Regular Business Meeting
Tuesday, August 10, 2021 5:30 PM

Board Assembly Room
1250 West Broadway Avenue
Minneapolis, Minnesota 55411

Agenda

1) Call to Order and Roll Call
2) Adoption of the Agenda
3) Acceptance of Minutes
   a. Minutes for June 15, 2021
4) Public Comments
5) Reports and Recommendations from the Superintendent of Schools
6) Action Items by the Board of Education
   a. Approval of the Consent Agenda
      1. Personnel Items
         a. Approval of List A personnel matters (2021-08-ER-A)
         b. Approval of List B personnel matters (2021-08-ER-B)
      2. Contracts
         a. Contract with AchieveMpls (2021-4400001047)
         b. Contract with AchieveMpls (2021-4400001054)
         c. Contract with ACT (2021-4400001048)
         d. Contract with Arch Language Network (2021-4400001045)
         e. Contract with Augsburg College (2021-4400001049)
         f. Amendment to contract 2021-13095 with Busch Architects, Inc.
         g. Amendment to contract 2021-4400000579 with Canvas Health
         h. Amendment to contract 2021-4400000523 with Change Inc.
         i. Contract with CH Robinson (2021-13105)
         j. Contract with Construction Results Corporation (2021-13196)
         k. Contract with Indianhead Foodservice (2021-13106)
         l. Amendment to contract 2021-13209 with Lawal Scott Erickson Architects (LSE)
         m. Contract with Learning Disabilities Association (2021-4400001056)
         n. Contract with Metro Transit (2021-13090)
         o. Contract with Minneapolis Youth Coordinating Board (2021-4400001064)
         p. Contract with Pan O Gold (2021-13107)
         q. Contract with Project Success (2021-4400001061)
         r. Contract with Project Success (Authorization)
         s. Contract with Russ Davis Wholesale (2021-13109)
         t. Contract with Smart Care Equipment Solutions (2021-13202)
         u. Contract with St. Paul Beverage (2021-13200)
         v. Amendment to contract 2021-400000524 with The Mental Health Collective dba Watercourse Counseling Center
         w. Amendment to contract 2021-4400000525 with Washburn Center for Children

x. Contract with Whelan Security dba GardaWorld Security Services (2021-13184)
y. Contract with World Saavy (Authorization)

3. Agreements
    a. Lease Agreement with Minneapolis Nature Preschool (2021-0042)

b. Establishing Juneteenth as a District Holiday (2021-0041)
c. Approval of the 2021-2022 E-Learning Day Plan (2021-0040)
d. Repeal of Policy 1040 and Adoption of Policies 3504 (Public Data Requests), 4200 (Personnel Data), and 5690 (Student Data)

7) New Business
8) Reports from Board of Education Directors
9) Adjournment

Minneapolis Public Schools – Board of Education
Special School District No. 1
Regular Business Meeting
June 15, 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 June 15, 2021, commencing at 5:31 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 Jourdain that the Board of Education, Special School District No. 1, approve the Agenda for June 15, 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 Arneson that the Board of Education, Special School District No. 1, approve the Minutes for May 11, 2021. Motion to approve the Minutes was put to a roll-call vote and carried out unanimously.

IV. STUDENT AND COMMUNITY RECOGNITIONS

- Superintendent and Board recognized Darnella Frazier and highlighted her recognition by the Pulitzer board.

V. PUBLIC HEARING ON THE TUTTLE SCHOOL BUILDING CLOSURE (NO COMMENTS WERE MADE)

VI. PUBLIC COMMENTS

Pre-recorded Public Comments were played

VII. REPORTS AND RECOMMENDATIONS FROM THE SUPERINTENDENT OF SCHOOLS

- End-of-school year updates and graduation updates
- Update on designating federal Covid dollars including community engagement efforts
- Brief background on agenda items; closure of Tuttle Building, 2021-2022 Capital Plan, and Resolution Condemning Gun Violence

VIII. POLICY COMMITTEE REPORTS

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a. Repeal of Policy 1040 and Adoption of Policies 3504 (Public Data Requests), 4200 (Personnel Data), and 5690 (Student Data)

IX. 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 Airport Taxi for Transportation Service for 2021-2022 school year*
   b. *Contract with Bergan KDV to provide audit services*
   c. *Contract with Bille Bus for Transportation Service for 2021-2022 school year*
   d. *Contract amendment with CenturyLink for phone and data services*
   e. *Contract with Concur Technologies, Inc. for online financial processing systems*
   f. *Contract amendments with contract alternative schools*

School Name	Contract Amount
Takoda Prep	$476,712.00
Eastside MENLO	$554,602.00
Nawayee Center School	$570,409.00
Project For Pride in Living-LNAS High School	$513,381.00
MERC	$651,503.00
PYC	$1,520,842.00
Ronald McDonald House	$66,664.00
VOA	$1,087,153.00

   g. *Contract with Dreambox Learning for Online Adaptive Math Program*
   h. *Contract with Fastbridge Illuminate for Data and Assessment Software*
   i. *Contract with Follett for Destiny Library/Resource Manager*
   j. *Contract with Great Lake Transportation for Transportation Service for 2021-2022 school year*
   k. *Contract with Hays Companies, Inc. for insurance broker services for Minneapolis Public Schools*
   l. *Contract with Heartland Business Systems for Wireless hardware and installation services*
   m. *Contract with Hewlett Packard Financial Services for device leasing*
   n. *Contract with Hillyard for cleaning supplies*
   o. *Contract with iDream TV to provide live video and production services*
   p. *Contract with Indrotec to provide janitorial services*
   q. *Contract with INGCO International to provide interpretation and translation services*
   r. *Contract with Intrado Interactive Services Corporation for Electronic Emergency Management Application & Visitor Management Solution*
   s. *Contract amendment with Insight Public Sector for Microsoft Licensing*
   t. *Contract with Language Line Services to provide interpretation and translation services*
   u. *Contract with Lexia Learning Systems for Software Renewal*

