's onsite partnership and funding support of MPS Community Education is directly managed by the LCG member's supervisor (Family & Community Liaison). This existing team infrastructure will greatly benefit plans for the development of a Green Ambassadors after-school program in partnership with Community Ed staff.
- External collaboration:
  - Kids Cook!: A partnership with Loring to manage the schoolyard garden, prairie, and orchard and teach environmental education to students, Kids Cook! will be a natural partner of the LCG member, particularly as it relates to student/family education and composting/organics.
  - Loring PTA: The Loring PTA works closely with Loring's Family & Community Liaison department and is an active supporter of this application. In addition to providing funding support to the project, PTA members will assist in the marketing of any family-focused educational events (i.e. organics recycling/composting at home, etc.)
  - Other: Loring Community School has an existing partnership with Hennepin County as a Green Partners grantee. The LCG member may be asked to liaise with Hennepin County staff in Loring's planned request for Business Recycling grant assistance (<https://www.hennepin.us/businessrecycling>)

## Organizational capacity and commitment

Please respond to the following questions about your organization:

1. **In one paragraph, describe your organization's mission. Include a description of the community your organization serves, qualifications of your staff, the number of paid staff, and experience (if any) with hosting AmeriCorps members:**

Loring and Minneapolis Public Schools share the mission to ensure that all students learn and support their growth into knowledgeable, skilled and confident citizens capable of succeeding in their work, personal, family and community lives into the 21st century. The project will engage and provide education to Loring School's student body of 450 children and their families, and secondarily provide support to the broader community via community partnerships. Loring Community School is located in and serves elementary-age students and families residing in the vibrant and close-knit Camden area of North Minneapolis. There are currently about 43 paid staff at Loring. Loring Community School has a long history of successfully supporting AmeriCorps members onsite via the Minnesota Reading Corps (administered by Reading & Math, Inc.) - Loring's current Reading Corps member is serving in her third year onsite, and past AmeriCorps members have transitioned to staff positions following the completion of their service (and/or schooling).

2. **Describe how your organization's current efforts and activities reflect the commitment and expertise you can provide to support a MN GreenCorps member. Include examples as appropriate:**

A long standing community partner, Kids Cook!, has provided grade-specific and seasonally- based environmental education to Loring students and families. They use the Loring Schoolyard Garden to inspire lessons and host hands-on activities that include education about organics composting, native plant life, and environmental conservation.

Through a Green Partners Hennepin County grant, Kids Cook! and school staff have built on existing relationships to develop more impactful programming in a virtual landscape. We hope to extend this culture of collaboration to the LCG member to create more and add depth to inclusive and holistic environmental education at Loring.

Loring culture as a whole is one that is very team orientated and about cultivating and supporting each other's talents. The principal, Ryan Gibbs, is well known for his goals to support the professional and personal growth of Loring staff, which would extend to the LCG member. The Loring PTA is heavily invested in the school with a long standing history of supporting classrooms and school-wide activities with their expertise in planning and executing events. The LCG member would benefit from their support and connections.

3. Applicants must identify one host site supervisor. A host site supervisor must provide **at least 0.08 FTE per member**, which equates to a **minimum of 3.2 hours each week**. **The supervisor should be an FTE employee of the host site or a partnering organization.**

**Describe how the host site supervisor will meet this requirement.**

The LCG member's supervisor (Family & Community Liaison) will meet with the member weekly and include the member in weekly team meetings (2 hrs/week). The supervisor anticipates dedicating significant time to member coaching and problem-solving, and the coordination and facilitation of connections to internal and external stakeholders to promote the member's workplan goals. Finally, the supervisor understands the expectations for timely communications and coordination with MN GreenCorps coordinators, and consistent in-kind and member reporting. The Family & Community Liaison's position's hours are increasing for the 2021-2022 year, which will provide significant capacity to focus on the GreenCorps initiative.

**Please provide the background/qualifications of the staff member in your organization who will be responsible for the day-to-day supervision of the MN GreenCorps member from September 2021 through August 2022. Please note that the supervisor is required to attend an all-day orientation training in September.**

Carly Siewert, Family & Community Liaison, has been building relationships with Loring students, families, and community partners for the past 2 years and is eager to implement eco-focused systems change at Loring. Carly possesses a B.S. Community & Nonprofit Leadership from the University of Wisconsin-Madison. Carly's passion for environmental sustainability comes from her experience working in her family's business, Minneapolis-based Wood From the Hood, which reclaims urban trees and turns them into eco-friendly lumber & products.

**Contact information for on-site supervisor:**

Supervisor name: Carly Siewert Title: Family & Community Liaison  
Email: carly.siewert@mpls.k12.mn.us Telephone: (612) 466-0562

4. **MN GreenCorps is a program that offers individuals professional, educational, and civic growth, particularly in the environmental field. *Potential members may not bring highly specialized skills to their position.* Describe how you will support the member in terms of on-site training, professional development, staff support and expertise, etc.:**

The LCG member will be an integral member of the Family & Community Liaison team and invited to attend (and/or present at) all related departmental and all-staff meetings, and any related training/ networking events with partnering community/ government groups. The school will provide a small professional development budget to the member to attend an additional professional development opportunity of their choice. Onsite mentorship and connections will be provided by the member's supervisor, Carly Siewert, Principal Ryan Gibbs, and the leader of Loring's onsite Kids Cook! program, which will partner with the member on environmental education and garden composting activities. Loring Community School is regularly recognized for its highly positive and supportive atmosphere as a place to learn and work - Loring possesses the highest staff retention/ seniority rate amongst North Minneapolis schools, and is viewed as a highly-competitive place in which to apply to work district-wide.

5. **What financial and/or material resources will your organization make available for MN GreenCorps member(s) projects and activities, should these be needed? MN GreenCorps members receive a minimal training budget from the MPCA to utilize throughout their service. We encourage host sites to assist with providing training opportunities or funding for their member to attend trainings, conferences, etc., throughout the service year.**

A \$200 professional development budget will be provided to the LCG member to attend paid professional development of their choice. Additional training may be approved on a case-by-case basis and/or via a request for funding to the Loring PTA.

6. **Host sites are required to provide reasonable workspace for members to complete their project tasks, which includes a desk, phone, computer, email account, etc. Describe the dedicated office space the member will occupy for the 11-month term of service and the equipment and services that will be made available to allow the member to carry out the work:**

The LCG member will be provided their own workspace to conduct all work related activities, which includes all office equipment named above and Microsoft Office suite licensing (including the use of Teams for conducting/facilitating virtual meetings). The facility recently went through a facility-wide renovation and expansion in 2019, and the Loring administrative offices were newly-built in 2019.

7. **Is your organization able to provide recommendations and or assist your member in securing local housing? (not required)**

Yes  No

8. **Travel:** If traveling is required for the member service activities, the host site must provide transportation for the member (access to fleet vehicles, mileage reimbursement, bus fare reimbursement, etc.). Please keep in mind that some members may not have access to a personal vehicle, and some members may not be eligible to drive. If you indicate that driving is required, you may limit the number of members eligible for your site.

- A. Is the member required to drive in order to access or complete service activities?

Yes  No

- B. Is the member required to have access to a personal vehicle for service-related activities?

Yes  No

- C. How will the host site provide transportation for service-related activities? (check all that apply)

The host site will reimburse mileage for the members use of a personal vehicle.

The host site will provide a transit pass or reimburse the cost of public transportation.

The host site will provide access to an organizational vehicle.

**Please note:** If the Members are using vehicles belonging to the Host Site organization to conduct business on behalf of the Minnesota GreenCorps Program, then the Host Sites' vehicle insurance is primary.

- D. Is your organization able to provide transit discounts for a MN GreenCorps member, if applicable? (not required)

Yes  No

## Sustainability

1. **How do you see this work continuing after the MN GreenCorps member completes their service?**

When the MN GreenCorps member completes their service, staff and students will continue their work of managing and diverting waste through implemented lunchroom and classroom processes. Through every day actionable steps and a larger cultural shift, Loring school will have the systems in place, the knowledge and training to continue campus sustainability practices and the ability to educate new Loring students and families on what environmental stewardship looks like at Loring. In addition to sustaining recycling systems implemented by the GreenCorps, the project's plan to partner with MPS Community Education to develop environmentally-focused after-school programming will ensure the continuation of a funded program and curriculum for teaching environmental leadership to students after service completion.

2. **How does this project fit into your organization's long-term goals?**

Minneapolis Public School's mission is to ensure that all students learn and to support their growth into knowledgeable, skilled and confident citizens capable of succeeding in their work, personal, family and community lives into the 21st century. At Loring Elementary we believe that environmental stewardship plays an important aspect in our goal to support and nurture students to live and be well rounded leaders in the 21st century. This GreenCorps member will give Loring students the critical thinking skills to see the importance of sustainable practices as they continue their lives beyond Loring. This project will equip them with everyday skills to be a knowledgeable 21st century leader.

## Current or past host sites only

Review Section VII of the *Host site application guide* with considerations for current or past host site applicants.

1. Identify the program year(s) your host site previously participated, focus area(s), and the number of members hosted:
2. Describe evidence of the effectiveness of your current or past member projects, including environmental results, and how you will build on these results if awarded another member:
3. Describe how this proposed member position is unique from past member positions at your organization:
4. Describe any improvements you plan to make in terms of project oversight, member supervision, implementation, and results:

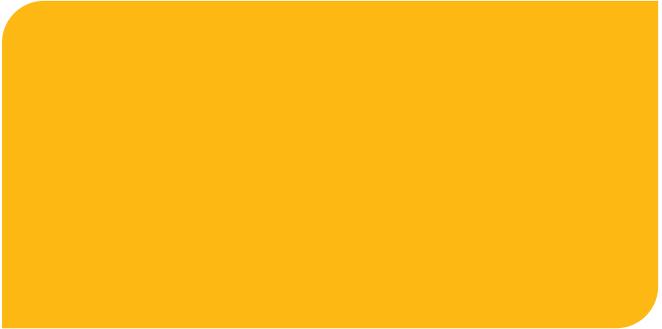
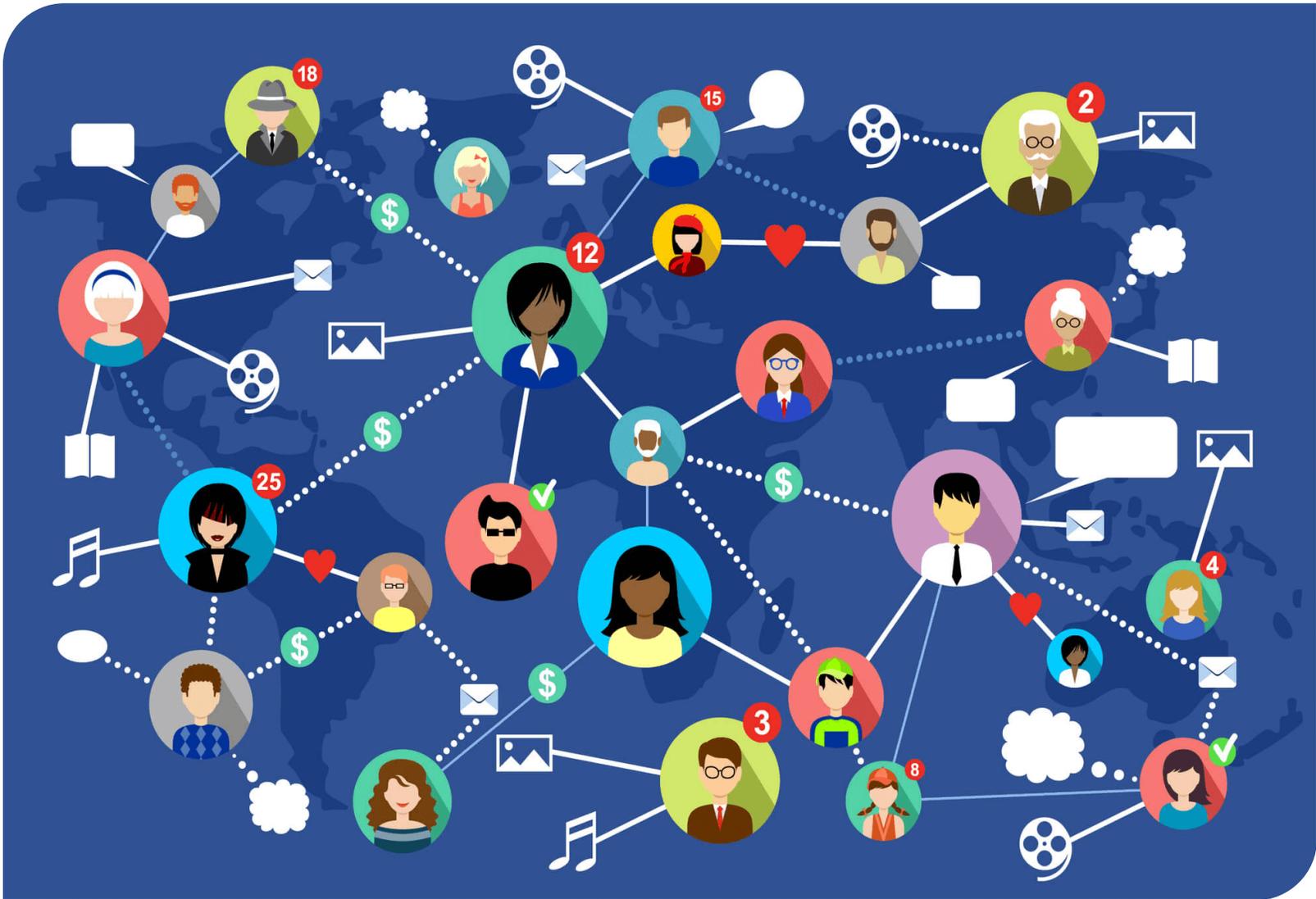
## III. Supporting documentation

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If a Board governs your organization, please provide a *Board resolution* in support of this application (see example in the *Minnesota GreenCorps host site application guide*). If the Board resolution cannot be provided by the application deadline, provide an explanation below and the date when it will be submitted. 501(c) (3) non-profit organizations must submit proof of 501(c) (3) status with the submittal of application. Relevant letters of support from partner organizations or internal departments are encouraged and accepted at the time of application and throughout the selection process.

A board resolution of support for this application is tentatively on the May 11, 2021 school board meeting agenda and will be submitted afterwards.

	Yes	No	N/A	Comments
<b>Authorizing Board resolution</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Please see above regarding Board resolution.
<b>Proof of 501(c) (3) status</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	We are a public school district.
<b>Letters of support</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Included are letters of support from two school partners.

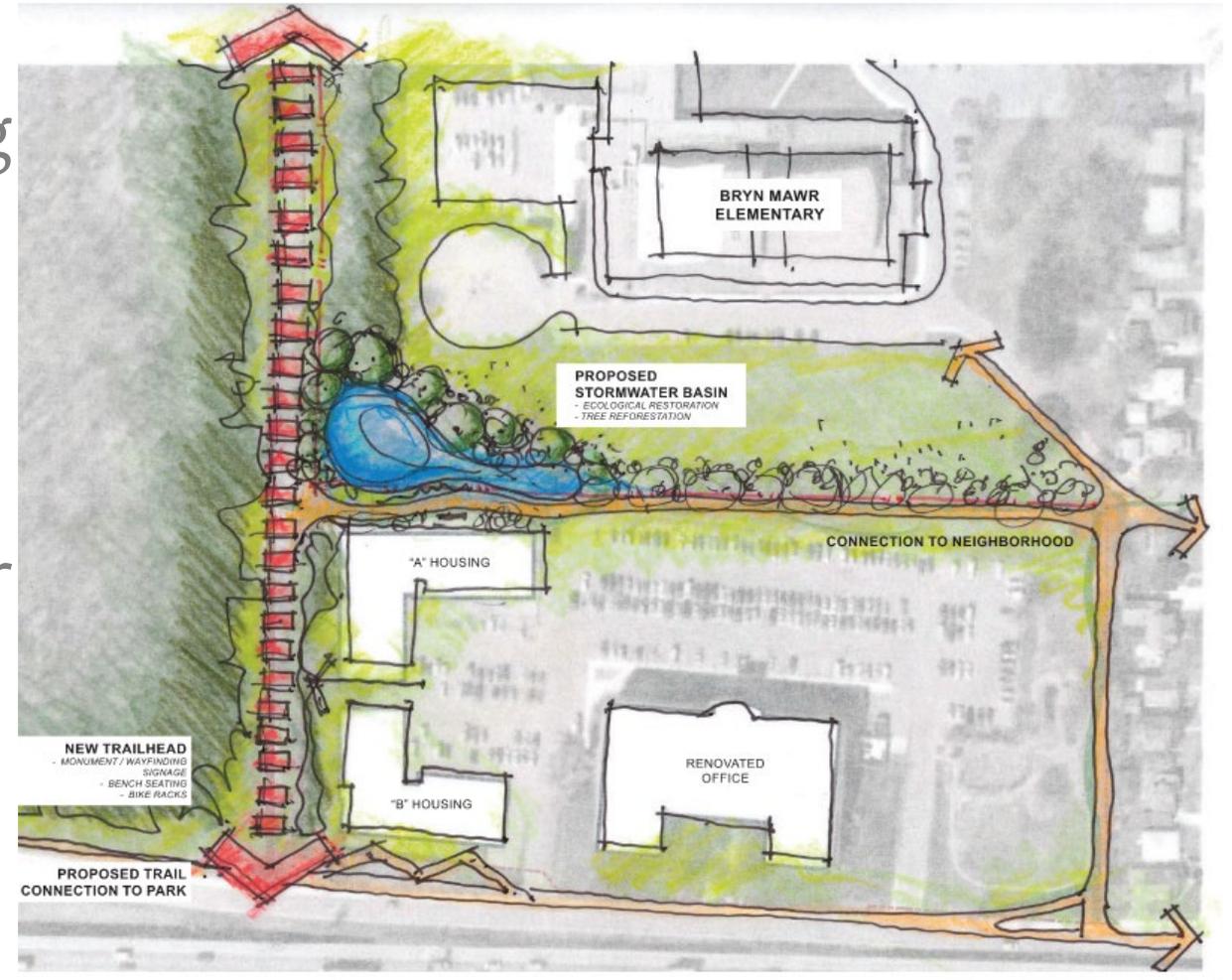


# Bryn Mawr/Anwatin Storm Water Pond Overview

# Bryn Mawr/Anwatin Storm Water Improvements

Lupe Development is building 199 units of senior living housing on the abandoned property just south of Anwatin School.

Lupe has requested installing a drainage pond on the SW corner of MPS property, whereas 75% of the pond will be on MPS property and 25% on Lupe Development property.