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v. *Contract with Lorenz Transportation for Transportation Service for 2021-2022 school year*
w. *Contract with Magnet Schools of America for Professional Development Services*
x. *Contract with Mansfield Gas Company for Diesel & Unleaded Fuel for 2021-2022 school year*
y. *Contract with MEISA Transportation for Transportation Service for 2021-2022 school year*
z. *Contract with Metropolitan Transportation Network (MTN) for Transportation Service for 2021-2022 school year*
aa. *Contract with Metro Transit for Transportation Service for 2021-2022 school year*
ab. *Contract with Minneapolis & Suburban for Transportation Service for 2021-2022 school year*
ac. *Contract with Nearpod Inc. for Nearpod Licenses*
ad. *Contract with Newsela for Newsela Essentials*
ae. *Contract with Northstar Transportation for Transportation Service for 2021-2022 school year*
af. *Contract with OGAP Math LLC to provide Professional Development Services*
ag. *Contract with Paragon Development Systems (PDS) for Cisco SmartNET Maintenance renewal and technical support*
ah. *Authorization to enter a contract with Parents in Community Action, Inc. (PICA) to provide early childhood services (pending state funding)*
ai. *Contract amendment with Ricoh Business Solution for providing copierclick, paper and labor*
aj. *Contract with Rift Valley Transportation for Transportation Service for 2021-2022 school year*
ak. *Contract with Seesaw for Software Renewal*
al. *Contract with Septran Transportation for Transportation Service for 2021-2022 school year*
am. *Contract with Unique Software for repair of student devices*
an. *Contract with VSI Construction, Inc. to provide moving services to support CDD moves*
ao. *Contract with Waste Management for waste management services*
ap. *Authorization to enter a contract with YWCA of Minneapolis to provide early childhood services (pending state funding)*
aq. *Contract with U of M Reading Research Center for PRESS K-5*

3. *Resolutions*
   a. *Adoption of School District General Records Retention Schedule*

MOTION: Director Caprini moved, seconded by Director Arneson, 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, with Director Jourdain abstaining from item 2.f to avoid a conflict of interest.

b. <u>RESOLUTION TO CLOSE THE TUTTLE SCHOOL BUILDING</u>

WHEREAS: the Tuttle School Building at 1042 18th Ave SE, Minneapolis, MN

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55414 has been the location of Heritage STEM Academy; and

WHEREAS: Heritage STEM Academy will be relocated to a more suitable facility for secondary education beginning with the 2021-2022 School Year; and

WHEREAS: the departure of Heritage STEM Academy will result in the Tuttle School Building no longer housing educational programming; and

WHEREAS: pursuant to MN Statute 123B.51 Subd. 5., a public hearing was duly noticed and conducted to allow parties to provide testimony for and against the proposal to close the Tuttle School Building.

NOW THEREFORE BE IT RESOLVED that the Board of Directors of Special School District No. 1, hereby closes the Tuttle School Building, located at 1042 18th Ave SE, Minneapolis, MN 55414, as a schoolhouse.

MOTION: Director Inz moved, seconded by Director Caprini, that the Board of Education, Special School District No. 1, approve the closure of the Tuttle Building. The motion to approve the building closure was put to a roll-call vote and carried out unanimously.

c. 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	$96,960,244	$96,960,244
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.*

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

d. RESOLUTION PROPOSING AUTHORIZATION FOR THE UPDATED MULTI-YEAR CAPITAL PROJECT PLAN (FY2022-2025)

WHEREAS, *Board of Education Policy 3170 requires a multi-year capital plan for capital improvements updated annually; and*

WHEREAS, *the Minneapolis School Board, Special School District No. 1, approved a multi-year Capital Project Plan (FY2022-2025) in June 2020; and*

WHEREAS, *Operations proposed a multi-year Capital Project Plan that aligns with the strategic direction in the CDD Resolution 2020-0021, including an annual bonding plan that is consistent with established Board of Education Policy 3290; and*

WHEREAS, *Operations and Finance will present an annual Capital Project Plan to the Board of Education, guided by the multi-year Capital Project Plan, recognizing the Plan may be modified if Operating Revenue, academic programming or facility/operational needs change.*

NOW, THEREFORE, BE IT RESOLVED, *that the Minneapolis School Board, Special School District No. 1, hereby authorizes the revised multi-year Capital Project Plan (FY2022-2025), labeled as 2021-0032A.*

MOTION: Director Caprini moved, seconded by Director Cerrillo, that the Board of Education, Special School District No. 1, approve the multi-year capital plan. The motion to approve the plan was put to a roll-call vote and carried out unanimously.

e. RESOLUTION PROPOSING AUTHORIZATION OF THE LONG-TERM FACILITIES MAINTENANCE (LTFM) 10- YEAR PLAN

WHEREAS, *Minneapolis Public Schools is seeking approval for the Long-Term Facilities Maintenance (LTFM)10-Year Plan; and*

WHEREAS, *the Minnesota Department of Education requires Board of Education approval of the Long-Term Facilities Maintenance Plan; and*

WHEREAS, *the Senior Operating Officer recommends approval the Long-Term Facilities Maintenance (LTFM) 10-Year Plan.*