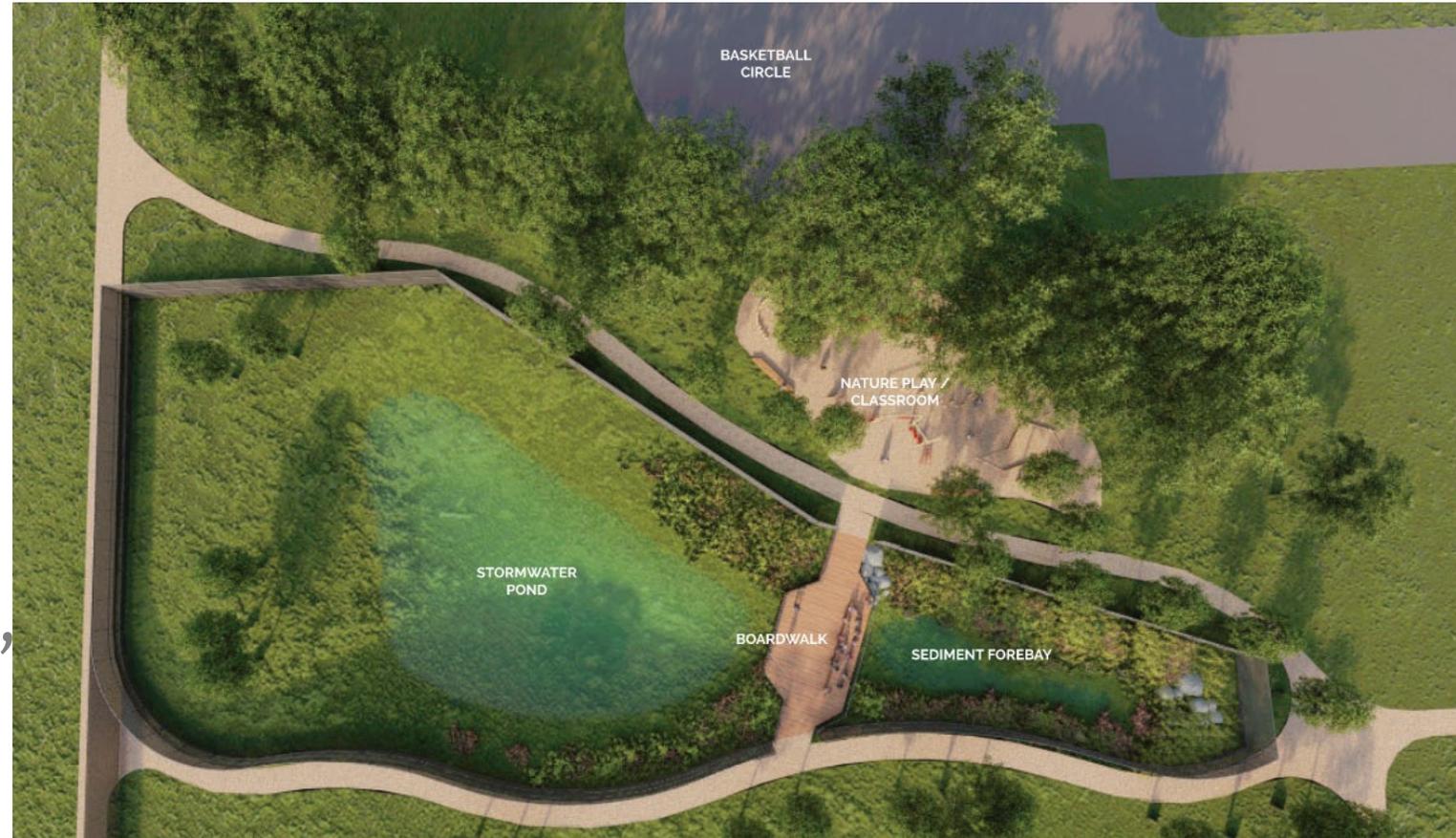
# Bryn Mawr/Anwatin Storm Water Improvements

The SW Corner of the Property is connected to Theodore Wirth Park, and access to the park is actively used by the Bryn Mawr Community & Loppet Ski Club.



# Bryn Mawr/Anwatin Storm Water Improvements

In exchange for use of MPS property, Lupe Development will pay for 100% of the cost to install the stormwater pond, including fencing, walking trail around the pond, perennial plantings, an education platform and natural play area for students.



# Bryn Mawr/Anwatin Storm Water Improvements

## Education Platform



# Bryn Mawr/Anwatin Storm Water Improvements

## Education Platform



# Bryn Mawr/Anwatin Storm Water Improvements

## Natural Play Area



# Bryn Mawr/Anwatin Storm Water Improvements

## Maintenance

All maintenance inside of the fence area will be the responsibility of Lupe Development, including the fence itself.

All maintenance outside of the fence area will be the responsibility of MPS Including the Natural Play Area.



# Bryn Mawr/Anwatin Storm Water Improvements

## Community Support

- Principal Shulman (Anwatin)
- Principal Cavendar (Bryn Mawr)
- Bryn Mawr Neighborhood Association
- Theodore Wirth Park
- Loppet Ski Foundation
- City of Minneapolis
- Watershed District



# Bryn Mawr/Anwatin Storm Water Improvements

Community Meeting with MPS Stakeholders

December 15<sup>th</sup> 6pm

Includes MPS staff, parents, and students.

Design input for “Natural Play Area” will be solicited



# Bryn Mawr/Anwatin Storm Water Improvements

## Schedule

Stormwater Pond: Spring 2021 start

Natural Play Area: Summer 2021 start

Completion: September 1, 2021



# Bryn Mawr/Anwatin Storm Water Improvements

## Closing and Questions

## **EASEMENT AGREEMENT**

This Easement Agreement (“Easement”) is by and between SPECIAL SCHOOL DISTRICT NO. 1, a special school district created and existing under the laws of Minnesota, Grantor (herein after referred to as “Grantor”) and Bryn Mawr Development, LLC, a \_\_\_\_\_ limited liability company, Grantee (herein after referred to as “Grantee”).

### RECITALS

A. Grantor is the owner of the real property known as the Bryn Mawr and Anwatin Schools, located at 252 Upton Avenue South, Minneapolis, Hennepin County, Minnesota, legally described on attached Exhibit A (the "Grantor's Property").

B. Grantee is the owner of the adjacent real property to the south of the Grantor's Property located at 2800 Wayzata Boulevard, Minneapolis, Hennepin County, Minnesota, legally described on attached Exhibit B (the “Grantee Property”).

C. Grantee desires to obtain from Grantor a perpetual easement for the purpose of retention and management of storm water and a temporary easement for the construction of the storm water retention and management system (the “Storm Water Facilities”) and the parties wish to provide for the construction of a recreational play area (“Natural Play Area”) on the Grantor's Property by Grantee.

THEREFORE, for good and valuable consideration, the parties agree as follows:

1. In consideration of the payment of \$1.00, Grantor hereby grants and conveys to Grantee, a perpetual easement on, over, across and under a portion of the Grantor's Property for the purpose of discharging surface storm water drainage, and the installation, construction, maintenance, repair, operation and inspection of storm water detention and retention pond(s) and appurtenances located within the below described easement area (the “Storm Water Facilities”), also including the right of ingress and egress onto the Easement Area from and to the Grantee's Property.

2. The location of the easement on, over, across and under the Grantor's Property (the “Easement Area”) is legally described on the attached Exhibit C and depicted on the drawing attached as Exhibit D.

3. Grantor hereby grants and conveys to Grantee, a temporary easement on, over, under and across the Grantor's Property for the purposes of construction of the Storm Water Facilities and the Natural Play Area (Exhibit G) on a portion of the Grantor's Property surrounding the Easement Area, including the right to grade, level, move and store dirt and fill on, and the use of, that portion of the Grantor's Property for a staging area and storage of materials, equipment, tools, supplies, and similar items during construction of the Storm Water Facilities. This easement includes the right to remove excess dirt or fill, so long as the Grantor has approved the area from which the removal is made and the amount to be removed. This temporary easement shall expire upon completion of construction of Storm Water Facilities and the Natural Play Area, but not later than December 31, 2022. Any damage to the Grantor's Property shall be restored to its' original condition with the exception of excess dirt removed as approved by the Grantor.

4. Grantee will, at its sole expense, install and construct the Storm Water Facilities within the Easement Area in accordance with approved plans and specifications as set forth on the attached Exhibit E. Grantee shall: obtain the approval for the construction plans and a storm water management plan from the City of Minneapolis, watershed district, and any other applicable governmental agencies; obtain all required permits; and construct and permanently maintain the Storm Water Facilities in accordance with Best Management Practices, and all laws, rules, regulations and permits. The Storm Water Facilities shall be designed to have the capacity to accommodate surface storm water drainage from the Grantor's Property.

5. The Grantee shall construct the Storm Water Facilities to include landscaping, sidewalks, boardwalk, and fencing in a manner to be approved by Grantor and as set forth on the attached Exhibit E and depicted on the attached Exhibit G.

6. In addition to the Storm Water Facilities, the Grantee shall, at its sole expense, construct for the exclusive use and benefit of Grantor, a recreational play area located outside of the Storm Water Facilities on the Grantor's Property (the "Natural Play Area") consistent with the Rendering attached hereto as Exhibit G, and in a manner and in accordance with specifications to be determined and approved by Grantor.

7. After completion of initial construction of the Storm Water Facilities, Grantee, its successors and assigns, shall have a perpetual obligation to repair, maintain and improve the Storm Water Facilities. The Grantee shall repair, maintain and improve the Storm Water Facilities and conduct regular inspections to ensure proper functioning and operation at all times ("Maintenance Obligations"). Grantor may, but is not obligated to inspect, maintain, and repair the Easement Area and Storm Water Facilities within the Grantor's Property. Grantee's Maintenance Obligations are more specifically set forth on the attached Exhibit F.

8. Before entering upon the Grantor's Property to do any work, Grantee shall give at least thirty (30) days' prior notice of such entry to the Grantor and the anticipated entry time, estimated duration and purpose; said right of entry being subject to the Grantor's not objecting to said entry at said time and/or for said duration unless reasonable basis exists therefor. Failure of

the Grantor to notify the Grantee after receipt of said notice and within said thirty (30) day period shall be deemed conclusive evidence of lack of objection. Such notice need not be given in the event of any emergency as reasonably determined by the Grantee.

9. All work relating to the Storm Water Facilities shall be done: (i) in such manner as to not unreasonably interfere with the normal use and enjoyment of the Grantor's Property or disturb or endanger students, teachers, staff, or other persons on the Grantor's Property';; (ii) at the sole cost and expense of the Grantee,;; (iii) in full compliance with the provisions of this Agreement; (iv) in full compliance with all applicable statutes, codes, ordinances, rules and regulations, (v) in a good and workmanlike manner, (vi) in such manner as to not permanently adversely affect, or impair the Grantor's Property, (vii) as diligently and as quickly as reasonably possible, and (viii) in such a manner so as to clean the area and restore the affected portion of the area on which the work was done.

10. The easements granted in this Easement are subject to the rights of and the restrictions governed by the City of Minneapolis, the watershed district, and any federal, state, or local government agency which has jurisdiction over the drainage of storm water from the Grantee's Property.

11. Use of pesticides and herbicides on the Grantor's Property shall be prohibited unless scheduled and used in accordance with the Pesticide-Herbicide Application Schedule as supplied by the Grantor. Grantee shall notify Grantor in advance if Grantee desires to use pesticides or herbicides, including the applicable Material Safety Data Sheets, and pay for the cost of producing and mailing notices to all parents who have requested such notification pursuant to Minnesota Statute 121A.30. The written notice must be provided and mailed at least ten (10) days prior to any application.

12. Grantee will have no right to expand the easement, erect any improvements on the Grantor's Property, or use the easement for anything other than as specifically set forth in this Easement.

13. This grant of easement is perpetual, shall run with the land and shall be binding on and inure to the benefit of, the parties to this Easement, their respective successors, heirs, or assigns. Grantee may assign this Easement to the Owner and/or Developer of the Grantee property.

14. Grantee and Grantee's heirs, administrators, executors, assigns and any other successor's in interest agree to release, defend, indemnify, and hold harmless Grantor, its board, officers, students, employees, and agents from all liability, any and all damages (including claims of bodily injury, property damage, or negligence), accidents, casualties, occurrences, claims, or loss, including costs, expenses, and attorney's fees which might arise or be asserted, in whole or in part, against the Grantor: from the construction, presence, existence, use or maintenance of the Storm Water Facilities; any accident, injury, death, or damage to any person or property occurring in, on or about the Easement Area, including the stormwater pond and sediment forebay; or any damage or loss to the Grantor's Property as a result of storm water drainage onto the Grantor's Property. Grantee's indemnity obligations do not extend to liability related incidents occurring on the Boardwalk-sidewalk within the Easement Area as depicted on page 5, section 3 of Exhibit G,

Rendering Stormwater Pond and Nature Play Area, and under control of the Grantor (such as, and without limitation, educational or instruction activities conducted by Grantor's agents, employees, or officials as part of Grantor's education mission or activities with students or others). Grantee shall not settle or compromise any claim in which the Grantor has been named a party and for which Grantee must indemnify the Grantor without a signed agreement approved by the Grantor.

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

16. Insurance. The Grantee shall obtain and continuously maintain insurance on the Easement Area during the entire term of this Easement Agreement as follows: comprehensive general liability naming the Grantee and Grantor as an additional insured, with limits against bodily injury and property damage of not less than \$2,000,000 for each occurrence or the Statutory Tort Cap Limit (if above the \$2,000,000 per occurrence limit). Grantee shall, from time to time at the request of the Grantor, furnish proof that the premiums for such insurance have been paid and the insurance is in effect. All insurance required in this section shall be obtained and continuously maintained in responsible insurance companies that are authorized under the laws of the State of Minnesota to assume the risks covered by such policies.

17. Any and all notices permitted or required to be given in writing by either party to the other, except as otherwise noted, must be sent by hand delivery, overnight mail, certified or registered mail, postage prepaid to the address of the parties set forth below. Such notice will be effective two (2) days after deposit in the United States mail.

To Grantor: Minneapolis Public Schools  
Special School District No. 1  
1250 West Broadway  
Minneapolis, Minnesota 55413  
Attn: Real Estate

To Grantee: Bryn Mawr Development, LLC  
1700 Madison Street NE, Unit 111  
Minneapolis, MN 55413  
Attn: Steven M. Minn

18. No provision contained in this Easement shall be deemed to have been abrogated or waived by reason of any failure to enforce the same. A decision by either party not to exercise its rights of enforcement in an event of a breach of a term of this agreement is not a waiver of such term, any subsequent breach of the same or any other term, or any of the party's rights under this



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Notary Public

(seal)

Drafted by:

Minneapolis Public Schools  
Special School District No. 1  
1250 West Broadway  
Minneapolis, Minnesota 55413  
Attn: Real Estate

## ATTACHED EXHIBITS

### Exhibit A – Legal Descriptions of Grantor's Property

That part of the Northeast 1/4 of Section 29, Township 29, North Range 24, West of the 4th Principal Meridian, described as follows: Beginning at a point in the West line of the Northeast 1/4 of said Section 29, distant 30 rods South of the Northwest corner thereof, said point being the Southwest corner of Inglewood Addition to Minneapolis; thence East parallel with the North line of said Northeast 1/4 along the South line of said Addition to the Southwest corner of Lot 12, Block 1, said Inglewood Addition to Minneapolis (the Southeast corner of Lot 13, Block 1, Inglewood Addition to Minneapolis); thence South along the extension of the West line of said Lot 12 (the extension of the East line of said Lot 13) a distance of 133.3 feet; thence East 54.3 feet to the West line of Block 6, Gilbert and Anderson's Addition to Minneapolis extended North; thence South along said extended line and along the West line of said Block 6, to the Southwest corner of said Block 6; thence East along the South line of said Block 6, a distance of 73/100 feet; thence South parallel with the West line of Upton Avenue South as now laid out to the North line of Laurel Avenue as now laid out; thence West along the North line of Laurel Avenue to a point 81 feet West of the West line of said Upton Avenue South; thence South 60 feet to a point in the South line of said Laurel Avenue, distant 81 feet West of West line of said Upton Avenue South; thence East along the South line of Laurel Avenue 1 foot; thence South parallel with the West line of Upton Avenue South, 180 feet; thence West parallel with the extension of the South line of Laurel Avenue 70 feet; thence South parallel with the West line of Upton Avenue South 184.32 feet; thence East parallel with said South line of Laurel Avenue extended a distance of 69.8 feet to a point 80.2 feet West of the West line of Upton Avenue South; thence South parallel with the West line of South Upton Avenue and along the West line of Thorpe Bros. Glenwood Heights, to the Southwest corner of the alley as platted in Block 4 of said Addition; thence Southeasterly along the Southwesterly line of said Block 4 to its intersection with the North line of the right of way of Wayzata Boulevard as now established and widened; thence West along said North right of way line of Wayzata Boulevard to the West line of the Northeast 1/4 of said Section 29; thence North along said West line to the point of beginning, Hennepin County, Minnesota. EXCEPTING all that part described as follows: Commencing at the intersection of the center line of Erie Avenue (now known as Mount View Avenue) as it may be extended West, and the West line of Thorpe Bros. Glenwood Heights Addition; thence South along the West line of said Addition 435.63 feet more or less, to the Southwest corner of the alley as platted in Block 4 of said Addition; thence Southeasterly along the Southwesterly line of said Block 4 to its intersection with the North line of the right of way of State Trunk Highway as now established and widened; thence West along the North line of said right of way to the West line of the Northeast 1/4 of said Section 29; thence North along said West line of said Northeast 1/4 to the intersection of said center line of Erie Avenue (now known as Mount View Avenue) as it may be extended West; thence East along said center line of Erie Avenue (now known as Mount View Avenue) to the point of beginning EXCEPTING therefrom the West 30 feet of said property.

ALSO That part of the Southwest 1/4 of the Northeast 1/4 of Section 29, Township 29, Range 24, described as follows, to-wit: Commencing at a point of intersection of the South line of Laurel Avenue with the West line of Upton Avenue South; thence South along the West line of Upton Avenue South 180 feet; and thence West parallel with the South line of Laurel Avenue 110 feet to the point of beginning of the land to be described; thence continuing West parallel with the South line of Laurel Avenue 40 feet; thence South 184.32 feet; thence East 40 feet; thence North 184.32 feet to the point of beginning.

Subject to that certain easement for ingress and egress purposes over a part of the West 30 feet of said property, as more particularly described in that certain deed to Standard Oil Company recorded in Book 2048 of Deeds at page 516, and subject to that certain storm drain and sewer easement to the City of Minneapolis, more particularly described in that certain instrument recorded in the office of the Register of Deeds of said County Book 2527 of Deeds at page 385.

All situate in the County of Hennepin, State of Minnesota.