NOW, THEREFORE, BE IT HEREBY RESOLVED, *that the Board of Directors of Special School District No. 1 hereby approves the Long-Term Facilities Maintenance (LTFM) 10-year plan as presented (2021-0032A)*

MOTION: Director Caprini moved, seconded by Director El-Amin, that the Board of Education, Special School District No. 1, approve the Long-Term Facilities Maintenance (LTFM) 10-Year Plan. The motion to approve the plan was put to a roll-call vote and carried out unanimously.

f. 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, *Kenny Elementary School was a funded project for kitchen and lunchroom improvements during the FY21 bond sales, and*

WHEREAS, *the Operations department, has determined due to changes in the building code regarding building additions that a kitchen and lunchroom addition is no longer feasible, and*

WHEREAS, *the supplemental design funding for the Kenny Lunchroom can be transferred to the North High School project to support daylighting at North High School, 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 FY21 GO bond for the Kenny Elementary kitchen and lunchroom project in the amount of $700,000 to the North High School capital project. The Kenny Elementary kitchen and lunchroom project will still have adequate capital funds for the original FY18 project scope.*

MOTION: Director Caprini moved, seconded by Director El-Amin, that the Board of Education, Special School District No. 1, approve the transfer of Capital Funds. The motion to approve the transfer was put to a roll-call vote and carried out unanimously.

g. 2021-2022 Equity and Diversity Impact Assessment (EDIA) Recommendation.

MOTION: Director Arneson moved, seconded by Director Caprini, moved that in concurrence with the recommendation of the Superintendent and the Board Policy Committee, the Board directs the Accountability, Research, and Equity Division to conduct a full Equity and Diversity Impact Assessment (EDIA) on school fundraising during the 2021-2022 school year and report back findings and recommendations in accordance with Policy 1304. The motion to approve the calendar was put to a roll-call vote and carried out unanimously.

h. Resolution Awarding bond sale 2021A – Attachment 1

MOTION: Director Caprini moved, seconded by Director Arneson, that the Board of Education, Special School District No. 1, approve the Resolution Awarding bond sale 2021A. The motion to approve the bond sale was put to a roll-call vote and carried out unanimously.

X. NEW BUSINESS

a. Resolution Condemning Gun Violence, Renewing Our Commitment, and Calling for Action at Local, State, and Federal Levels

WHEREAS: the devastation of gun violence has continued to deeply affect Minneapolis Public Schools students and our community; and

WHEREAS: in recent months both children and adults, including MPS students, have been injured or killed by gunfire in Minneapolis; and

WHEREAS: Black and African American residents of Minneapolis are disproportionately impacted by gun violence and the ensuing trauma; and

WHEREAS: the first Friday in June has been recognized in Hennepin County and in communities across the nation as National Gun Violence Awareness Day; and

WHEREAS: MPS students have called on adults to act with urgency to protect their lives; and

WHEREAS: MPS has repeatedly called for action by local, state, and federal policymakers to address this crisis without substantial success to date.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Special School District No. 1, hereby reaffirms our commitment to ending gun violence and again calls on all levels of government to take immediate action to keep our students and community safe from gun-related and all forms of violence.

MOTION: Director Ellison moved, seconded by Director Caprini, that the Board of Education, Special School District No. 1, approve the resolution condemning gun violence and calling for action. The motion was put to a roll-call vote and carried out unanimously.

XI. REPORTS FROM BOARD OF EDUCATION DIRECTORS

XII. ADJOURNMENT

MOTION: Director Caprini moved, seconded by Director Jourdain that the Board of Education, Special School District No. 1, adjourn the meeting at 7:36 p.m. The motion to adjourn was put to a vote and carried out unanimously.

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Attachment 1

SPECIAL SCHOOL DISTRICT NO. 1
MINNEAPOLIS, MINNESOTA

CERTIFICATE OF OFFICIAL ACTION

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

Attached hereto is a true and correct copy of a resolution duly adopted by the affirmative vote of six or more members of the Board of Education of the District at a lawful meeting duly called and held on June 15, 2021, at which meeting a quorum was present and acting throughout. Such resolution remains in full force and effect in the form in which adopted.

IN WITNESS WHEREOF, the undersigned has hereunto set her/his hand and affixed the official seal of the District, this ___ day of June, 2021.

_____
School District Clerk

RESOLUTION RELATING TO $18,725,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021A; AWARDING THE SALE THEREOF; PRESCRIBING THE FORM AND DETAILS THEREOF; AND AUTHORIZING THEIR ISSUANCE

BE IT RESOLVED by the Board of Education (the "Board") of Special School District No. 1 (Minneapolis), Minnesota (the "District"), as follows:

Section 1. Authorization and Sale

1.01. Pursuant to Minnesota Statutes, Chapter 475, the District is authorized to issue general obligation bonds to refund outstanding general obligation bonds of the District in order to reduce debt service costs to the District.

1.02. PFM Financial Advisors LLC, municipal advisor to the District ("PFM"), has advised this Board that the outstanding general obligation bonds of the District described in the table below (the "Series 2012A Bonds" and the "Series 2012B Bonds," respectively, and collectively, the "Refunded Bonds") are callable on the dates indicated in the table below (each a "Call Date"), and that redemption of the Refunded Bonds on the Call Date will result in aggregate net savings of approximately $2,418,762.69 (10.325561%) on a present value basis.