## Exhibit B – Legal Description of Grantee Property

That part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 29, Range 24, described as beginning at the intersection of the most westerly line of "Thorpe Bros. Glenwood Heights" with the center line of Erie Avenue, as said avenue is shown on the plat of "Thorpe Bros. Glenwood Heights"; thence South along said Westerly line a distance of 435.63 feet, more or less, to its intersection with the Northwesterly extension of the Southwesterly line of Lot 11, Block 4, "Thorpe Bros. Glenwood Heights"; thence Southeasterly along said extension and along the Southwesterly line of said Lot 11 to the Northerly right-of-way line of U.S. Highway No. 12, as described in Book 2584 of Deeds, page 187, Document No. 3652009; thence Westerly along said Northerly right-of-way line to the East line of the West 30 feet of said Southwest Quarter of the Northeast Quarter; thence North along said East line to its intersection with the Westerly extension of the center line of said Erie Avenue; thence Easterly along said extension to the point of beginning, situated in Hennepin County, Minnesota.

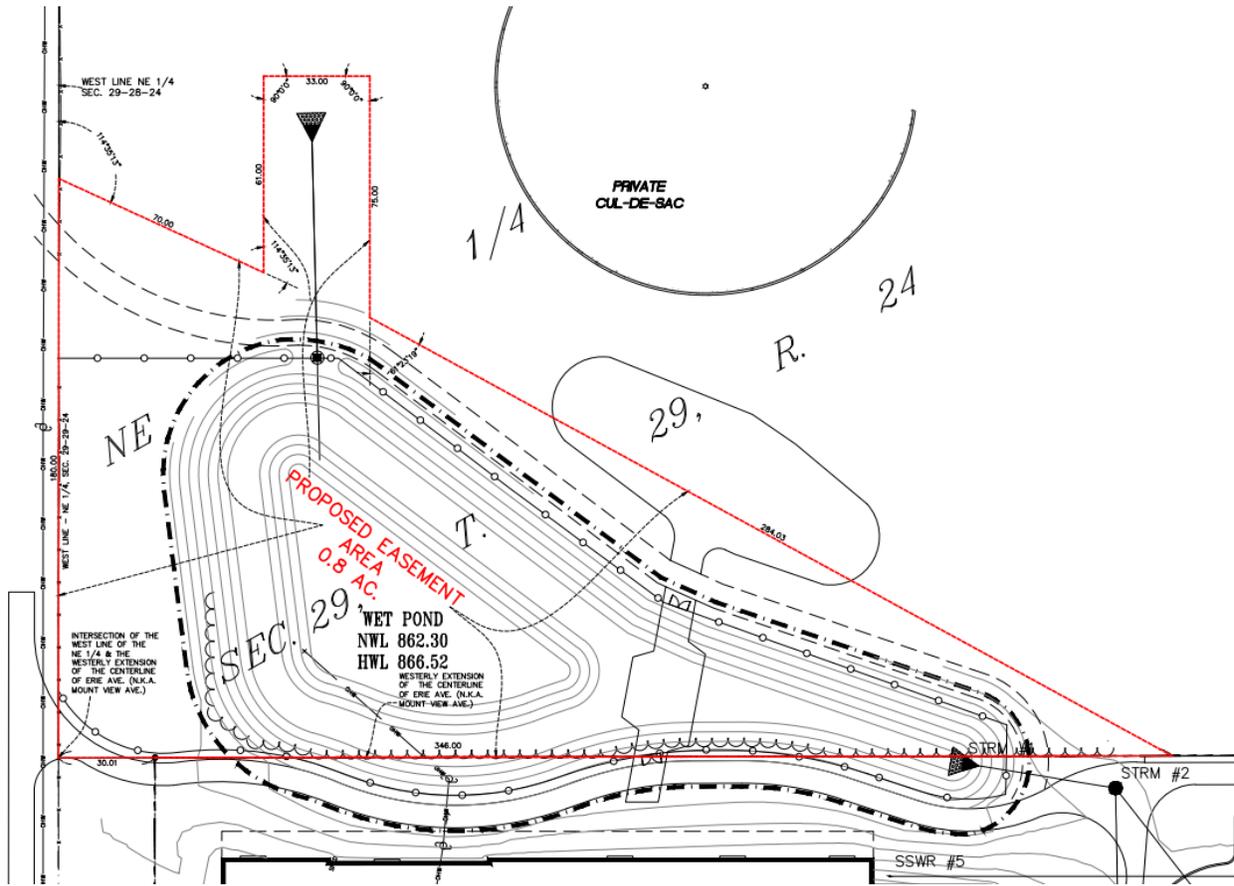
Being Registered land as evidenced by Certificate of Title No. 1453220.

## Exhibit C – Legal Description of Easement Area

### **PROPOSED EASEMENT DESCRIPTION**

Part of the Northeast Quarter of Section 29, Township 29, Range 24, Hennepin County, Minnesota, described as follows: Beginning at the intersection of the westerly extension of the centerline of Erie Avenue (now known as Mount View Avenue) with the west line of said Northeast Quarter; thence northerly, along said west line 180.00 feet; thence southeasterly deflecting right 114 degrees 35 minutes 13 seconds 70.00 feet; thence northerly parallel with said west line 61.00 feet; thence easterly perpendicular to said west line 33.00 feet; thence southerly parallel with said west line 75.00 feet; thence southeasterly 284.03 feet to a point on said westerly extension of the centerline of Erie Avenue (now known as Mount View Avenue) distant 346.00 feet east of the point of beginning; thence westerly, along said centerline extension 346.00 feet to the point of beginning.

Exhibit D – Depiction of Easement Area



## Exhibit E – Stormwater Facilities Plans

The Grantee Property will be developed with several new multi-story buildings with surface parking, sidewalks, and walking trails. Site topography will remain similar to existing conditions, with the majority of the stormwater runoff flowing overland to the northwest corner of the site. Site slopes will be less than 5%, except in some ramp and driveway locations. New storm sewer inlets and piping will be installed to intercept runoff and direct it to a pretreatment device such as the Contech “Vortech Hydrodynamic Separator”. Where the runoff water will be pretreated to remove approximately 70% of the total suspended solids. Stormwater runoff water will then be routed to the stormwater pond via a 36-inch reinforced concrete pipe. The pipe will discharge into a forebay, which is designed to removal additional sediment and provide a smaller area that can be cleaned more frequently. The forebay area will normally be dry and is approximately 20% of the overall pond volume. The runoff water from the forebay will flow via a spillway to the wet pond. The wet pond will have a permanent water level of approximately 4-feet in depth. The pond will have a 10:1 safety bench that will have a 1-foot maximum depth. The overall stormwater management system is designed to treat water from the 2.5-inch rain event. Expected removals on a typical rain event (less than 1-inch in 24 hours) will be approximately 85%-90% Total Suspended Solids and 50%-60% of total phosphorus. In addition, the pond will reduce runoff rates from the contributing areas by approximately 54% in the 100-year rain event.<sup>1</sup>

The pond will be surrounded by a welded wire anti-climb mesh fence at a height approved by Grantor. The fence construction shall include a six-inch (6”) deep and twelve-inch (12”) wide soil trench below grade, filled with granular aggregate materials held in place with weed control or similar fabric integrated in the footing plan of the fencing, to prevent burrowing below the fence while providing weed control.

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<sup>1</sup> BKBM Engineers letter to Steve Minn dated October 7, 2020

Exhibit F  
Grantee's Maintenance Obligations

1. Routine Maintenance:

Grantee shall be responsible for all maintenance of the Easement Area, except as may be expressly assumed by Grantor. Grantee maintenance responsibility shall include, but not be limited to, maintenance of: the Stormwater Facilities; dredging, noxious plant and weed control of the pond area; the fence and gates; landscaping and vegetation; and sidewalk, boardwalk, platform and benches.

Grantee will not be responsible for the maintenance of the Natural Play Area.

2. Annual Stormwater Pond Inspection:

Grantee will be responsible to provide quarterly inspection reports for the Storm Water Facilities, including the stormwater basin, to Grantor. The inspections shall be in accordance with industry standards and follow the "Minnesota Stormwater Manual", as may be amended or revised from time to time, provided by the State of Minnesota Pollution Control Agency. See link here: <https://stormwater.pca.state.mn.us>

The inspection reports will include measurement of the depth of the sediment. Guidelines as set by the Minnesota Pollution Control Agency for dredging the sediment out of the pond area will be followed, and work completed by Grantee. A 30-day prior written notice of dredging to Grantor is required.

If any necessary or required maintenance is not completed by Grantee, Grantor will provide notice to the Grantee and Grantee shall complete all necessary work within 15 days to bring the area back into compliance.

If Grantor provides an inspection report or provides maintenance, a maximum of \$30,000 per year will be invoiced to Grantee. Upon the failure of the Grantee to provide maintenance or any required report, the maintenance or inspection may be completed by Grantor, in Grantor's discretion, and the costs invoiced to the Grantee as set forth in Section 6 below.

4. Natural Play Area:

Grantee shall be responsible for constructing the "Natural Play Area", in accordance with Grantor standards including engineering and construction of draintile system below grade. Grantee shall provide Grantor with a one year warranty on the Natural Play Area and repair or replace any damages during the warranty period including replacement of the engineered wood fiber mat.

## 5. Construction

Construction by Grantee shall be permitted only when school is not in session and upon prior written approval by Grantor. Grantor shall be provided a full set of design documents for construction for review and comment. Grantee shall incorporate comments into the final construction documents. Grantor's Facilities director shall be notified 30 days in advance of construction in order to coordinate any impacts on programming. Access to the pond for follow up dredging shall be by a prior written authorization or Access Permit issued by Grantor which shall not be unreasonably refused. Routine access to monitor plant growth, clear debris or general maintenance will not require an Access Permit but shall be coordinated with Grantor's Facilities director.

## 6. Inspection

Grantee shall conduct an inspection of the pond and Storm Water Facilities after any and all rain event exceeding one (1) inch of precipitation in a 24 hour period. The inspection shall occur within 24 hours after the event has ceased. The inspection shall include review of pond function, review of all facilities inside the fence area and confirmation of use. Damages identified shall be immediately communicated to the Grantor's Facilities Director within 24 hours and repairs shall be coordinated with Grantor's Facilities Director and other Facilities staff as necessary.

If the Grantee, after having been granted access to perform repairs, fails to perform its Maintenance Obligations with respect to the Storm Water Facilities, and after thirty (30) days of receipt of written notice from the Grantor of said failure the Grantee fails to make the required repairs, the Grantor has the right, but not the obligation, to make the required repairs and to seek reimbursement (with an additional 10% of said cost for administration) from the Grantee, and/or to file a lien within one hundred twenty (120) days of completion of the work against the Grantee Property for the costs incurred by the Grantor in connection with performing the repairs or maintenance. In an emergency situation, the Grantor is not required to provide notice to the Grantee prior to making the required repairs or performing the necessary maintenance. To the extent that the Grantor must retain outside consultants for any inspection and/or maintenance, the Grantee shall be responsible to reimburse the Grantor for the cost plus a ten percent (10%) administrative fee.

Exhibit G

-Parkour 5 Cut Sheet

-Rendering of Storm Water Facilities Pond and Natural Play Area in color

-Rendering of Storm Water Facilities Pond and Natural Play Area in black and white

# Parkour 5

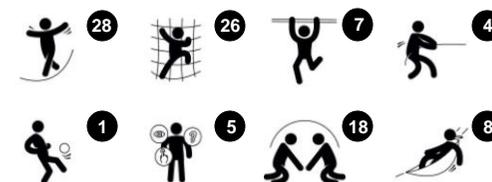
NRO857



Item no. NRO857-1003

## General Product Information

Dimensions LxWxH	43'3"x40'4"x8'11"
Age group	5 - 12
Play capacity (users)	33
Color options	 



WOW! The Parkour 5 has wild appeal for 6-12 year-olds. It's a fitness course that's fun and also challenging. The variation in climbing, crawling, balancing and meeting activities will make children come back again and again. The many inclined, twisted and vertical nets and the different mesh sizes offer great play challenges. Climbing or crawling up, down and through the

Parkour 5 stimulates agility, balance and coordination. These motor skills are necessary to managing the world securely and achieving physical confidence. The lovely swaying seat points and the horizontal beams are great for meeting and socializing. The many ropes and their bouncy character make them a constant balance and muscle trainer, even when seated.

When climbing through the Parkour 5, children train their cooperation, negotiation and turn-taking skills. These skills can be hard to teach, but easily learned in play.



Data is subject to change without prior notice.

# Parkour 5

NRO857



All Organic Robinia products by KOMPAN are made of 100% Robinia wood from sustainable European sources. On request it can be supplied with FSC® Certified (FSC® C004450) Robinia wood.



Nets and ropes are made of UV-stabilized PA with inner steel cable reinforcement. The rope is induction treated in order to create a strong connection between steel and rope which leads to good wear resistance.



Full colored EPDM rubber seats with smooth surface. The seats are molded on a hot dip galvanized steel inlay that ensures durable fixation to the rope.



Balance post of 3/4" EcoCore™. EcoCore™ is a highly durable, ecofriendly material, which is not only recyclable after use, but also consists of a core produced from 100% recycled material.



The Robinia wood can be supplied as untreated raw wood or painted with a brown colored transparent pigment that maintains the golden wood color of the wood.

Item no. NRO857-1003	
Installation Information	
Max. fall height	8'11"
Safety surfacing area	1,662 ft <sup>2</sup>
Number of installers	2
Total installation time	28.7
Excavation volume	8.70 yd <sup>3</sup>
Concrete volume	1.33 yd <sup>3</sup>
Footing depth (standard)	3'3"
Shipment weight	3,475 lbs
Anchoring options	In-ground ✓
Warranty Information	
Robinia Wood	10 years
Stainless steel components	Lifetime
EPDM components	2 years
Ropes & nets	10 years
Spare parts guaranteed	10 years

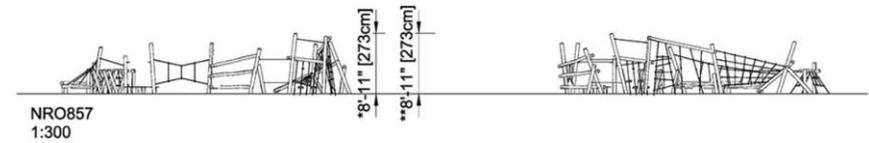
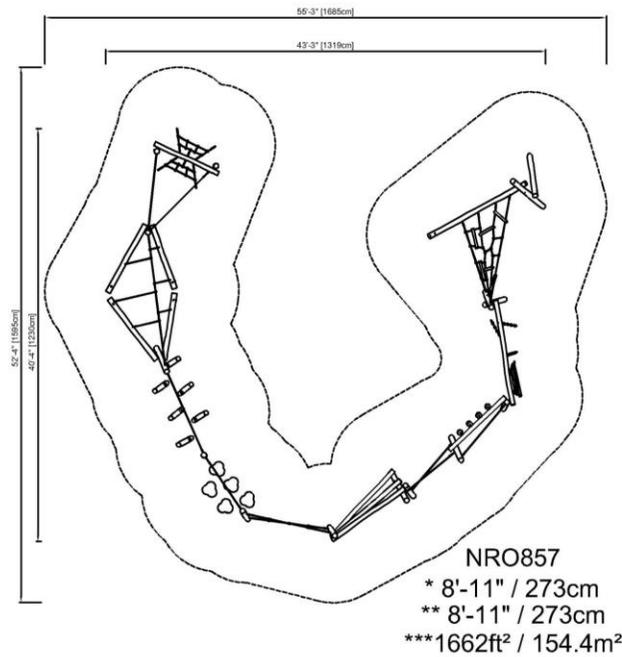
Elevated activities	Accessible elevated activities	Accessible ground level activities	Accessible ground level play types
Present	0	10	2
Required	0	5	2

# Parkour 5

NRO857

\* Max fall height | \*\* Total height | \*\*\* Safety surfacing area

\* Max fall height | \*\* Total height



[Click to see 1:100 ratio TOP VIEW](#)

[Click to see 1:100 ratio SIDE VIEW](#)

# Parkour 5

NRO857



## Stilts

**Physical:** balancing which supports the vestibular system as well as cross coordination.  
**Social-Emotional:** cooperation and turn-taking.



## Climbing net

**Physical:** children develop cross-body coordination and muscle strength when climbing. The big meshes allow for climbing and crawling through, supporting proprioception and spatial awareness.  
**Social-Emotional:** the big meshes allow for more children to sit together and talk.



## Top beam

**Physical:** climbing over the top beam demands good spatial awareness and involves risk taking.  
**Social-Emotional:** fine destination for a break with friends.



## Twisted net

**Physical:** the big meshes allow for climbing and crawling through, supporting proprioception, spatial awareness, cross coordination, and muscle strength, pushing and pulling arms to get upwards.  
**Social-Emotional:** the big meshes allow more children being seated together, sharing.



## Balance pods

**Physical:** sense of balance is trained, and bone density built when jumping between and off the pods.  
**Social-Emotional:** turn-taking and cooperation as well as room for a seated rest with friends.



## Balance ropes

**Physical:** the balance training here is unmistakable. Holding onto the swaying upper rope when balancing on the swaying lower rope makes excellent training of the sense of balance as well as the trunk muscles. These abilities are fundamental for being able to sit still on a chair.  
**Social-Emotional:** there is room for more than one and cooperating with friends on walking over the swaying ropes is a true cooperation task that takes teamwork and tolerance.



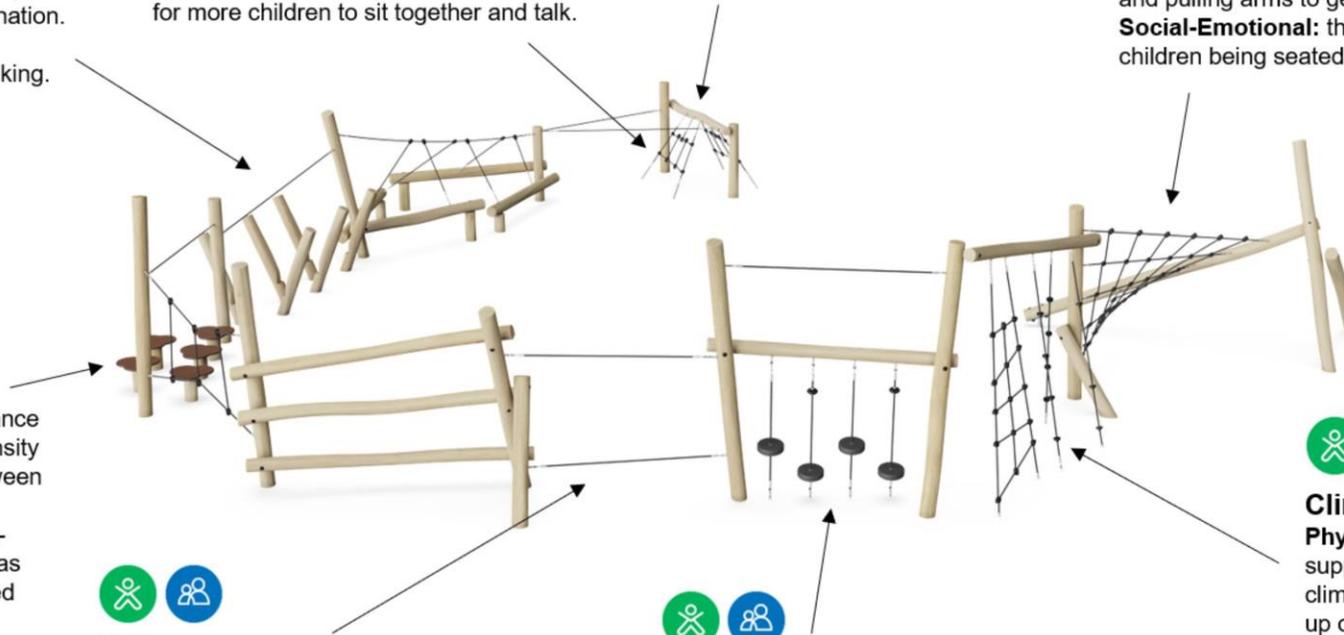
## Parkour ropes

**Physical:** the big rubbery discs are great supports for the feet when climbing or crossing the module. This supports cross coordination, sense of balance and arm and leg muscles. This combination adds to the child's general body adeptness and awareness, adding security to its movements.  
**Social-Emotional:** the seats make a nice destination and meeting point and take cooperation when crossing by others on the way through the module.



## Climbing rope

**Physical:** the small knots add support for hands and feet when climbing onto the rope, crawling up or down. Climbing supports spatial awareness, cross coordination and muscle strength.  
**Social-Emotional:** passing others when climbing up or down develops turn-taking skills and consideration.



# Parkour 5

NRO857



## PHYSICAL

Joy of movement:  
motor skills, muscle, cardio  
and bone density



## SOCIAL-EMOTIONAL

Joy of being together:  
teamwork, tolerance and  
sense of belonging



## COGNITIVE

Joy of learning:  
curiosity, understanding of causal  
relationships and knowledge of the world



## CREATIVE

Joy of creating:  
co-creation and experimenting  
with materials



### BALANCE

To balance is to stay upright when walking or standing on a surface that makes this challenging (e.g. a wobbly, inclined, or narrow surface).



### HANG IN ARMS

To hang in arms is the act of carrying the body with the hands or arms, possibly to traverse to another platform or play item.



### SENSORY

To sense is the act of taking in information with the sensory system: seeing, feeling, hearing or sensing with the body.



### BOUNCE

To bounce is the act of bouncing on a responsive, flexible, elastic or tensile surface.



### JUMP

To jump is the act of jumping up or down on a hard surface.



### SLIDE

To slide is the act of moving fast downwards seated on a slide.



### CLIMB

To climb is the act of moving upwards, cross-coordinating arms and legs, on a vertical or inclined surface or net.



### PULL

To pull is the act of pulling an item towards you or you towards an item with one or both hands, or possibly using the entire body.



### SOCIALIZE

To socialize is the act of meeting, communicating or cooperating in an activity that stimulates and facilitates social interaction.



### CONSTRUCT

To construct is the act of creating new patterns, shifting items or materials to new positions or constructing with materials that can be transformed or manipulated.



### PUSH

To push is the act of pushing an item away from you with one or both hands, possibly with the entire body.



### SPIN

To spin involves a fast, repeated horizontal or vertical turn of the body on a piece of equipment that facilitates the movement.



### CRAWL

To crawl is the movement of moving forwards or backwards, cross-coordinating arms and legs, on a horizontal or slightly inclined surface.



### ROCK

To rock is the action of rocking back and forth, or sideways, on e.g. a piece of spring equipment.



### SWAY

To sway is the movement of swaying back and forth, or around, lying, seated or possibly standing, in a pendulant or circular movement, e.g. on a hammock or on a rope.



### DRAMATIC PLAY

Dramatic play is motivated through play items that stage a frame, place or environment for acting out make believe or role play scenarios.



### ROTATE

To rotate involves a vertical or horizontal slower paced turn of the body, facilitated by a piece of equipment.



### SWING

To swing is the movement of swinging back and forth, or in circular movement, seated, standing or lying, in an unhindered arc.



### GLIDE

To glide is the act of moving from one point to another without shifting the feet, in a horizontal or vertical movement, in a seated, lying or standing position, letting gravity do the work.



### RULES PLAY

Rules play is motivated through play items that suggest games-with-rules, cooperation and team work, e.g. tic-tac-toe, timers or ball games.



### WONDER

To wonder is motivated through play items that make children need and use their logical, abstract or creative thinking skills, as well as their memory.