Refunded Bonds	**Original Issue Date**	**Original Aggregate Principal Amount**	**Maturities to be Refunded (February 1)**	**Principal Amount Refunded**	**Call Date**
General Obligation School Building Bonds, Series 2012A	12/18/2012	$21,220,000	2022-2033	$11,810,000	8/1/2021
General Obligation Alternative Facility Bonds, Series 2012B	12/18/2012	$18,550,000	2022-2033	$11,615,000	8/1/2021

1.03. This Board finds, determines and declares that it is in the best interest of the District to proceed forthwith to issue its General Obligation Refunding Bonds, Series 2021A, in the aggregate principal amount of $18,725,000, including in such issue of bonds $0 representing accrued interest as authorized by Minnesota Statutes, Section 475.56, to accomplish the refunding of the Refunded Bonds on the Call Date and to pay costs of such refunding and costs of issuing

the Bonds (as defined herein). The $18,725,000 in total principal amount of the General Obligation Refunding Bonds, Series 2021A are referred to herein as the "Bonds."

1.04. PFM has solicited, on behalf of the District, competitive proposals for the purchase of the Bonds. Upon consideration by this Board, the most favorable of such proposals is ascertained to be that of Jefferies, LLC, in New York, New York (the "Purchaser"), who offered to purchase the Bonds at a price of $23,540,205.50 ($18,725,000 in par amount of Bonds plus original issue premium of $4,873,244.80 less Purchaser compensation of $58,039.30) plus accrued interest from the date of the Bonds to the date of delivery thereof (if any), and upon the further terms and conditions set forth in this resolution.

1.05. All acts, conditions and things which are required by the Constitution and laws of the State of Minnesota to be done prior to the issuance of the Bonds having been done, existing and having happened, it is now necessary for this Board to establish the form and terms of the Bonds, to provide for the security thereof, and to issue the Bonds forthwith.

Section 2. Form of Bonds

2.01. The Bonds shall be prepared substantially in the form of Exhibit A.

Section 3. Bond Terms, Execution and Delivery.

3.01. Maturities, Interest Rates, Denominations. The District shall forthwith issue and deliver the Bonds, which shall be denominated "General Obligation Refunding Bonds, Series 2021A." The Bonds shall be in the denomination of $5,000 each or any integral multiple thereof, shall mature on February 1 in the years and amounts set forth below, and Bonds maturing in such years and amounts shall bear interest from the date of issue until paid or duly called for redemption at the rates per annum shown opposite such years and amounts as follows:

Year	Amount	Rate	Year	Amount	Rate
2022	$1,550,000	5.00%	2028	$1,545,000	5.00%
2023	1,210,000	5.00	2029	1,620,000	5.00
2024	1,270,000	5.00	2030	1,700,000	5.00
2025	1,330,000	5.00	2031	1,785,000	5.00
2026	1,400,000	5.00	2032	1,875,000	5.00
2027	1,470,000	5.00	2033	1,970,000	5.00

3.02. Dates; Interest Payment Dates. The Bonds shall be issuable only in fully registered form, and the ownership of the Bonds shall be transferred only upon the bond register of the District hereinafter described. The interest on the Bonds shall be payable on February 1 and August 1 in each year, commencing February 1, 2022, to the owner of record thereof as of the close of business on the fifteenth day of the immediately preceding month, whether or not such day is a business day. The interest on, and upon presentation and surrender thereof, the principal of each Bond, shall be payable by check or draft issued by the Registrar (as defined herein). Each

Bond shall be originally dated as of July 14, 2021, and upon authentication of any Bond the Registrar described herein shall indicate therein the date of such authentication.

3.03. Registration. The District shall appoint, and shall maintain, a bond registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the District and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its principal corporate trust office a bond register in which the Registrar shall provide for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender for transfer of any Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the fifteenth day of the month preceding each interest payment date and until such interest payment.

(c) Exchange of Bonds. Whenever any Bond is surrendered by the registered owner for exchange, the Registrar shall authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity, as requested by the registered owner or the owner's attorney in writing.

(d) Cancellation. All Bonds surrendered upon any transfer or exchange shall be promptly canceled by the Registrar and thereafter disposed of as directed by the District.

(e) Improper or Unauthorized Transfer. When any Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Bond or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The District and the Registrar may treat the person in whose name any Bond is at any time registered in the bond register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the District upon such Bond to the extent of the sum or sums paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Bonds, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Bond shall become mutilated or be lost, stolen or destroyed, the Registrar shall deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any such Bond lost, stolen or destroyed, upon payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond lost, stolen or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Bond was lost, stolen or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the District and the Registrar shall be named as obligees. All Bonds so surrendered to the Registrar shall be canceled by it and evidence of such cancellation shall be given to the District. If the mutilated, lost, stolen or destroyed Bond has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

(i) Authenticating Agent. The Registrar is hereby designated authenticating agent for the Bonds, within the meaning of Minnesota Statutes, Section 475.55, Subdivision 1, as amended.

(j) Valid Bonds. All Bonds issued upon any transfer or exchange of Bonds shall be the valid obligations of the District, evidencing the same debt, and entitled to the same benefits under this Resolution as the Bonds surrendered upon such transfer or exchange.

3.04. Appointment of Initial Registrar. The District hereby appoints U.S. Bank National Association, as the initial Registrar. The Chair and the School District Clerk are authorized to execute and deliver, if necessary or appropriate, on behalf of the District, a contract with U.S. Bank National Association, as Registrar. A bank or trust company authorized by law to conduct such business, may be authorized to act as successor Registrar. The District agrees to pay the reasonable and customary charges of the Registrar for the services performed. The District reserves the right to remove any Registrar upon thirty (30) days' notice and upon the appointment of a successor Registrar and shall deliver all cash and Bonds in its possession to the successor Registrar and shall deliver the bond register to the successor Registrar. On or before each principal or interest due date, without further order of this Board, the School District Clerk shall transmit to the Registrar, from the Debt Service Fund described in Section 4.02, moneys sufficient for the payment of all principal and interest then due.