# ANWATIN MIDDLE SCHOOL POND

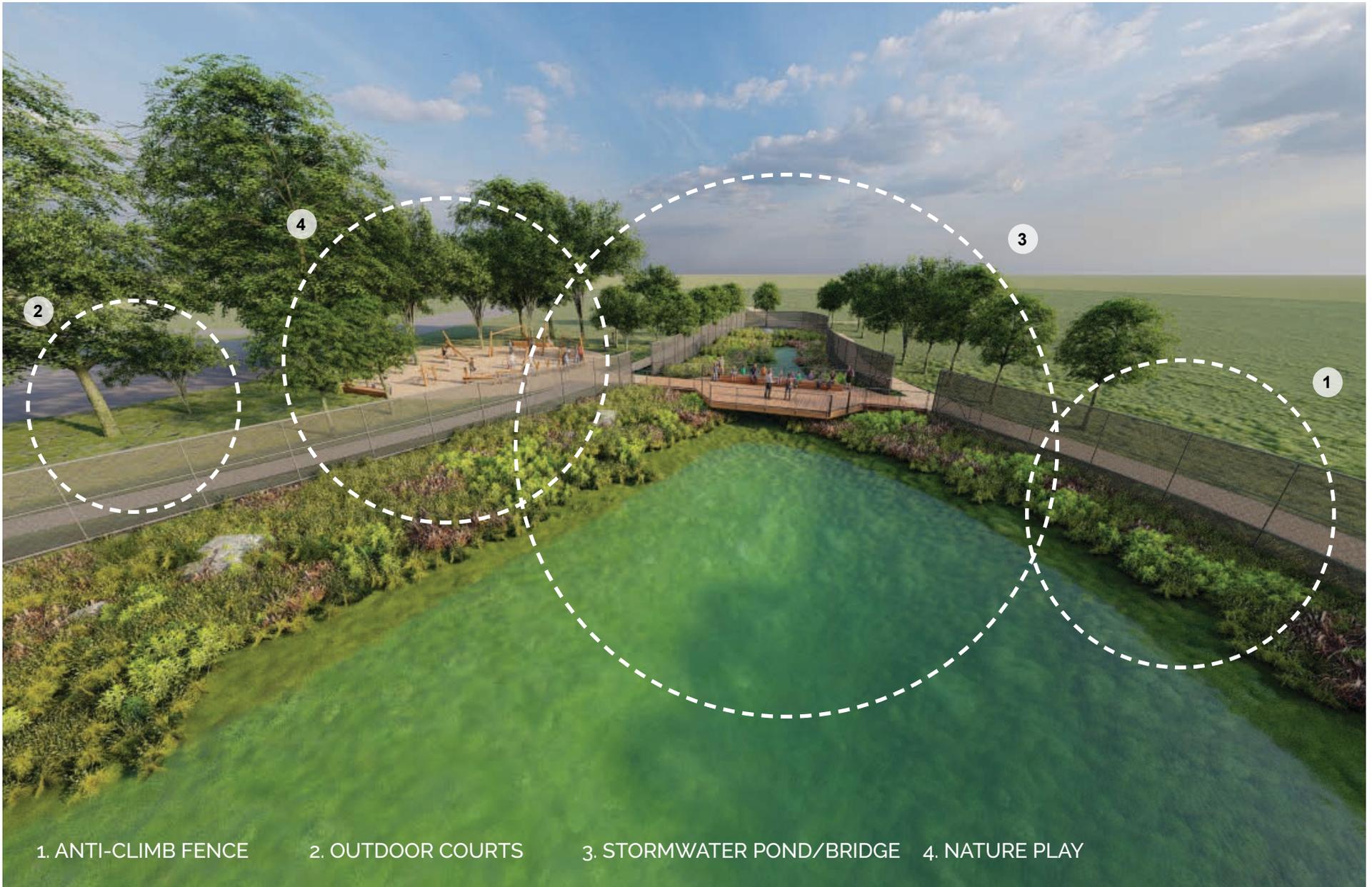
MINNEAPOLIS, MN

APRIL 29, 2021

# RENDERING PLAN



# RENDERING STORMWATER POND



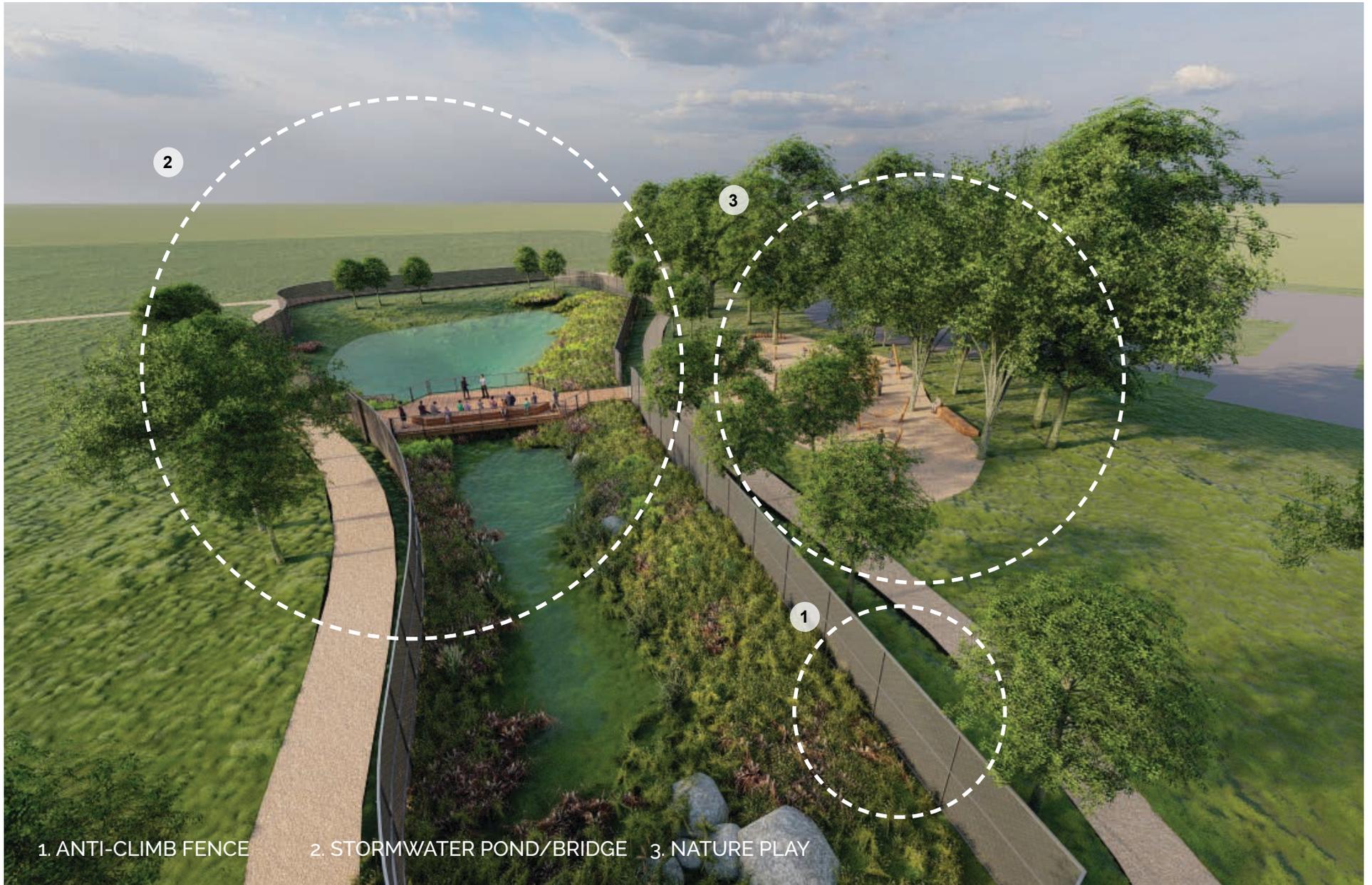
1. ANTI-CLIMB FENCE

2. OUTDOOR COURTS

3. STORMWATER POND/BRIDGE

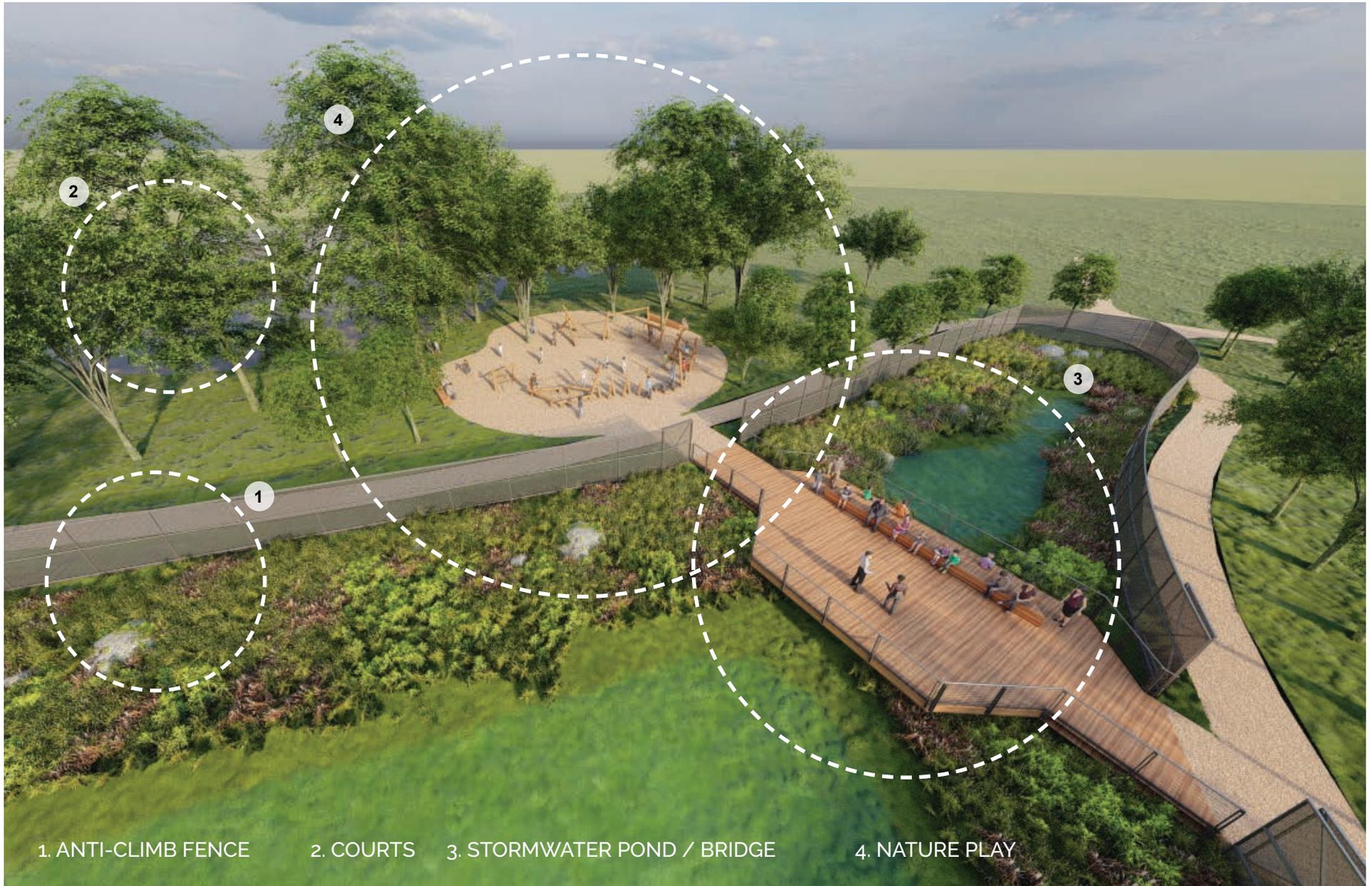
4. NATURE PLAY

# RENDERING EAST TO WEST



1. ANTI-CLIMB FENCE    2. STORMWATER POND/BRIDGE    3. NATURE PLAY

# RENDERING STORMWATER POND AND NATURE PLAY AREA



# RENDERING NATURE PLAY AREA



1. COURTS 2. BENCH SEATING 3. NATURE PLAY

# RENDERING NATURE PLAY AREA



1. ANTI CLIMB FENCE    2. BENCH SEATING    3. NATURE PLAY

# RENDERING NATURE PLAY AREA



1. BENCH / SEATING

2. NATURE PLAY



# ANWATIN MIDDLE SCHOOL POND

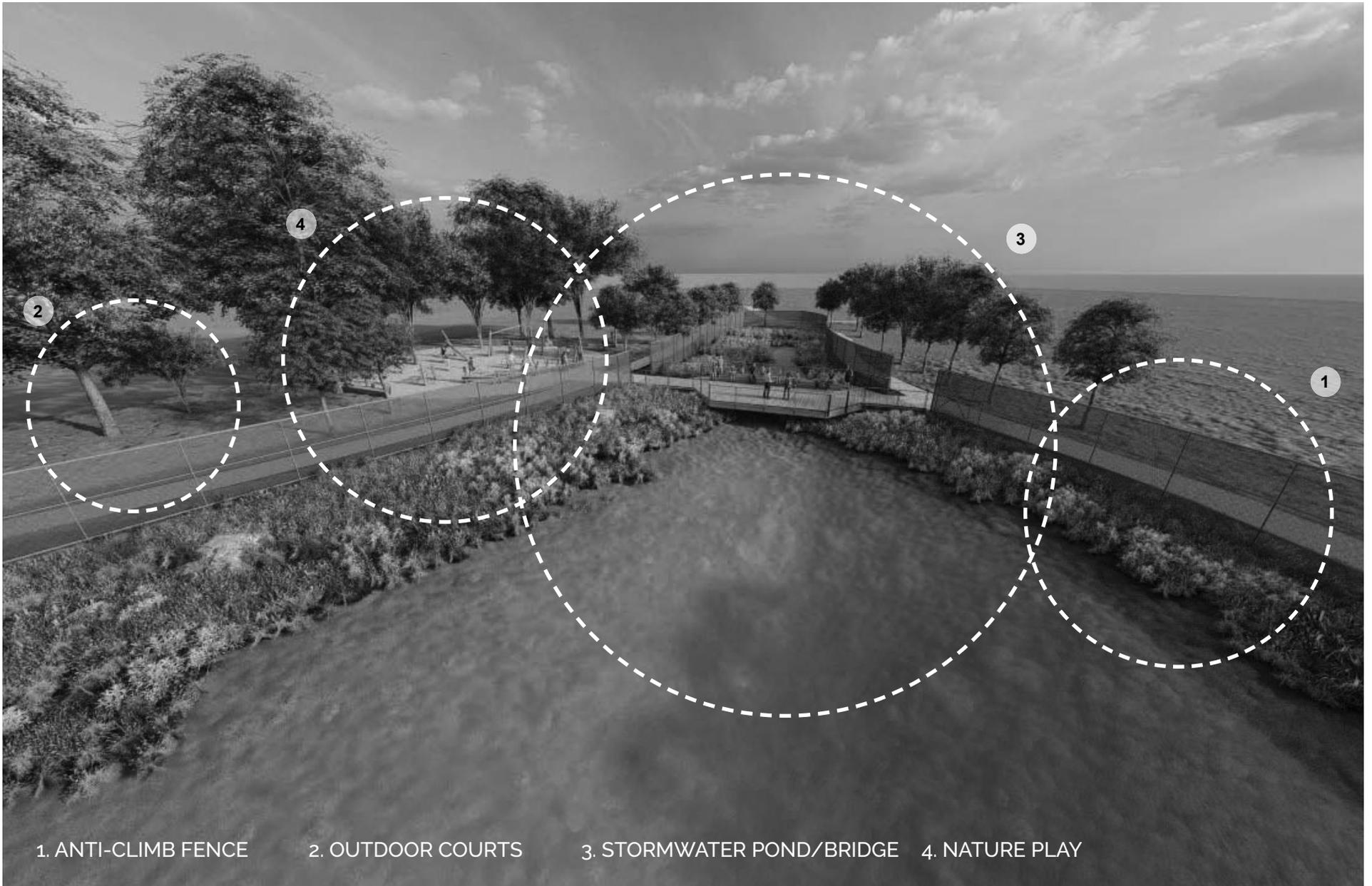
MINNEAPOLIS, MN

APRIL 29, 2021

# RENDERING PLAN



# RENDERING STORMWATER POND



1. ANTI-CLIMB FENCE

2. OUTDOOR COURTS

3. STORMWATER POND/BRIDGE

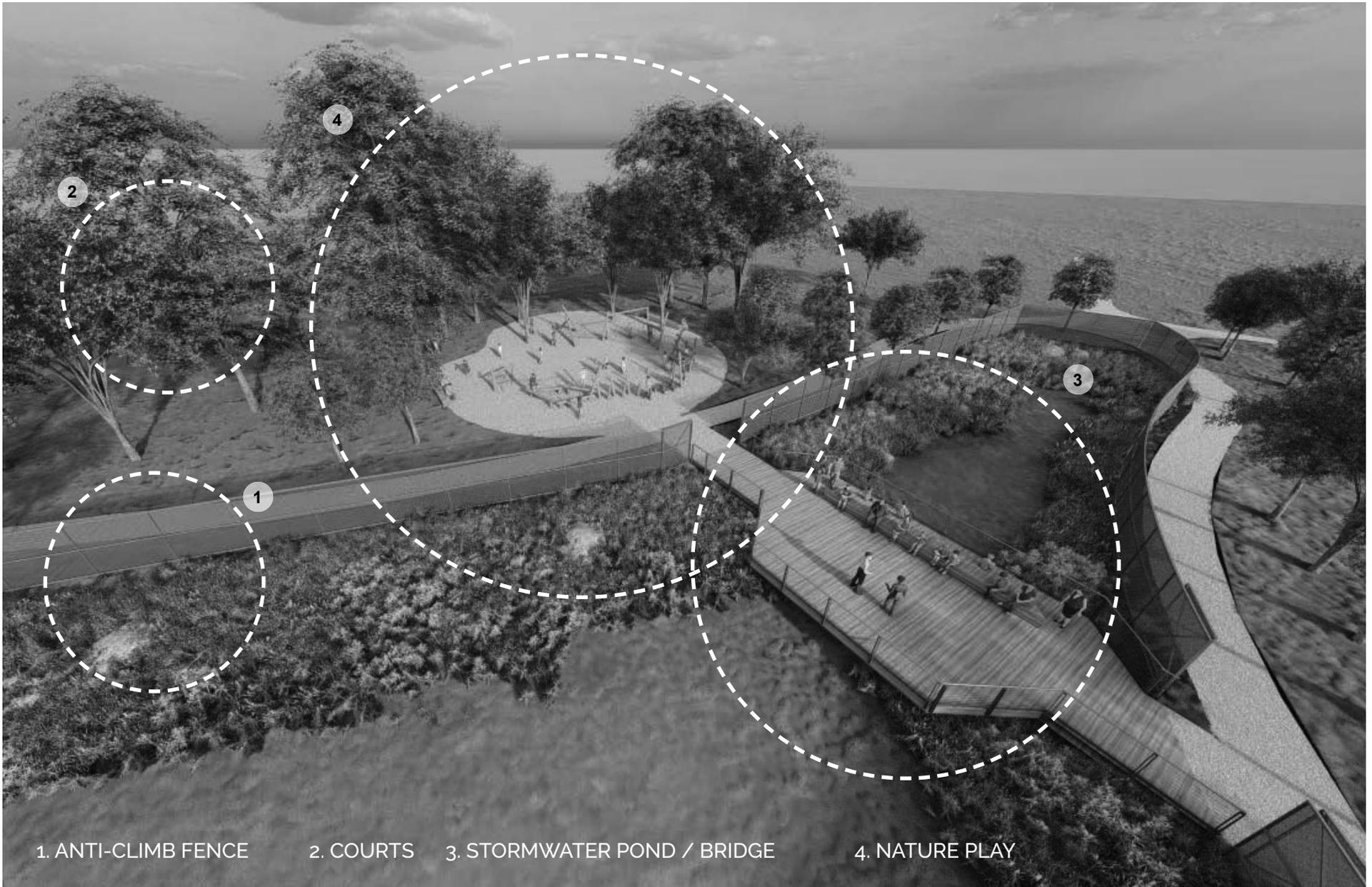
4. NATURE PLAY

# RENDERING EAST TO WEST



1. ANTI-CLIMB FENCE    2. STORMWATER POND/BRIDGE    3. NATURE PLAY

# RENDERING STORMWATER POND AND NATURE PLAY AREA



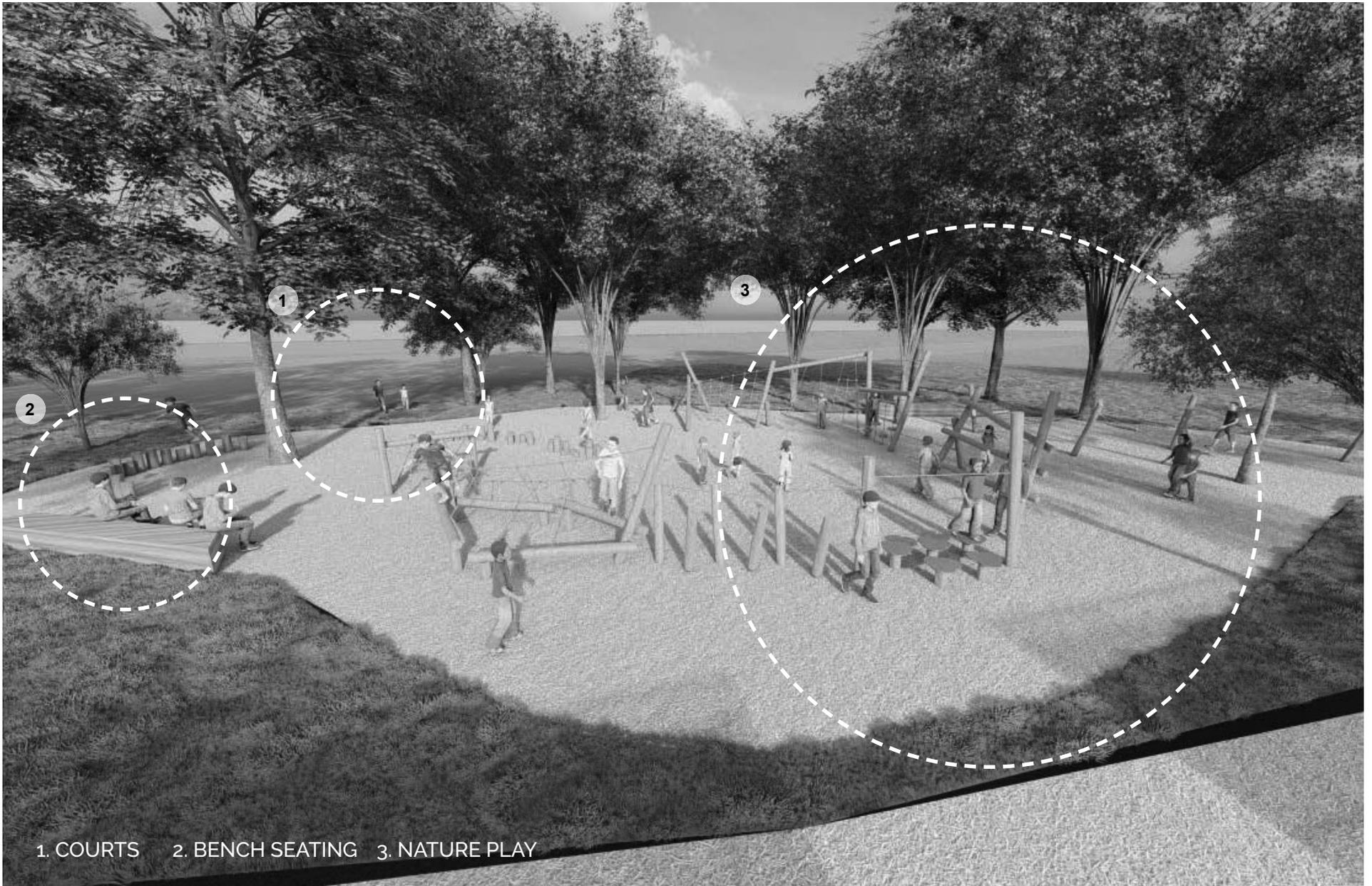
1. ANTI-CLIMB FENCE

2. COURTS

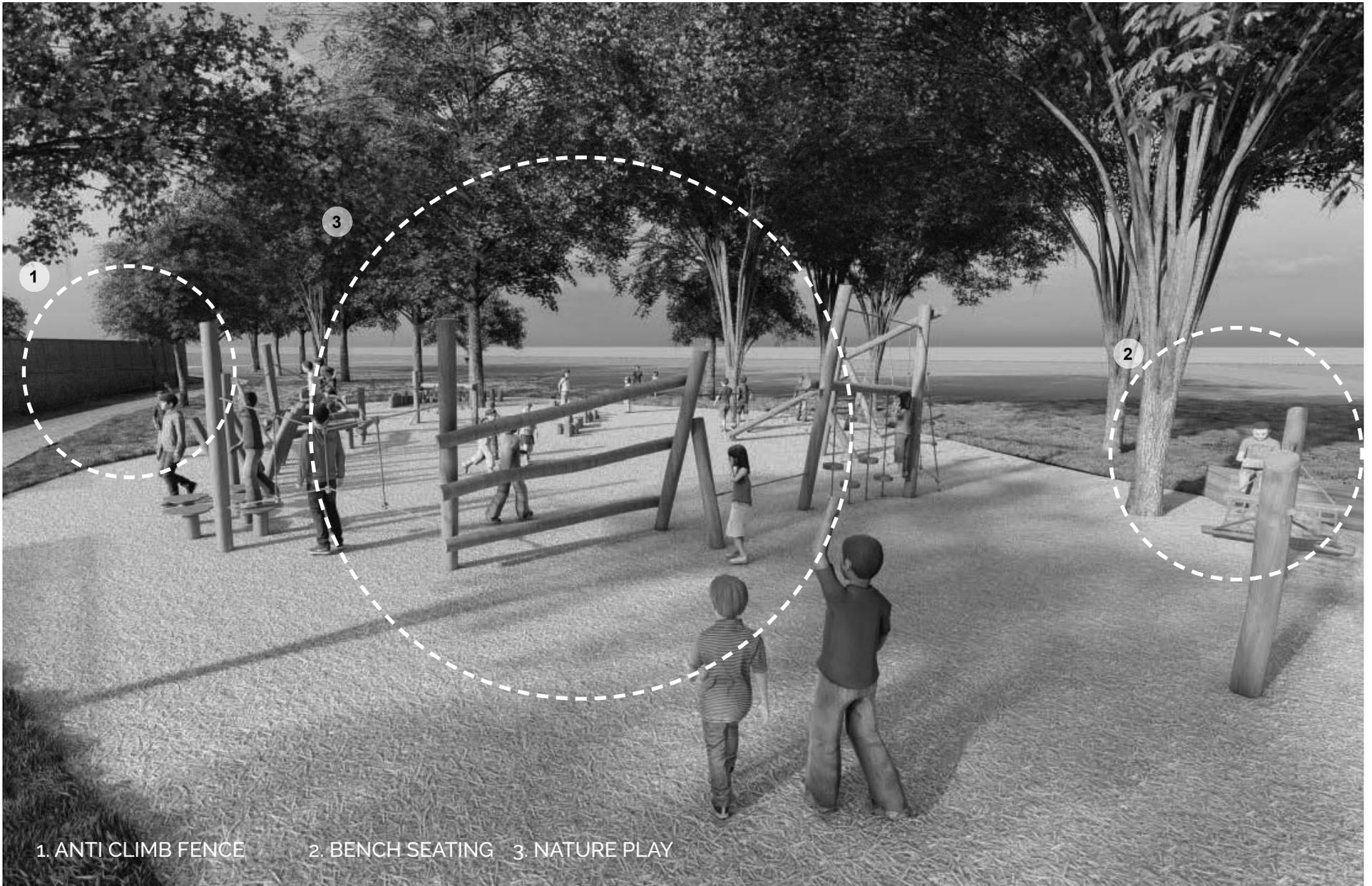
3. STORMWATER POND / BRIDGE

4. NATURE PLAY

# RENDERING NATURE PLAY AREA



# RENDERING NATURE PLAY AREA



# RENDERING NATURE PLAY AREA



1. BENCH / SEATING

2. NATURE PLAY

SECOND AMENDMENT TO USE AND MANAGEMENT AGREEMENT

This Second Amendment ("Second Amendment") made and entered into by and between Special School District No. 1 ("School District") a public school district created and existing pursuant to Minnesota law, and YWCA of Minneapolis, a Minnesota non-profit corporation ("YWCA"), hereby referenced also as Parties.

**WHEREAS:** The School District and YWCA entered into a certain Use and Management Agreement ("Agreement") as of December 1998, for programming and use within the Sports Facility Site and the Community Facility Site.

**WHEREAS:** Per Section 3, the School District and YWCA acknowledge this Agreement commenced sometime in July 2000, giving the current Agreement an expiration date of approximately June 30, 2020.

**WHEREAS:** The School District and YWCA executed a first Amendment in from July 1, 2020 to June 30, 2021, and;

**WHEREAS:** The School District and YWCA acknowledge the desire to extend the Agreement as addressed below.

**NOW THEREFORE:** Parties agree to amend the agreement as follows:

**Section 3. (a) Initial Term** shall be amended to include:

School District and YWCA agree to continue the contract for one (1) additional year following the current expiration of the First Amendment. This additional one-year extension will be referenced as an Extended Term. This Extended Term will commence on July 1, 2021 and expire on June 30, 2022.

**Section 7. (a)**

School District will have the exclusive right to use the Premises during school hours, which will be amended to be 8:30 a.m. – 6:30 p.m.

**Section 11. (c) ii) Capital Renewal shall be amended to include:**

School District and YWCA agree to apply the escrow payment for the Extended Term of July 1, 2020 - June 30, 2021, which was paid by the YWCA to School District not required in the FIRST AMENDMENT in the amount of Forty-Two Thousand and no/100 Dollars (\$42,000), to the Extended Term in the Second Amendment for July 1, 2021 – June 30, 2022.

Except as herein amended, the original terms, conditions and provisions of the Use and Management Agreement entered into in December of 1998 shall apply to and govern the provisions of this Amendment.

**SPECIAL SCHOOL DISTRICT NO. 1:**

**YWCA of MINNEAPOLIS:**

**YWCA of MINNEAPOLIS:**

By:

By: *Jeninne McGee*

By: *Ramye Weeber*

Its:

Its: Board Chair

Its: Chief Financial Officer

Date:

Date: 4/28/2021

Date: 5/4/2021

## USE AND MANAGEMENT AGREEMENT

THIS AGREEMENT is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 1998, by and between SPECIAL SCHOOL DISTRICT NO. 1 (MINNEAPOLIS), MINNESOTA, a special independent school district under the laws of the State of Minnesota acting by and through its Board of Education ("School District") and YWCA OF MINNEAPOLIS, a Minnesota non-profit corporation ("YWCA").

### RECITALS

A. The Minnesota Legislature, pursuant to 1996 Minnesota Laws Chapter 463, Section 14, Subdivision 5, has appropriated \$3,400,000.00 (the "Grant") to the Minnesota Amateur Sports Commission (the "Commission") for a grant to School District for the planning, design and construction of an urban sports facility (the "Sports Facility") on land to be acquired by School District, depicted on Exhibit A attached hereto and incorporated herein (the "Sports Facility Site"), which Sports Facility is to be owned by School District and used to provide facilities for the regular school curriculum and related activities.

B. The Grant is contingent upon, among other things, construction of an integrated community facility containing a day care center, a natatorium and other sports facilities (the "Community Facility") to be owned and operated by a non-profit entity and providing additional sports and community programming for urban at-risk youth. YWCA is constructing the Community Facility on land adjacent to the Sports Facility, depicted on Exhibit A attached hereto and incorporated herein (the "Community Facility Site"), and will own and operate the Community Facility.

C. The Minnesota Legislature, pursuant to 1996 Minnesota Laws, Chapter 463 and Minnesota Statutes Chapter 240A, allows the State of Minnesota, through the Commission, to acquire and better, or to make a grant to acquire and better, amateur sports facilities.

D. School District is authorized to enter into this Agreement by authority of the Board of Education, and by Minnesota Statutes Section 471.191 and 1996 Minnesota Laws Chapter 463, Section 14.

E. The Commission and School District will enter into a Construction Grant Agreement, under which the Commission will agree to make the Grant to School District to acquire the Sports Facility Site and to construct the Sports Facility thereon, to provide facilities for the regular school curriculum and related activities, and YWCA will agree to provide sports and community programming for urban at-risk youth (the "Program").

F. School District and YWCA, together, will be providing the Program, with School District providing facilities for regular school curriculum and related activities and YWCA providing additional programming at other times.

G. School District and YWCA wish to enter into this Agreement to establish their respective rights and obligations with respect to the Sports Facility and providing the Program.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions. The following definitions shall apply in this Agreement, unless the context clearly requires otherwise:

“Alteration” means the changing of internal arrangement or other physical characteristics of an existing facility so that it may be effectively used for its designated purpose.

“Capital Renewal” means the major repairs, or the replacement/rebuilding of major facility components needed to restore a facility to the condition that it may be effectively used for its designed mission. Examples include replacement of a roof at the end of its useful life, replacement of a boiler, replacement of an air conditioner compressor or HVAC system motor.