3.05. Redemption. The Bonds are not subject to redemption or prepayment prior to their stated maturity dates.

3.06. Preparation and Delivery. The Bonds shall be prepared under the direction of the School District Clerk and shall be executed on behalf of the District by the signatures of the Chair and the School District Clerk, and may be sealed with the official seal of the District; provided that said signatures and the official seal may be printed, engraved or lithographed facsimiles thereof. In case any officer whose signature, or a facsimile of whose signature, shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature or facsimile shall

nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. Notwithstanding such execution, no Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution. When the Bonds have been so delivered and authenticated, they shall be delivered by the School District Clerk to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Purchaser shall not be obligated to see to the application of the purchase price.

3.07. Securities Depository

(a) For purposes of this section, the following terms shall have the following meanings:

"Beneficial Owner" shall mean, whenever used with respect to a Bond, the person in whose name such Bond is recorded as the beneficial owner of such Bond by a Participant on the records of such Participant, or such person's subrogee.

"Cede & Co." shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

"DTC" shall mean The Depository Trust Company of New York, New York.

"Participant" shall mean any broker-dealer, bank or other financial institution for which DTC holds Bonds as securities depository.

"Representation Letter" shall mean the Representation Letter pursuant to which the District agrees to comply with DTC's Operational Arrangements.

(b) The Bonds shall be initially issued as separately authenticated fully registered bonds, and one Bond shall be issued in the principal amount of each stated maturity of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the District may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to registered owners of Bonds under this resolution, registering the transfer of Bonds, and for all other purposes whatsoever; and neither the Registrar nor the District shall be affected by any notice to the contrary. Neither the Registrar nor the District shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other person which is not shown on the bond register as being a registered owner of any Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any

amount with respect to the principal of or interest on the Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under this resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Bonds. So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Bond, and shall give all notices with respect to such Bond, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the District's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the District to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the District determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bond certificates, the District may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Bond certificates. In such event, the Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the District and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds will be transferable in accordance with paragraph (e) hereof.

(d) The execution and delivery of the Representation Letter to DTC by the Chair of the Board of Education and School District Clerk, is hereby authorized, and execution of the Representation Letter by the Chair of the Board of Education and School District Clerk shall be conclusive evidence of such approval.

(e) In the event that any transfer or exchange of Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Bond certificates are issued to holders other than Cede & Co., its successor as nominee for DTC as holder of all the Bonds, or another securities depository as holder of all the Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Bond certificates and the method of payment of principal of and interest on such Bond certificates.

Section 4. Sinking Fund and Tax Levies

4.01. Proceeds of the Bonds in the amount of $23,425,000 shall be delivered to the Registrar for the Refunded Bonds for the redemption of the Refunded Bonds on the Call Date and remaining amounts shall be used to pay costs of issuing the Bonds. Amounts allocable to issuance

expenses not disbursed after 60 days shall be transferred to the Debt Service Fund (as defined herein).

4.02. So long as any of the Bonds are outstanding and any principal or interest thereon remains unpaid, the District shall maintain as a separate account on its books and records the sinking fund heretofore established (the "Debt Service Fund"). The Debt Service Fund shall be used for no purpose other than the payment of principal of and interest on the Bonds and the payment of principal of and interest on such other general obligation bonds of the District as this Board by resolution has heretofore designated or hereafter shall designate as being payable from the Debt Service Fund. The Board irrevocably appropriates to the Debt Service Fund (a) any taxes levied in accordance with this resolution, (b) any taxes levied and to be levied for the payment of other obligations made payable from the Debt Service Fund, (c) accrued interest on the Bonds from their date to the date of delivery (if any), and (d) all such other moneys as shall be received and appropriated to the Debt Service Fund from time to time. If any payment of principal of or interest on the Bonds or other obligations payable therefrom shall become due when there is not sufficient money in the Debt Service Fund to make such payment, the District shall pay the same from any other available fund of the District, and such other fund shall be reimbursed for such advances out of the proceeds of the taxes levied for the payment of the Bonds or other obligations payable therefrom.

4.03. For the prompt and full payment of the principal of and interest on the Bonds as the same respectively become due, the full faith, credit and taxing power of the District shall be and are hereby irrevocably pledged. To provide moneys for the payment thereof, there is hereby levied upon all of the taxable property in the District a direct, annual, ad valorem tax which shall be spread upon the tax rolls collectible in the years and amounts set forth below, as a part of other general taxes of the District, as follows:

Levy Year	Collection Year	Amount

SEE ATTACHED SCHEDULE

The foregoing taxes shall be irrepealable as long as any of the Bonds are outstanding and unpaid; provided, that the District reserves the right and power to reduce the levies in the manner and to the extent permitted by Minnesota Statutes, Section 475.61.

It is estimated that the ad valorem taxes will be collected in amounts not less than five percent (5%) in excess of the annual principal and interest requirements of the Bonds. If, as of the date tax levies are certified in any year, the sum of the balance in the Debt Service Fund plus any ad valorem taxes theretofore levied for the payment of bonds payable therefrom and collectible through the end of the following calendar year is not sufficient to pay when due all principal and interest to become due on all bonds payable therefrom in said following calendar year, or the Debt Service Fund has incurred a deficiency in the manner provided in Section 4.02, an additional direct, irrepealable, ad valorem tax shall be levied on all taxable property within the corporate limits of the District for the purpose of restoring such accumulated or anticipated deficiency in accordance with the provisions of this resolution.

4.04. In order to ensure compliance with the Internal Revenue Code of 1986 (the "Code"), and applicable Treasury Regulations promulgated thereunder (the "Regulations"), upon allocation of any funds to the Debt Service Fund, the balance then on hand in the Debt Service Fund shall be ascertained. If it exceeds the amount of principal and interest on the Bonds to become due and payable through the February 1 next following, plus a reasonable carryover equal to 1/12th of the debt service due in the following bond year, the excess shall (unless, in the opinion of bond counsel, such action is unnecessary to satisfy the requirements of the Code and the Regulations) be used to prepay or purchase Bonds, or invested at a yield which does not exceed the yield on the Bonds calculated in accordance with Section 148 of the Code.

Section 5. Defeasance. When all Bonds have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the Bonds shall cease. The District may discharge its obligations with respect to any Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full; or if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The District may also at any time discharge its obligations with respect to any prepayable Bonds called for redemption on any date when they are prepayable according to their terms, by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full provided that notice of redemption thereof has been duly given as provided in Section 3.05 or arrangements for the giving of such notice have been made. The District may also at any time discharge its obligations with respect to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities which are general obligations of the United States or securities of United States agencies which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to pay all principal, redemption premium, if any, and interest to become due thereon to maturity or, if notice of redemption as herein required has been duly provided for, to such earlier redemption date.

Section 6. Certifications of Proceedings and Arbitrage.

6.01. The School District Clerk is hereby authorized and directed to file with the County Auditor of Hennepin County, Minnesota (the "County Auditor") a certified copy of this resolution together with such other information as the County Auditor shall require, and to obtain from the County Auditor a certificate that the Bonds have been entered upon the bond register as required by law.

6.02. The officers of the District are hereby authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the District relating to the Bonds and to the financial condition and affairs of the District, and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Bonds as they appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the District as to the facts recited herein.

6.03. The District covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action that would cause the interest of the Bonds to become includable in gross income of the recipient under the Code, and any Regulations, and that it will take or cause its officers, employees or agents to take any and all actions legally within its or their power necessary to ensure that the interest on the Bonds will not become includable in gross income of the recipient under the Code and the Regulations. The District covenants and agrees with the holders from time to time of the Bonds that it will abide by the terms of the Tax Certificate executed in connection with the issuance of the Bonds, except to the extent compliance therewith is deemed by bond counsel to be unnecessary to maintain the tax-exempt status of the Bonds.

6.04. The District shall ascertain monthly the amount on deposit in the Debt Service Fund. If the amount on deposit therein ever exceeds the aggregate amount of principal and interest due and payable from the Debt Service Fund through the February 1 next following and a reasonable carryover equal to the greater of (i) the earnings on the Debt Service Fund for the immediately preceding bond year or (ii) 1/12th of the debt service due on the Bonds for the immediately preceding bond year, plus a "minor portion" amount of $100,000, such excess shall (unless an opinion is otherwise received from bond counsel) be used to prepay or redeem Bonds or be invested at a yield less than or equal to the yield on the Bonds calculated in accordance with Section 148 of the Code. If in any bond year interest earned by the District on amounts in the Debt Service Fund relating to the Bonds exceeds $100,000, the District shall rebate to the United States government in accordance with the Code and the Regulations, all such interest earnings that are in excess of the interest earnings that would have been received if amounts in the Debt Service Fund relating to the Bonds would have been invested at a rate of interest equal to the yield on the Bonds. The District reserves the right to amend the provisions of this section at any time, whether prior to or after the delivery of the Bonds, if and to the extent that this Board determines that the provisions of this section are not necessary in order to assure that the Bonds are not "arbitrage bonds" within the meaning of Sections 103(b)(2) and 148 of the Code and the Regulations.

6.05. The Chair and the School District Clerk, being the officers of the District charged with the responsibility for issuing the Bonds pursuant to this resolution, are authorized and directed to execute and deliver to the Purchaser a certificate in accordance with the provisions of Sections 103(b)(2) and 148 of the Code, and the Regulations, stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds which make it reasonable to expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of the Code and the Regulations.

6.06. The preliminary Official Statement, dated June 04, 2021, prepared and distributed by PFM, is hereby approved and the officers of the District are authorized in connection with the delivery of the Bonds to sign such certificates as may be necessary with respect to the completeness and accuracy of the preliminary Official Statement and the final Official Statement to be dated on or about June 15, 2021. PFM is hereby authorized on behalf of the District to prepare and distribute to the Purchaser within seven business days from the date hereof a supplement to the Official Statement or a final Official Statement listing the offering price, the interest rates, selling compensation, delivery date, the underwriters and such other information relating to the Bonds

required to be included in the final Official Statement by Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

Section 7. Rebate Covenant. The District further covenants and agrees with the registered owners of the Bonds from time to time that it will not use the proceeds of the Bonds in such a manner as to cause the Bonds to be "arbitrage bonds" within the meaning of Sections 103(b)(2) and 148 of the Code and the Regulations; to this end, the District shall:

(1) maintain records identifying all "gross proceeds" attributable to the Bonds, the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the Bonds) and any earnings derived from the investment of such arbitrage profit;

(2) make, or cause to be made as of the end of each bond year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States;

(3) pay, or cause to be paid, to the United States at least once every five years the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than sixty (60) days after the day on which the Bonds are paid in full;

(4) not invest, or permit to be invested, "gross proceeds" in any acquired nonpurpose obligations so as to deflect arbitrage otherwise payable to the United States as a "prohibited payment" to a third party; and

(5) retain all records of the annual determination of the foregoing amounts until six (6) years after the Bonds have been fully paid.