“Commission” means the Minnesota Amateur Sports Commission.

“Community Facility” means the integrated community center to be constructed and owned by YWCA, consisting of approximately 90,000 square feet, containing an aquatic center, a child care center, a gymnasium and related facilities.

“Community Facility Site” means the real property in Minneapolis, Minnesota on which the Community Facility is to be situated, depicted on Exhibit A.

“Emergency Maintenance” means the repair and/or replacement of property requiring immediate action because the function of a critical system is impaired or because health, safety or security of life or property is endangered.

“Grant” means the \$3,400,000 appropriated to the Commission by the Minnesota Legislature, pursuant to 1996 Minnesota Laws Chapter 463, Section 14, Subdivision 5, to be granted to the School District to acquire and construct a national inner city sports center.

“Improvement” means the addition of quality features to existing space by upgrading electrical or mechanical systems or architectural finishes, or by constructing an addition to the facility.

“Maintenance” means Emergency Maintenance, Planned Maintenance, Preventive Maintenance and Repairs.

“Planned Maintenance” means routine repairs and replacements that normally recur on a more or less predictable basis to preserve or restore a facility. Planned Maintenance does not involve major structural repairs or space alterations.

“Premises” means the Sports Facility Site and the Sports Facility.

“Preventive Maintenance” means inspections and Planned Maintenance of buildings, grounds, utilities and equipment to prevent or remedy conditions that will lead to harmful breakdowns or damage, and any other appropriate actions to ensure continuous operation or maintenance at acceptable levels.

“Program” means the sports and community programming for urban at-risk youth to be provided by the YWCA at the Premises.

“Repairs” means the restoration of a facility to such condition that it may be used for its designated purpose, including the replacement or rehabilitation of constituent components of building, grounds or utility systems that have not been preserved or corrected through Maintenance required under this Agreement.

“School District” means Special School District No. 1 (Minneapolis), Minnesota, a special independent school district under the laws of the State of Minnesota.

“Sports Facility” means an urban sports facility, to be constructed and owned by School District, consisting of approximately 50,000 square feet, containing an indoor field house and Olympic training facility with state-of-the-art options for track and field sports and related facilities, including parking areas.

“Sports Facility Site” means the real property in Minneapolis, Minnesota on which the Sports Facility is to be situated, depicted on Exhibit A.

“YWCA” means YWCA of Minneapolis, a non-profit corporation under the laws of the State of Minnesota.

2. Use of Property and Facility. School District and YWCA hereby agree to use the Sports Facility Site and the Sports Facility (the “Premises”) on the terms and conditions set forth in this Agreement.

3. Term.

a) Initial Term. The term of this Agreement shall be for twenty (20) years, or such shorter period equal to the life of the State general obligation bonds issued in connection with the Premises, commencing on the later of (i) the date the Commissioner of Finance approves this Agreement or (ii) the date School District occupies the Premises (the

“Commencement Date”), and terminating on the expiration of the term hereof, unless earlier terminated as provided herein.

b) Renewal. School District and YWCA, by mutual agreement and subject to the conditions set forth below, may renew this Agreement for three (3) successive periods of ten (10) years each, unless terminated as hereinafter provided. Such renewal shall be on such terms and conditions as YWCA and School District may agree, taking into consideration use of the Premises, any changes in circumstances that may have occurred, School District's requirement that the Premises be used primarily for regular school curriculum and related activities, and YWCA's requirement to generate revenue sufficient to pay operating costs. In no event shall this Agreement be renewed unless YWCA shall have performed all of its obligations hereunder as of the date of the expiration of the initial term, and unless School District shall determine by official action that such renewal allows the Premises to be used for the purpose of conducting the regular school curriculum and related activities and to carry out the governmental purpose of providing the Program on the Premises.

c) Termination by School District. School District shall have the right to terminate this Agreement if (i) YWCA defaults in its obligations hereunder, or (ii) the governmental purpose of providing the Program terminates or changes.

d) Future Ownership. At the end of the initial 20-year term and each 10-year renewal period, School District and YWCA shall meet to discuss continued use of the Sports Facility and alternative ownership arrangements, including without limitation a right to purchase the Sports Facility in favor of YWCA.

4. Payment of Costs. Subject to the provisions of Sections 7(c), 8(f) and 11(c) below, during the term of this Agreement and any renewals thereof, YWCA shall pay all costs and expenses attributable to the maintenance and operation of the Premises, as more fully set forth in Section 9 of this Agreement, provided, however, in no event shall YWCA pay School District's telephone costs associated with the Premises.

5. Other Impositions.

a) Taxes. YWCA shall pay and discharge as they become due, promptly and before delinquency, all assessments, rates, charges, license fees, municipal liens, levies, excises or imposts, whether general or special or ordinary or extraordinary, of every name, nature and kind whatsoever, including all governmental charges of every name, nature and kind which shall be levied, assessed, charged or imposed or which may become a lien or charge on or against the Premises or any part thereof, the interest of School District or YWCA therein, any building or buildings or any other improvements now or hereafter thereon or on or against YWCA's estate hereby created which may be a subject of taxation, during the entire term hereof, including any renewal period, excepting only those taxes hereinafter specifically excepted.

b) Assessments Affecting Improvements. Specifically, but without limiting the generality of subsection (a) above, YWCA shall pay all special assessments and levies or charges made by any municipal or political subdivision for local improvements and may pay them in cash as they shall fall due and before they shall become delinquent, or in installments each year as assessed by any such municipal or political subdivision. If, by making any such election to pay in installments, any such installments shall be payable after the termination of this Agreement or any renewal thereof, such unpaid installments shall be prorated as of the date of termination, and amounts payable after such date shall be paid by School District. All of the taxes and charges under this section shall be prorated at the commencement and expiration of the term hereof.

c) Taxes Excepted. Notwithstanding anything to the contrary contained herein, YWCA shall not be required to pay any estate, gift, inheritance, succession, franchise, income or excess profits taxes which may be payable by School District or by School District's legal representatives, successors or assigns, nor shall YWCA be required to pay any tax that might become due on account of ownership by School District of property other than the Premises which may become a lien on the Premises or collectible out of the Premises.

d) Contesting Taxes. YWCA may, at YWCA's expense and in YWCA's name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such content, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless School District shall notify YWCA that, in the opinion of counsel not within regular employ of YWCA or School District, by nonpayment of any such items the interest of School District in the Premises will be materially endangered or the Premises or any part thereof will be subject to loss or forfeiture, in which event YWCA shall promptly pay such taxes, assessments or charges or provide School District with full security against any loss which may result from nonpayment, in form satisfactory to School District.

e) Rebates. All rebates on account of any such taxes, rates, levies, charges or assessments required to be paid and paid by YWCA under the provisions of this Agreement shall belong to YWCA, and School District shall on the request of YWCA execute any receipts, assignments or other acquaintances that may be necessary on the Premises in order to secure rebates that may be received by School District.

f) School District's Right to Pay Taxes on Behalf of the YWCA. In the event YWCA shall fail to comply with the preceding terms of this section, School District may, but shall not be obligated to, pay any such taxes or assessments. Any such payments by School District shall be immediately due and payable, together with interest at the School District's then applicable cost of funds.

g) Receipts. YWCA shall obtain and make available for review receipts or duplicate receipts for all taxes, assessments and other items required hereunder to be paid by YWCA.

6. Payment of Utilities. YWCA shall fully and promptly pay for all solid waste and recyclables disposal, water, gas, heat, electricity and other public or private utilities of every kind furnished to the Premises throughout the term hereof.

7. Use.

a) Use of the Premises. The Premises shall be used primarily for regular school curriculum and related activities. School District shall have the exclusive right to use the Premises during school hours, which currently are 8:30 a.m. to 6:00 p.m. YWCA shall have the use of the Premises at all other times. The parties presently intend that the School District shall have primary use of the Premises during the traditional school calendar (excluding summer session) for regular school curriculum and related activities, and that the YWCA shall have use of the Premises at other times, especially evenings, weekends and summer month days. If the School District changes the school year or school hours, the parties shall work together to provide the YWCA use of the Premises for sufficient time to generate revenues to, at a minimum, pay the operating and maintenance costs of the Premises, subject to the limitations set forth in Section 12. The parties agree that the suspended running track is not necessary for the regular school curriculum or related activities, provided that the YWCA's use of said running track shall not interfere with School District's regular school curriculum or related activities.

b) Use of YWCA's Facilities. YWCA's facilities adjacent to the Premises include, among other things, a swimming pool. School District shall be permitted to use said swimming pool, two (2) hours each school day. YWCA shall have use of the swimming pool at all other times.

c) No Payment for Basic Use. There shall be no charge for School District's use of the Premises or the swimming pool under subsection (a) and (b) above, in recognition of School District's contribution to the capital costs of the Premises.

d) Other School District Use. School District may, with YWCA's consent, arrange to use the Premises and said swimming pool at other non-scheduled times, for swim meets and other uses. In such case, School District shall pay to YWCA the same charges that YWCA would collect from a third party for such use.

e) Excess Time. In the event the School District or the YWCA has time during which it is permitted to use the Premises, but is not using the Premises, then School District or YWCA, as the case may be, may, subject to the provisions of Section 12 below, lease out the Premises, including to the other party to this Agreement.

f) Set up. School District shall be responsible for setting up and taking down any equipment to be used in the Premises by School District.

8. Reporting and Program Oversight.

a) At the commencement of the first operating period for the Program, YWCA shall submit to the School District a written plan regarding activities on the Premises, an initial Program implementation plan, a proposed budget and a maintenance plan for the first year of operation of the Premises. Each year on or before the anniversary date of the Commencement Date, YWCA shall submit to School District a written report of activities in the Premises for the preceding fiscal year (the "Annual Report"). The Annual Report shall consist of the following documents:

- i) YWCA's annual financial reports with respect to the Program for the preceding fiscal year;
- ii) Program budget for the next fiscal year;
- iii) Plan of Program activities for the current year;
- iv) Summary of activities for the previous year; and
- v) Annual maintenance plan.

b) YWCA shall maintain books, records, documents and other evidence pertaining to the costs and expenses of implementing this Agreement to the extent and in such detail as School District shall reasonably require. All records shall employ generally accepted non-profit accounting standards and shall be retained by YWCA for five (5) years.

c) School District, the Commission, the legislative auditor for the State of Minnesota and their representatives, upon reasonable notice, shall have the right to inspect, audit, copy or abstract, any and all of YWCA's books, records, papers and other documents relating to the Premises and/or the operation of the Program thereon and evidence of accounting procedures and practices. YWCA shall make the same available at YWCA's offices on the Community Facility Site at all reasonable times for such examination.

d) YWCA, upon written request of the Commissioner of Finance of the State of Minnesota, shall take such reasonable actions and furnish such reasonable documents requested to ensure that interest on any general obligation bonds issued by the State of Minnesota to acquire or better the Premises is exempt from federal income taxation.

e) YWCA certifies that it is a Minnesota non-profit corporation, and that it is exempt from federal income taxation as a § 501(c)(3) organization, and that so long as it is a party to this Agreement, it shall maintain its corporate non-profit status and its exemption from federal income taxation, unless there is a change in the federal or state law preventing it from doing so.

f) YWCA and School District shall annually review the budget for the Premises, the maintenance plan for the Premises, usage of the Premises and the emergency preparedness plan, and shall work together to make such changes as may be necessary based upon such review.

9. Obligations of YWCA. YWCA, at its own cost and expense, shall operate and manage the Premises on behalf of School District, pursuant to this Agreement, which shall include without limitation, the following:

- a) Maintain the Premises as required in Section 11 below;
- b) Except as otherwise provided herein, pay all costs and expenses attributable to the maintenance and operation of the Premises, except for capital repairs, for which YWCA shall make deposits into an escrow account as provided in paragraph 11(b) below;
- c) Comply with all laws affecting the Premises, including without limitation, local and state laws, statutes, ordinances and regulations;
- d) Obtain all licenses and permits and special use permits required for operating the Premises and providing the Program thereon;
- e) Assume all responsibility for security against theft, vandalism or accidental loss of any kind at the Premises, subject to the provisions of Section 33 below.
- f) Obtain and maintain insurance on the Premises as required in Section 10 below;
- g) Implement and operate the Program;
- h) Perform or provide School District with the necessary information, including without limitation the Annual Report, to permit School District to perform all School District's obligations under that certain Grant Agreement between School District and the Commission;
- i) Monitor the parking areas and loading zones of the Premises, including ensuring that the bus loading zones are kept clear at all times, providing accessible parking spaces as near the accessible entrance as possible, and providing adequate lighting and appropriate security for the parking areas;
- j) Provide maintenance of surrounding grounds, including snow plowing and removal as soon as practical after accumulation of two inches or more of snow, keeping

sidewalks free of ice, snow and debris, lawn cutting and maintenance of shrubs, trees and plantings;

k) Provide general janitorial services, including all labor, equipment and supplies therefor, to the Premises, including the field house, parking lot, surrounding grounds and common areas, and spot janitorial services on a reasonable basis throughout the day, provided that during periods of School District usage, School District provides oversight of use of the Premises to the same extent as regular school curriculum and related activities in other School facilities. YWCA and School District's Manager of Plant Operations shall mutually agree to standards of cleanliness to be maintained throughout the Premises.

10. Insurance.

a) Insurance Covering the Premises. YWCA shall at all times during the term of this Agreement and at its own expense keep all improvements which are now or hereafter part of the Premises insured against "all risks", including without limitation flooding, for the full replacement value of such improvements, with loss payable to School District, YWCA, and any mortgagee as their respective interests may appear. Any loss adjustment shall require the written consent of School District, YWCA and any mortgagee.

b) Commercial General Liability Insurance. YWCA shall maintain in effect throughout the term of this Agreement commercial general liability insurance covering the Premises and its appurtenances in the amount of at least Two Million Dollars (\$2,000,000.00) combined single limit, and insurance on all boilers and other pressure vessels, fired or unfired. Such insurance shall insure YWCA against all claims of bodily injury, personal injury and property damage arising out of YWCA's operations, assumed liabilities or use of the Premises, including a Broad Form Commercial General Liability endorsement covering the insuring provisions of this Agreement. The policy shall name State and School District as additional insureds.

c) School District's Right to Pay Premiums on Behalf of YWCA. YWCA shall pay all of the premiums for the insurance required hereunder and shall deliver such policies or certificates thereof to School District. In the event YWCA fails either to effect such insurance in the names called for or to pay the premiums therefor or to deliver such policies or certificates thereof to School District, School District shall be entitled, but shall not be obligated, to effect such insurance and pay the premiums therefor. Such premiums shall be repayable to School District within thirty (30) days after written notice of the payment of such insurance, and failure to repay the premiums shall carry with it the same consequences as any monetary default.

d) Notice of Cancellation. Each insurer mentioned in this section shall agree, by endorsement on the policy or policies issued by it, or by independent instrument furnished to the State and School District, that it will give to the State and School District thirty (30) days written notice before the policy or policies in question shall be altered or canceled.

e) Blanket Insurance Policies. Notwithstanding anything to the contrary contained herein, YWCA's obligations to carry the insurance required herein may be brought within the coverage of a so called blanket policy or policies of insurance carried and maintained by YWCA; provided, however, that the coverage afforded the State or School District will not be reduced or diminished or otherwise be different from that which would exist under a separate policy meeting all other requirements of this Agreement by reason of the use of such blanket policy of insurance.

f) Cost of Insurance. The cost of insurance required to be carried by the YWCA hereunder shall be paid by YWCA. Any deductibles shall be paid by the YWCA.

g) General Requirements. All insurance required to be provided under this Agreement shall be provided through an insurance company authorized to do business in the State of Minnesota, reasonably acceptable to the parties.

11. Maintenance, Repairs and Alterations.

a) Generally. YWCA shall, throughout the term of this Agreement, at its own cost and without any expense to School District, keep and maintain the Premises, including all buildings, pavement and improvements thereon, and all fixtures, systems and appurtenances thereto, in good, sanitary, lawful and neat order, condition and repair. Except as specifically provided herein, YWCA shall restore and rehabilitate any improvements which may be destroyed or damaged by fire, casualty or any other cause.

b) Maintenance.

i) As part of each Annual Report required under Section 8 above, YWCA shall submit to School District a Maintenance plan for the next year. School District shall review said plan and shall return it approved or disapproved within thirty (30) days. Failure of School District to timely respond shall mean the plan is deemed to have been approved. The plan shall include Preventive Maintenance schedules, Planned Maintenance and Repair for the year, a report of Maintenance activities for the preceding year, a list of employees and their trade classifications who will be performing Maintenance, a list of contractors expected to be employed to perform Maintenance, a review of procedures for reporting Maintenance needs, and other information as may reasonably be required by School District.

ii) Maintenance shall be performed at such a level as to prevent accumulation of any backlog of deferred Maintenance. Annually on the anniversary of the Commencement Date, YWCA and School District shall jointly inspect the Premises to monitor the level of Maintenance, and to identify any Maintenance or Repair which has been deferred, or which will be required during the next year. Any such items shall be added to the Maintenance plan for the next year. If School District

determines that the level of Maintenance is not satisfactory or not timely, then School District shall promptly give written notice thereof to YWCA, specifying the shortcomings. Thereafter, YWCA shall have a reasonable opportunity to cure the shortcomings. If the level or timing of Maintenance remains unsatisfactory thereafter, School District may perform the necessary Maintenance and YWCA shall reimburse School District for the cost thereof.

iii) School District shall not be obligated to make repairs, replacements or renewals of any kind whatsoever to the Premises or any buildings or improvements thereon, except as provided below.

c) Capital Renewal.

i) School District shall be responsible for accomplishing all Capital Renewal to the Premises and the systems serving the Premises, including without limitation heating, ventilating, air conditioning and utilities, subject to paragraph (ii) below.

ii) On the Commencement Date and each anniversary thereof, YWCA shall make a deposit in the amount of Forty-Two Thousand and no/100 Dollars (\$42,000.00) into an escrow account. School District shall use the escrow account to pay for Capital Renewal projects. If the cost of any necessary Capital Renewal project exceeds the balance available in the escrow account, School District may, at its election, but shall not be required to, pay the cost of such project, and shall be reimbursed from future deposits into the escrow account. School District and YWCA shall mutually agree on any outlay from the escrow account.

iii) If a registered architect or engineer, mutually acceptable to YWCA and School District, determines that a Capital Renewal project is required due to faulty or inadequate Maintenance, the cost of such Capital Renewal project shall be borne by the YWCA.

d) Alteration and Improvement.

i) Neither YWCA nor School District shall make any change, Alteration or Improvement to the Premises without the prior written consent of the other, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, this section shall not apply to changes, Alterations or Improvements necessary to bring the Premises into compliance with applicable building and/or zoning codes or emergency repairs.

ii) Any Alteration or Improvement to the Premises shall be made by the requesting party at its cost and expense, or as mutually agreed. Any Alteration or Improvement shall be completed in a good and workmanlike manner using only first

class materials and shall conform to all applicable zoning and building laws. Any request for approval shall be made in writing accompanied by suitable plans and specifications depicting the same. YWCA or School District, as the case may be, shall indicate its approval or disapproval (indicating specific grounds therefor) in writing within thirty (30) days of the request (or ten (10) days of resubmission responding to a disapproval).

iii) Any Alteration or Improvement required to bring the Premises into compliance with codes or regulations shall be paid for by the party whose occupancy requires the Alteration or Improvement. If it is not clear which party's occupancy requires the Alteration or Improvement, then YWCA and School District shall split the cost of such Alteration or Improvement.

e) Damage to Buildings and Improvements. The damage or destruction or partial destruction of any building or other improvement which is part of the Premises shall not release YWCA from any obligation hereunder, except as hereinafter expressly provided, and in case of damage to or destruction of such building or improvement, YWCA shall at its own expense promptly repair and restore the same to a condition as good or better than that which existed prior to such damage or destruction, unless School District and YWCA, in their judgment, determine that it is inappropriate to rebuild the building or improvements on the Premises, or unless School District determines that the purpose of providing the Program would not be served by rebuilding, in which case the insurance proceeds shall be paid in accordance with Section 14 hereof. School District or YWCA, as the case may be, shall give written notice to the other of its determination whether or not to rebuild within one hundred eighty (180) days after the damage or destruction of the buildings or improvements. School District shall give written notice to YWCA within ninety (90) days after the damage or destruction if it determines that the purposes of this Agreement would not be served by rebuilding. If YWCA or School District does not elect to rebuild, or School District determines that YWCA should not rebuild, this Agreement shall terminate as of the date specified in the notice, and all obligations of the parties under this Agreement shall terminate on that date. Except as otherwise provided in this section, if the parties elect to rebuild, it is agreed that the proceeds of any insurance covering such damage or destruction shall be made available for such rebuilding.