Section 8. State Payment; District and Bond Registrar Obligations. The District hereby covenants and obligates itself to notify the Commissioner of Education of the State of Minnesota of any potential default in the payment of the principal of or interest on the Bonds and to use the provisions of Minnesota Statutes, Section 126C.55 (the "State Payment Law"), to guarantee (to the extent provided therein) payment of the principal of and interest on the Bonds when due. The District further covenants to deposit with the Registrar not less than three business days prior to each interest and principal payment date for the Bonds an amount sufficient to make that payment or to notify the Commissioner of Education as provided in the State Payment Law that it will be unable to make all or a portion of such payment. The Registrar shall be required to notify the Commissioner of Education if it becomes aware of a potential default in the payment of principal of and interest on the Bonds at maturity or, if on the date two business days prior to maturity, there are insufficient funds on deposit with the Registrar to pay the Bonds in full at maturity. The Registrar shall be required to cooperate with the District, the Commissioner of Education and the Commissioner of Management and Budget in implementing the provisions of the State Payment Law. In the event that amounts sufficient to make any such interest or principal payment are held by an escrow or paying agent and invested as authorized by Minnesota Statues, Chapter 475 and such escrow or paying agent is required to use proceeds from such investment to

pay to the Registrar the amount necessary to pay such interest or principal on such payment date, then the requirements of the State Payment Law relating to the deposit of such amounts with the Registrar prior to the payment date of such interest or principal shall be deemed satisfied and neither the District nor the Registrar shall be required to notify the commissioner of Education that insufficient funds are available to pay such interest or principal on such payment date. The District shall do all other things which may be necessary to perform the obligations hereby undertaken under the State Payment Law, including any requirements hereafter adopted by the Commissioner of Education or the Commissioner of Management and Budget.

Section 9. Continuing Disclosure

9.01. Definitions. The following capitalized terms shall have the following meanings for purposes of this section.

"*Annual Report*" means any annual report provided by the District pursuant to, and as described in, Section 9.03.

"*Beneficial Owner*" means any person which (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of any Bonds for federal income tax purposes.

"*EMMA*" means the MSRB's Electronic Municipal Market Access system available at http://emma.msrb.org.

"*Financial Obligation*" means a (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) guarantee of either (i) or (ii). The term "Financial Obligation" does not include municipal securities as to which a final official statement has been provided to the MSRB pursuant to the Rule.

"*Holders*" means the registered holders of the Bonds, as recorded in the registration books of the Registrar (as defined in the Trust Agreement).

"*Listed Events*" means the events listed in Section 9.04.

"*MSRB*" means the Municipal Securities Rulemaking Board, 1300 I Street NW, Suite 1000, Washington, DC 20005.

"*Participating Underwriter*" means any of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

9.02. Purpose and Beneficiaries. The District makes the following covenants for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriters in complying with the Rule.

9.03. Provision of Annual Reports.

(i) Not later than 12 months after the end of each fiscal year of the District (the "Submission Deadline") (the first report being due not later than 12 months after June 30, 2021), the District shall, either directly or indirectly through an agent designated by the District, file on EMMA an electronic copy of its Annual Report in a format and accompanied by such identifying information as prescribed by the MSRB. If the District's fiscal year changes, it shall, either directly or indirectly through an agent designated by the District, give notice of such change in the same manner as for a Listed Event under Section 9.04, and the Submission Deadline beginning with the subsequent fiscal year will become one year following the end of the new fiscal year. If the District is unable to provide an Annual Report by the Submission Deadline, in a timely manner thereafter, the District shall, either directly or indirectly through an agent designated by the District, file a notice on EMMA stating that there has been a failure to provide an Annual Report on or before the Submission Deadline.

(ii) The Annual Report must contain or include by reference the following:

(1) The audited financial statements of the District for the prior fiscal year, prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Minnesota state law, as in effect from time to time, or, if and to the extent such audited financial statements have not been prepared in accordance with generally accepted accounting principles, noting the discrepancies therefrom and the effect thereof. If the District's audited financial statements are not available by the Submission Deadline, the Annual Report shall contain unaudited financial information (which may include any annual filing information required by Minnesota state law) accompanied by a notice that the audited financial statements are not yet available, and the audited financial statements shall be filed on EMMA promptly after they become available.

(2) To the extent not included in the financial statements provided as part of the Annual Report, tables, schedules or other information of the type contained in the Official Statement for the Bonds under the following headings or captions, which information may be unaudited:

(A) Financial Summary

(B) Indebtedness
(C) Property Valuations and Taxes
(D) Financial Information

(iii) The Annual Report may be submitted as a single document or as separate documents comprising a package. The contents of the Annual Report may be included in the Annual Report by specific reference to other documents, including official statements of debt issues of the District or related public entities, which are available on EMMA or are filed with the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available on EMMA. The Annual Report shall clearly identify each such other document so included by reference. The audited financial statements of the District may be submitted separately from the balance of the Annual Report and later than the Submission Deadline if they are not available by that date.

9.04. Reporting of Significant Events.

(i) The District shall, either directly or indirectly through an agent designated by the District, give notice of the occurrence of any of the following events with respect to the Bonds, all pursuant to the provisions of this section:

(1) Principal and interest payment delinquencies.

(2) Non-payment related defaults, if material.

(3) Unscheduled draws on debt service reserves reflecting financial difficulties.

(4) Unscheduled draws on credit enhancements reflecting financial difficulties.

(5) Substitution of credit or liquidity providers, or their failure to perform.

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

(7) Modifications to rights of security holders, if material.

(8) Bond calls, if material, and tender offers.