12. Leasing and Assignment. YWCA shall not, without first obtaining the written consent of School District and the Commissioner of Finance, lease, assign or permit the use or occupancy by anyone other than YWCA or School District of the Premises or any part thereof, except for those short term rentals contemplated in the ordinary course of YWCA's operation of the Premises. No such lease, assignment, use or occupancy (including without limitation short-term rentals contemplated in the ordinary course of YWCA's operation of Premises) shall cause the interest on bonds issued by School District or State of Minnesota to become includable in gross income of the recipient for federal income tax purposes. Copies of all proposed short term leases shall be provided to School District at least fourteen (14) days prior to execution. Consent to leasing or assignment shall not be unreasonably withheld, delayed or conditioned, provided that such assignment or leasing

is for purposes of the Program. Any request for approval of a proposed lease or assignment shall be made in writing accompanied by suitable information. School District shall use its best efforts to give its approval or disapproval within twenty (20) days after the request. No consent shall be required for assignment to a successor entity of YWCA, which entity is organized pursuant to Section 501(c)(3) of the Internal Revenue Code, where there is continuity of organizational purpose.

13. Sale of the Premises. If School District determines that the Premises are no longer usable or needed to carry out the Program and its other school functions, School District may, subject to YWCA's option to purchase set forth in paragraph 14 below, sell the Premises for fair market value upon terms authorized by law and approved by the Commissioner of Finance of the State of Minnesota. "Fair market value" shall mean either (i) the price that would be paid by a willing and qualified buyer to a willing and qualified seller as determined by an appraisal of the Premises, which appraisal assumes that all mortgage liens or encumbrances which negatively affect the value of the Premises will be released, or (ii) the price bid by a purchaser under a public bid procedure after reasonable public notice, with the proviso that all mortgage liens or encumbrances which negatively affect the value of the Premises will be released at the time of acquisition. If any state bonds issued to develop the improvements on the Premises remain outstanding on the date of sale, the net proceeds of sale must be applied as follows: (a) first, to pay to the Commissioner of Finance an amount equal to the outstanding balance of any state bond proceeds used to acquire or better the Premises, (b) second, to pay in full any outstanding public or private debt incurred to acquire or better the Premises, and (c) third, any remaining net sale proceeds shall be divided between or among and paid to the interested public and private parties that provided money for such acquisition or betterment (other than any private lender already paid in full) in proportion to the amount of money provided by them for such purpose, as shown on Exhibit D to the Development Agreement. The division of proceeds shall be agreed to in writing by all involved parties. When all the proceeds of a sale of the Premises are distributed as provided above, then the provisions of Minnesota Statutes §16A.695 and the Commissioner's Order, described in subparagraph 29(a) below will no longer apply to the Premises. Any such right shall be exercised in writing by notice to School District, with a copy to the Commission and the Commissioner of Finance, and shall be closed within one hundred and eighty (180) days after the date the notice is given.

14. YWCA's Option to Purchase.

a) YWCA. Upon receipt of notice that School District has determined to sell the Premises, subject to existing law, YWCA shall have an option to purchase the Premises at fair market value, as determined by appraisal. Each party shall select an appraiser who shall determine fair market value. In the event the two appraisers' determinations of fair market value differ by more than five percent (5%) and the parties are not otherwise able to agree on fair market value, then the two appraisers shall select a third appraiser who shall independently determine fair market value, which determination shall be binding on the parties. YWCA shall exercise its option to purchase within one hundred eighty (180) days after receipt of said notice and determination of the fair market value, or the option shall terminate. YWCA's purchase of the Premises pursuant to such option shall be on all the

terms and conditions set forth in paragraph 13 above and shall occur within six (6) months after YWCA exercises its option to purchase.

b) School District. Upon receipt of notice that YWCA has determined to sell the Community Facility Site and the Community Facility, School District shall have the first right to purchase the Community Facility Site and the Community Facility for fair market value, as defined in Paragraph 13 above. School District shall exercise its right in writing delivered to YWCA within one hundred eighty (180) days after receipt of notice from YWCA. The closing shall occur within two (2) months after School District exercises its right to purchase.

15. Mechanics' Liens. YWCA shall not permit or allow any mechanics' or materialmen's liens to be placed on School District's interest in the Premises during the term hereof. Notwithstanding the previous sentence, in the event any such lien shall be so filed against School District's interest, YWCA shall take all steps necessary to remove it within one hundred twenty (120) days of its being filed; provided, however, that YWCA may, at YWCA's expense and in YWCA's name, in good faith contest any such lien and, in the event of any such contest, may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless School District shall notify YWCA that, in the opinion of counsel not within regular employ of YWCA or School District, by nonpayment of any such items the interest of School District in the Premises will be materially endangered or the premises or any part thereof will be subject to loss or forfeiture, in which event YWCA shall promptly pay such lien or provide School District with full security against any loss which may result from nonpayment, in form satisfactory to School District.

16. Default and Termination. In the event of any default under this Agreement, the non-defaulting party shall have the right to bring suit against the defaulting party for damages or to specifically enforce this Agreement, and School District shall have the rights specified in Section 3(c) above.

a) Notice, Program Default. If the School District determines by official action that this Use and Management Agreement should be terminated for failure to carry out the Program, it shall give written notice to YWCA that this Agreement shall so terminate one hundred eighty (180) days after receipt of the written notice by YWCA, unless the failure be fully cured within such period. If the default is not timely cured, then School District may terminate this Agreement.

b) Notice, Monetary Default. YWCA shall not be deemed to be in default hereunder in the payment of any other monies as herein required or in the furnishing of any bond or insurance policy when required herein unless School District shall first give to YWCA thirty (30) days written notice of such default and YWCA fails to cure such default within such thirty (30) days.

c) Notice, Other Defaults. Except as to the provisions or events referred to in the preceding two paragraphs of this section, YWCA shall not be deemed to be in default hereunder unless School District shall first give to YWCA sixty (60) days written notice of

such default and YWCA fails to cure such default within such period, or if the default is of such a nature that it cannot be cured within sixty (60) days, YWCA fails to commence to cure such default within such sixty (60) days or fails thereafter to proceed to the curing of such default with all possible diligence.

d) Insurance; Bonds. It shall be an immediate default under this Agreement if YWCA fails to maintain any insurance required by this Agreement, or fails to perform in accordance with the requirements of Section 29(b) below.

17. School District's Right to Perform. In addition to any other provision contained herein, in the event that YWCA shall be in default hereunder by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, and such failure shall continue for a period specified in Section 16 hereof after written notice from School District, School District may at School District's option, do or perform or cause to be done or performed, such act or thing, and School District shall not be liable, or be held liable or in any way responsible for any loss, inconvenience, annoyance or damage resulting to YWCA on account thereof. YWCA shall repay to School District on demand the entire expense thereof, together with interest thereon at a rate equal to School Districts' then cost of funds.

Any act or thing done by School District pursuant to the provisions of this section shall not be or be construed to be a waiver of any such default by YWCA, or as a waiver of any covenant, term or condition herein contained or the performance thereof, or of any other right or remedy of School District, hereunder or otherwise.

18. Nondiscrimination. YWCA in the conduct of the Program shall operate the Premises in accordance with state and federal guidelines for equal opportunity to all persons and comply with all other state and federal laws, including without limitation the Minnesota Human Resources Act and the Americans with Disabilities Act.

19. Workers Compensation. YWCA in the conduct of the Program shall comply with the provisions for workers compensation in Minnesota Statutes Sections 176.81, Subdivision 1 and 176.182.

20. Liability. Each party shall 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. School District shall not be liable for any suits, actions or claims of any character for injury, death or property damage made by or on behalf of any person or persons, firm or corporation arising out of the conduct, management or use of the Premises by YWCA or arising out of any work or thing whatsoever done in or about the Premises when such has been authorized by YWCA, except as such injury, death or property damage is attributable to School District's negligence. School District's liability shall be governed by the provisions of Minnesota Statutes Chapter 466, Tort Liability, Political Subdivisions and other applicable law.

21. Attorneys' Fees. If either party is made or becomes a party to any litigation by or against the other involving the enforcement of any of the rights and remedies of such party, or arising on account of the default of the other party in the performance of such party's obligations hereunder, then the prevailing party in such litigation, or the party becoming involved in such litigation because of a claim against such other party, as the case may be, shall receive from the other party all costs and reasonable attorneys' fees incurred by such party in such litigation.

22. Waiver. The failure by School District or YWCA to insist upon the complete and total observance or performance of any term or provision hereof, or to exercise any right, privilege or remedy conferred herein or afforded by law, shall not be construed as waiving any breach of such terms or provisions or the right to exercise such right, privilege or remedy thereafter.

23. Notices. Any notice, demand, request, consent, approval or communication that is required or desired to be given hereunder shall be in writing and either served personally or sent, postage prepaid, registered or certified mail, return receipt requested, and addressed to the following:

If to School District: Special School District No. 1 (Minneapolis), Minnesota  
Minneapolis Public Schools  
807 NE Broadway  
Minneapolis, MN 55413  
Attention: Director of Facilities

With a copy to: Dorsey & Whitney, LLP  
220 South Sixth Street  
Minneapolis, MN 55402

If to YWCA: YWCA of Minneapolis  
1130 Nicollet Mall  
Minneapolis, MN 55403  
Attention: Executive Director

With a copy to: Leonard, Street and Deinard, Professional Association  
150 South Fifth Street, Suite 2300  
Minneapolis, MN 55402

If to the Commissioner of Finance: Commissioner of Finance  
400 Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155

or addressed to any such party at such other address as such party shall hereafter furnish by notice to the other party.

24. Entire Agreement; Modification. This Agreement embodies the entire agreement between School District and YWCA, and there are no other agreements, oral or written, between School District and YWCA, on the subject matter herein. No change or modification of the terms or provisions of this Agreement shall be binding on either party unless such change or modification is in writing and signed by an authorized official of the party against which such change or modification is to be imposed and approved in writing by the Commissioner of Finance.

25. Approval by the State of Minnesota. This Agreement shall not be valid or of any effect until signed by both parties and consented to in writing by the Commissioner of Finance of the State of Minnesota.

26. Successors and Assigns. This Agreement shall be binding upon School District and YWCA and their successors and permitted assigns.

27. Choice of Law. All matters, relating to the validity, construction, performance or enforcement of this Agreement shall be controlled by and determined in accordance with the laws of the State of Minnesota.

28. Severability. If any term or provision of this Agreement is determined to be invalid, the remaining terms and provisions shall remain in full force and effect, and shall be interpreted, performed and enforced as if said invalid provision did not appear herein.

29. Compliance with General Obligation Bonding Legislation and the Order of the Commissioner of Finance.

a) State Bond Financed Property. School District and YWCA acknowledge and agree that the Premises is "state bond financed property" as such term is used in the General Obligation Bonding Legislation, Minnesota Statutes Section 16A.695 and the Order Amending Order of the Commissioner of Finance Relating to the Use and Sale of State Bond Financed Property dated July 20, 1995, and that the Premises is subject to the provisions of said statute and order.

b) Preservation of Tax Exempt Status. YWCA agrees to use the Premises only in a manner and for purposes that will not cause the interest paid on the General Obligation Bonds to be or become subject to federal income taxation due to their being classified as "private activity bonds" within the meaning of Chapter 141, or as "arbitrage bonds" under Chapter 148, of the Internal Revenue Code or for any other reason. If School District or YWCA should take or permit, or omit to take or cause to be taken, as appropriate, any action that would adversely affect the exemption from federal income taxation of the Bonds, immediately upon notice from School District, YWCA shall take all lawful actions necessary to rescind or correct such actions or omissions.

c) Survival of Provisions. The provisions contained in this Paragraph 29 shall remain in full force and effect until released, in writing, by the Commissioner of Finance.

30. Heating & Cooling.

a) YWCA shall provide the Premises with heating and cooling facilities designed in accordance with the Minnesota Energy Code. The heating system shall be designed to provide a temperature of 72 degrees Fahrenheit inside when the outdoor temperature is 16 degrees below zero Fahrenheit. The cooling system shall be designed to provide a temperature of 78 degrees Fahrenheit inside when the outdoor temperature is 89 degrees Fahrenheit Dry Bulb/73 degrees Fahrenheit WetBulb.

b) YWCA shall operate the heating and ventilation systems in accordance with the indoor air quality guidelines set forth below.

31. Management Team.

a) Prior to occupancy of the Premises, YWCA and School District shall designate members of a continuing management team. School District members will include representatives from South High School, district staff, and other schools.

b) The management team shall meet regularly, or as called, to review day-to-day operating and management issues.

32. Air Quality Standards.

a) As of the Commencement Date, YWCA shall ensure that the heating, ventilating and air-conditioning system serving the Premises complies in all respects with all applicable State and municipal laws, regulations, codes and ordinances (including without limitation the Minnesota Clean Indoor Air Act, ASHRAE 62-1989 and ASHARE 90.1-1989), as legally required for air supply, return and filtering (collectively, the "Air Quality Laws"), so that particles are removed and the required air changes for the space use is met. If at any time during the Term the heating, ventilating and air-conditioning system servicing system servicing the Premises fails to comply with the current Air Quality Laws, YWCA shall bring such system into compliance with the Air Quality Laws.

b) YWCA shall ensure that the heating, ventilating and air-conditioning system is designed, installed, operated, maintained, controlled and balanced so that there is, and shall be, no significant variation in temperature or air quality throughout the Premises.

c) YWCA shall balance concerns for energy efficiency against the need for indoor air quality. Under all conditions, sufficient outside fresh air in conformance with ASHRAE 62-1989, shall be brought in and stale air exhausted to maintain a reasonably healthful environment. When calculating the system requirements for heating, ventilating and air-conditioning, indoor air quality shall receive reasonable priority unless a different priority shall be mandated by applicable law.

d) The heating, ventilating and air conditioning system shall be capable of maintaining humidity levels in the Premises at no more than 60% RH, up to the outdoor design conditions of 89 degrees Fahrenheit DryBulb/73 degrees Fahrenheit WetBulb. In the heating mode, no humidification shall be provided to the Premises, and the minimum humidity level may vary depending on usage and outdoor temperature.

e) YWCA shall provide two (2) filters for each air handling unit system. The first filter shall be a prefilter with the minimum air filtration efficiency of 30% when tested in accordance with ASHRAE Standard 52.1, Atmospheric Dust Spot Method. The second filter shall be a final filter with the minimum air filtration efficiency of 65% when tested in accordance with ASHRAE Standard 52.1, Atmospheric Dust Spot Method. The prefilter shall be located upstream of any air handling unit components. The final filter shall be located downstream of the prefilter.

f) During the term of this Agreement, and in addition to YWCA's other repair and maintenance obligations hereunder, YWCA shall clean, inspect, test and repair the heating, ventilating and air conditioning system (including without limitation all duct work serving the Premises) at regular intervals as follows:

i) Annually, prior to October 1 of each calendar year, the heating and ventilating system, together with all burners, controls, piping, filters and duct work, shall be inspected, tested and, if necessary, cleaned and repaired to ensure that the same is in good working order and condition for the ensuing heating season; and

ii) Annually, prior to May 1 of each calendar year, the air conditioning and ventilating system, together with any and all air conditioning condenser, coils, controls, filters and duct work, shall be inspected, tested and, if necessary, cleaned and repaired to ensure that the same is in good working order and condition for the ensuing cooling season.

### 33. Building Access and Security.

a) The party having primary use of the Premises or the swimming pool at any particular time shall be responsible for supervision of persons using the Premises or swimming pool during such time. Specifically, during any period of School District usage, School District personnel shall be responsible for supervising both the space and the students using the space, such supervision to be at a level at least equal to that customarily provided in other School District facilities for educational activity of the nature being undertaken, and for any damage to persons or property resulting from School District's failure to provide such supervision. School District personnel shall notify YWCA promptly of any damage to the Premises during School District use. YWCA shall monitor access to the Premises during all periods except those periods during which School District has primary use. In event there is damage to the Premises during time of School District use of which School District personnel has not informed YWCA, YWCA shall promptly notify School District thereof. School District shall respond to YWCA within thirty (30) days after notice, setting forth any details

known to School District and/or the supervising School District personnel, relating to such damage. In the event such damage is the result of failure by School District to provide proper supervision, then upon receipt of evidence of the cost of repair, School District shall promptly reimburse YWCA for such cost.

b) YWCA and School District shall provide each other with the name and telephone and/or pager number of person to contact in the event of emergency.

c) YWCA and School District shall jointly prepare an emergency preparedness plan for the Premises.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first above written.

SPECIAL SCHOOL DISTRICT NO. 1  
(MINNEAPOLIS), MINNESOTA

By: *[Signature]*  
Its Chairperson

By: *[Signature]*  
Its Clerk

YWCA OF MINNEAPOLIS

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**APPROVED**  
OCT 28 1997  
BOARD OF EDUCATION MEETING

known to School District and/or the supervising School District personnel, relating to such damage. In the event such damage is the result of failure by School District to provide proper supervision, then upon receipt of evidence of the cost of repair, School District shall promptly reimburse YWCA for such cost.

b) YWCA and School District shall provide each other with the name and telephone and/or pager number of person to contact in the event of emergency.

c) YWCA and School District shall jointly prepare an emergency preparedness plan for the Premises.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first above written.

SPECIAL SCHOOL DISTRICT NO. 1  
(MINNEAPOLIS), MINNESOTA

By: \_\_\_\_\_  
Its Chairperson

By: \_\_\_\_\_  
Its Clerk

YWCA OF MINNEAPOLIS

By: Ma. Hite  
Its: Executive Director

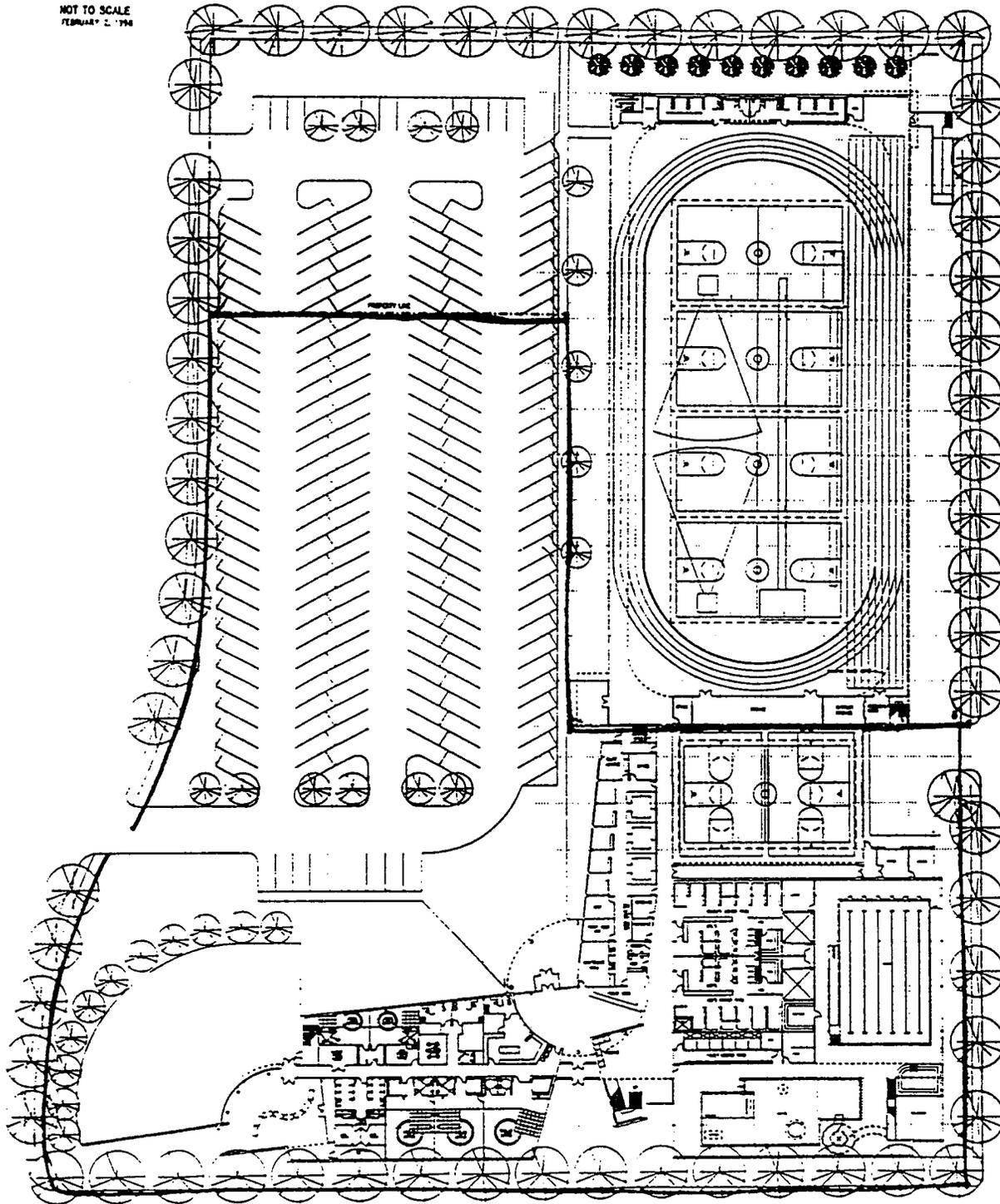
**EXHIBIT A**

**Depiction of Sport Facility Site and Community Facility Site**

YWCA  
URBAN SPORTS CENTER

ARCHITECTURAL ALLIANCE

NOT TO SCALE  
FEBRUARY 2, 1994



Sports Facility  
Site

Community  
Facility  
Site

GROUND FLOOR PLAN

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

May 11, 2021

**RESOLUTION REGARDING APPROVAL OF THE 2017-2019 COLLECTIVE BARGAINING AGREEMENT BETWEEN SPECIAL SCHOOL DISTRICT NO.1, AND MINNEAPOLIS FEDERATION OF TEACHERS, LOCAL 59 - ADULT EDUCATION TEACHERS**

**WHEREAS**, Special School District No. 1 (District) and Minneapolis Federation of Teachers, Local 59 - Adult Education Teachers (Union) were parties to a collective bargaining agreement for the period of July 1, 2019, through June 30, 2021, and

**WHEREAS**, the collective bargaining agreement between the District and Union expired on June 30, 2019; and

**WHEREAS**, the District and Union engaged in collective bargaining negotiations, and reached a tentative agreement on a successor agreement through June 30, 2021; and

**WHEREAS**, the Union membership voted affirmatively to ratify the successor agreement.

**NOW, THEREFORE BE IT HEREBY RESOLVED**, that the Board of Directors of Special School District No. 1 hereby approves the collective bargaining agreement between Special School District No. 1, and Minneapolis Federation of Teachers, Local 59 - Adult Education Teachers, effective July 1, 2019, through June 30, 2021.

Signed by:

\_\_\_\_\_  
Kim Ellison, Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Josh Pauly, Clerk

\_\_\_\_\_  
Date

# PUBLIC INFORMATION

## SUMMARY OF TENTATIVE AGREEMENT

SPECIAL SCHOOL DISTRICT NO.1

and

MFT, Local 59  
ADULT EDUCATION TEACHERS

2019-2021

May 11, 2021

**Term:** Two (2) years, July 1, 2019, through June 30, 2021

**Pay: Year 1:** No change in salary schedule

Step Movement: Effective July 1, 2019, Teachers will receive annual steps in accordance with contractual eligibility requirements.

**Year 2:** 1.00% general increase, effective July 1, 2020

**Step Movement:** Effective July 1, 2020, Teachers will receive annual steps in accordance with contractual eligibility requirements.

**Schedule E, Hourly and Staff Development Rate.** Effective July 1, 2020, this rate will increase from \$28.00 to \$29.00 per hour

**Schedule F, Adult Education Attraction and Retention Stipend.**

- a. Effective in the ~~2018-2019~~ 2020-2021 school year, for the purpose of incentivizing and rewarding teachers ~~willing to teach in the evenings when many students are available to continue their education, those teachers in positions teaching four (4) evenings who teach split shifts, evening shifts, or three (3) or more subject areas (preps)~~ per week shall receive an annual stipend of \$1,000, to be paid in a tri-annual stipend of \$333.33 for each trimester taught.
- b. This stipend applies to both hourly and contract teachers, including TOSAs, in the evening program.
- c. This stipend will be prorated on a trimester basis for evening teachers with fewer than four (4) evenings of teaching per week.
- d. Teachers are only eligible for one stipend per trimester.

**Health Insurance:** No Change

**Life Insurance** Increase basic life insurance from \$50,000 to \$100,000.

**Tax-Deferred Savings Plans:** Effective January 1, 2021, the District match payment will transition from a formula-based determination to a fixed amount of two thousand dollars (\$2,000.00) per year for participating employees.

## PUBLIC INFORMATION

**Costs:**

The two-year total package cost of this agreement is \$192,416 (compound cost), and the increase over two years is \$138,913, or 5.3%.

**MINNEAPOLIS PUBLIC SCHOOLS  
RESOLUTION 2021-0019**

**RESOLUTION REPEALING POLICY 3250 AND REVISING POLICY 6450**

**WHEREAS**, The Board's Policy Committee recommends the proposed changes.

**NOW THEREFORE BE IT RESOLVED**, that the Board of Directors, Special School District No. 1 (Minneapolis Public Schools) adopts the changes as follows:

**SECTION 1:**        **REPEAL** “Policy 3250: Materials Fees” of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

R E P E A L

~~Policy 3250: Materials Fees (Repealed)~~

~~The Board of Education shall provide learning materials and make budgetary provision for basic instructional supplies for each pupil. The pupil will provide his own expendable and personal supplies.~~

~~**Original Adoption:**~~

~~04/25/1967~~

~~**Revision Dates:**~~

~~10/09/1973~~

~~**Legal References:**~~

- ~~● M.S. 123.35 Subd. 2m Subd. 10 (Independent School District)~~
- ~~● M.S. 128.04~~

**SECTION 2:**        **AMENDMENT** “Policy 6450: Pupil Fees” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

A M E N D M E N T

Policy 6450: ~~Pupil~~Student Fees

~~No student should be denied a required educational experience because of the student's economic inability to pay fees or furnish educational books, or supplies necessary for graduation. In brief, no student should be required to pay a fee for a required (i.e. where it affects the student's grade) program, project, or activity that occurs, for the most part, during the regular school day, in the regular school year (summer school and interim week are not part of the regular school year if courses are taken on a voluntary basis).~~

~~It is recognized that Special School District No. 1 has the right to accept voluntary contributions, to make certain charges and to establish fees in areas considered extra-curricular, non-curricular or supplementary to the regular school program. Further, each school should attempt to provide equal educational opportunities and services for students who are unable to pay fees.~~

**1. PURPOSE**

Minneapolis Public Schools is dedicated to providing a free, public education to all enrolled students. The purpose of this policy is to establish when and if fees may be charged to students of Minneapolis Public Schools.

**2. GENERAL STATEMENT OF POLICY**

- a. No student should be denied a required educational experience because of the student's economic inability to pay fees or furnish educational books, or supplies necessary for graduation. In brief, no student should be required to pay a fee for a required (i.e. where it affects the student's grade) program, project, or activity that occurs, for the most part, during the regular school day, within the regular school year, as defined by the School Board adopted calendar.
- b. Summer school and school break academies are included for this purpose in the definition of the regular school year.
- c. The District has the right to accept voluntary contributions, to make certain charges and to establish fees in areas considered extracurricular, non-curricular or supplementary to the regular school program. Further, each school should attempt to provide equal educational opportunities and services for students who are unable to pay fees.
- d. The District shall provide learning materials and make budgetary provision for basic instructional supplies for each student. Students may be required to furnish personal consumable items.
- e. The Superintendent is authorized to implement regulations or administrative rules for the implementation of this policy.

**Original Adoption:**

12/16/75

**Revision Dates:**

8/13/85

**Legal References:**

- M.S. 120.71 to 120.76, The Minnesota Public School Fee Law
- Minnesota Rules 3500.1050

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

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

Presiding Officer

Attest

\_\_\_\_\_  
 Kim Ellison, Chair, Minneapolis  
 Public Schools

\_\_\_\_\_  
 Josh Pauly, Clerk, Minneapolis Public  
 Schools

**MINNEAPOLIS PUBLIC SCHOOLS  
RESOLUTION 2021-0005**

**RESOLUTION AMENDING POLICY 5600**

**WHEREAS**, The Board’s Policy Committee has recommended the proposed changes.

**NOW THEREFORE BE IT RESOLVED**, that the Board of Directors, Special School District No. 1 (Minneapolis Public Schools) adopts the changes as follows:

**SECTION 1:**            **AMENDMENT** “Policy 5600: Releasing Children From School” of the Minneapolis Public Schools Policies & Regulations is hereby *amended* as follows:

AMENDMENT

Policy 5600: Releasing Children From School

~~No child should be released from school to any person other than the parent or legal guardian unless the school has reasonable evidence that the parent or legal guardian has given permission for such release. In the event that the parents are separated, the school should release the child only on the directions of the parent who has custody.~~

**1. PURPOSE**

The safety of students is of paramount interest to Minneapolis Public Schools. When students must be released during the defined school day, parents must be assured that district staff will take such measures as are necessary to assure the safety of their students while accommodating family needs. The purpose of this policy is to establish what efforts will be required to release students safely at parent requests.

**2. GENERAL STATEMENT OF POLICY**

- a. A student may be released from school to a parent or guardian upon proper identification of the parent or guardian.
- b. A student may be released from school to an adult person authorized by the parent or guardian to receive the student who presents appropriate identification.
- c. District staff shall honor all custodial orders of a court of competent jurisdiction. District staff shall have no responsibility to establish whether or not any court order received is the current order of the court. It is the responsibility of the parents of the student to provide a copy of the court order to their students’ schools. Students shall be released based on the court orders provided to the school.

**Original Adoption:**  
04/25/1967

**Revision Dates:**

2/29/72, 8/28/73, 6/12/84

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

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

Presiding Officer

Attest

\_\_\_\_\_  
Kim Ellison, Chair, Minneapolis  
Public Schools

\_\_\_\_\_  
Josh Pauly, Clerk, Minneapolis Public  
Schools

SPECIAL SCHOOL DISTRICT NO. 1

Board of Education

May 11, 2021

**RESOLUTION AUTHORIZING TRANSFER OF CAPITAL FUNDS**

**WHEREAS**, Minneapolis Public Schools seeks to improve schools using capital funds to design, build and renovate schools, and

**WHEREAS**, the necessary capital investments related to the Comprehensive District Design will require reprioritization of current project funds, and

**WHEREAS**, this resolution replaces Board Resolution 2020-0032 and is aligned with the 5-year Capital Project Plan (FY2021-2025) to the strategic direction of the CDD, is reprioritizing the timing of this project, and

**WHEREAS**, Kenwood Elementary School has a 2020 funded project for kitchen and lunchroom improvements and an entrance remodel, and

**WHEREAS**, Minnesota Statute 475.65 allows for capital fund transfers from a cancelled project to an existing need.

**NOW, THEREFORE BE IT RESOLVED**, that the Minneapolis School Board hereby authorizes the transfer of capital funds from the FY2018 LTFM GO Bond, FY2019 and FY2020 GO and LTFM GO Bond sales for the Kenwood Elementary kitchen/lunchroom/entrance project in the amount of \$6,146,440 to Andersen Science Labs, Page Science Labs, Wilder co-location, and Northeast entrance projects. The Kenwood Elementary project will be delayed indefinitely.

Signed by:

\_\_\_\_\_  
Kim Ellison  
Board of Education Chairperson

\_\_\_\_\_  
Date

\_\_\_\_\_  
Josh Pauly  
Board of Education Clerk

\_\_\_\_\_  
Date

SPECIAL SCHOOL DISTRICT NO. 1  
Board of Education

May 11, 2021

**RESOLUTION TO AMEND THE DISTRICT'S 2020-2021 BUDGET**

**WHEREAS**, distance-learning was required for students longer than originally planned for,

**WHEREAS**, the District's spending is less than originally expected when COVID-19 planning occurred in the Fall,

**WHEREAS**, the District's Grants funds are decreased due to less than anticipated spending of the ESSER I, GEERS and Title I funding related to the COVID-19 pandemic,

**WHEREAS**, the District's Operating Fund and General Fund Grants budgets are amended as follows:

<b>REVENUE</b>	<b>AMENDED 12/8/20</b>	<b>AMENDED 6/8/21</b>
General Operating Fund	\$531,050,738	\$531,050,738
General Fund Grants	\$ 87,324,289	\$ 78,458,761
General Fund Special Revenue	<u>\$ 9,000,000</u>	<u>\$ 9,000,000</u>
Total General Fund	\$627,375,027	\$618,509,499

<b>EXPENSES</b>	<b>AMENDED 12/8/20</b>	<b>AMENDED 6/8/21</b>
General Operating Fund	\$554,107,738	\$524,107,738
General Fund Grants	\$ 87,324,289	\$ 78,458,761
General Fund Special Revenue	<u>\$ 9,000,000</u>	<u>\$ 9,000,000</u>
Total General Fund	\$650,432,027	\$611,566,499

**NOW, THEREFORE BE IT HEREBY RESOLVED** that the Board of Directors of Special School District No. 1 approves the above mentioned revenue and expenditure amended general fund budget for the fiscal year 2020-2021.

Signed by:

\_\_\_\_\_  
Kim Ellison  
Board of Education Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Josh Pauly  
Board of Education Clerk

\_\_\_\_\_  
Date

**RESOLUTION TO APPROVE THE 2021-2022 BOARD OF EDUCATION MEETING SCHEDULE**

**WHEREAS**, the Board of Education’s regular business meetings will typically be held on the second Tuesday of each month from 5:30 p.m. until adjournment per the schedule below (unless otherwise noticed); and

**WHEREAS**, the first meeting of the full board each month will be referred to as a “Regular Business Meeting” and will take place in the Assembly Room at the Davis Center, 1250 West Broadway Avenue., Minneapolis, MN 55411 (unless otherwise noticed); and

**WHEREAS**, the proposed regular business meeting dates for the 2021-2022 school year are as follows:

**2021**

- **August 10, 2021**
- **September 14, 2021**
- **October 12, 2021**
- **November 9, 2021**
- **December 14, 2021** (Also serves as the Truth in Taxation meeting)

**2022**

- **January 11, 2022** (Annual Organizational Meeting)
- **February 8, 2022**
- **March 8, 2022**
- **April 12, 2022**
- **May 10, 2022**
- **June 14, 2022**

**WHEREAS**, the Board of Education may also hold “Committee of the Whole” meetings during the 2021-2022 school year, which will be separately noticed, and tentatively scheduled as follows:

**2021**

- **August 24, 2021**
- **September 28, 2021**
- **October 26, 2021**
- **November 23, 2021**
- **December 21, 2021** (3<sup>rd</sup> Tuesday due to winter break)

**2022**

- **January 25, 2022**
- **February 22, 2022**
- **March 22, 2022**
- **April 26, 2022**
- **May 24, 2022**
- **June 28, 2022**

**THEREFORE, BE IT RESOLVED**, that the Board of Education, Special School District No. 1 adopt the proposed schedule of meetings for the 2021-2022 school year.

**FURTHER, BE IT RESOLVED**, that the Board Chair, in consultation with the Superintendent and in accordance with all meeting notice requirements, may modify dates and times as needed to adjust for unforeseen circumstances.

Signed by:

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Kim Ellison  
Board of Education Chair

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Date

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Josh Pauly  
Board of Education Clerk

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Date

## Notification of Advisory Committee Appointments

Pursuant to the World's Best Workforce (WBWF) Advisory Committee charter section 4, the following members have been appointed to the committee, effective 5/1/2021.

Committee Member	Nominator	Seat
Katie Remington Cunningham	Inz	District 5
Melody Lockwood	Graff	Superintendent