(9) Defeasances.

(10) Release, substitution, or sale of property securing repayment of the securities, if material.

(11) Rating changes.

(12) Bankruptcy, insolvency, receivership or similar event of the obligated person.

For the purposes of the event identified in this subparagraph (12), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(15) Incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the obligated person, any of which affect security holders, if material.

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the obligated person, any of which reflect financial difficulties.

(ii) If a Listed Event described in subparagraph (2), (7), (8) (but only with respect to bond calls under (8)), (10), (13), (14) or (15) has occurred *and the District has determined that such Listed Event is material under applicable federal securities laws*, the District shall, either directly or indirectly through an agent designated by the District, in a timely manner but not later than 10 business days after the occurrence of such Listed Event, promptly file a notice of such occurrence on EMMA, with such notice in a format and accompanied by such identifying information as prescribed by the MSRB.

(iii) If a Listed Event described in subparagraph (1), (3), (4), (5), (6), (8) (but only with respect to tender offers under (8)), (9), (11), (12) or (16) above has occurred the District shall, either directly or indirectly through an agent designated by the District, in a timely manner but not later than 10 business days after the occurrence of such Listed Event, promptly file a notice of such occurrence on EMMA, with such notice in a format and accompanied by such identifying information as prescribed by the MSRB. Notwithstanding the foregoing, notice of Listed Events described in subparagraphs (8) and (9) need not be given under this section any earlier than the notice (if any) of the underlying event is given to Holders of affected Bonds pursuant to the Trust Agreement.

9.05. Termination of Reporting Obligation. The District's obligations under this section will terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds or upon the District's receipt of an opinion of nationally recognized bond counsel to the effect that, because of legislative action or final judicial action or administrative actions or proceedings, the failure of the District to comply with the terms hereof will not cause Participating Underwriters to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended.

9.06. Dissemination Agent. The District may, from time to time, appoint or engage a dissemination agent to assist it in carrying out its obligations under this section, and may discharge any such dissemination agent, with or without appointing a successor dissemination agent. The dissemination agent will not be responsible in any manner for the content of any notice or Annual Report prepared by the District pursuant to this section.

9.07. Amendment; Waiver. Notwithstanding any other provision of this section, the District may amend the covenants contained in this section, and any provision of this section may be waived, if

(i) (1) the amendment or waiver is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted; (2) the undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and (3) the amendment or waiver either (A) is approved by a majority of the Holders, or (B) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners; or

(ii) the amendment or waiver is necessary to comply with modifications to or interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission.

In the event of any amendment or waiver of a provision of this section, the District shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the District. In addition, if the amendment relates to the accounting principles to be followed in preparing audited financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 9.04, and (ii) the Annual Report for the year in which the change is made will present a comparison or other discussion in narrative form (and also, if feasible, in quantitative form) describing or illustrating the material differences between the audited financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

9.08. Additional Information. Nothing in this section will be deemed to prevent the District from disseminating any other information, using the means of dissemination set forth in this section or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this section. If the District chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this section, the District shall have no obligation under this section to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

9.09. Default. In the event of a failure of the District to comply with any provision of this section, any Holder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the District to comply with its obligations under this section. Direct, indirect, consequential and punitive damages will not be recoverable by any person for any default hereunder and are hereby waived to the extent permitted by law. A default under this section will not be deemed an event of default under the Lease, the Trust Agreement or this resolution, and the sole remedy under this section in the event of any failure of the District to comply with this section will be an action to compel performance.

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EXHIBIT A

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN

SPECIAL SCHOOL DISTRICT NO. 1 (MINNEAPOLIS)
GENERAL OBLIGATION REFUNDING BOND, SERIES 2021A

R- $

Interest Rate	Maturity	Date of Original Issue	CUSIP
%	February 1, 20__	July 14, 2021	603790 ___

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THOUSAND DOLLARS

Special School District No. 1 (Minneapolis), Minnesota (the "District"), a duly organized school district with boundaries coterminous with the City of Minneapolis, whose post office address is Minneapolis, Minnesota, acknowledges itself to be indebted, and for value received hereby, promises to pay to the registered owner specified above, or registered assigns, upon presentation and surrender at the principal corporate trust office of the Bond Registrar hereinafter identified, the principal amount specified above, on the maturity date specified above, with interest thereon from the date of original issue hereof or from the most recent interest payment date to which interest has been paid or duly provided for, at the annual rate specified above, all subject to the provisions hereinafter stated with respect to the redemption of the principal of this Bond before maturity. Interest is payable on February 1 and August 1 of each year, commencing on February 1, 2022, by check or draft mailed by the Bond Registrar to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the immediately preceding month. Both principal and interest are payable in any coin or currency of the United States of America, which on the respective dates of payment is legal tender for payment of public and private debts. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith, credit, and taxing power of the District have been and are hereby irrevocably pledged. U.S. Bank National Association in St. Paul, Minnesota has been designated by the Resolution described herein as Bond Registrar, Transfer Agent and Paying Agent (the "Bond Registrar"), and a successor Bond Registrar, if any, may be designated in accordance with said Resolution.

This Bond is one of an issue in the aggregate principal amount of $18,725,000 (the "Bonds"), all of like tenor except as to serial number, maturity date, interest rate and redemption privilege and all issued by the District for the purpose of refunding the District's outstanding General Obligation School Building Bonds, Series 2012A, and General Obligation Alternative Facility Bonds, Series 2012B, and is issued pursuant to authority conferred by the required vote of

the members of the Board of Education of the District and pursuant to and in full conformity with the Constitution and laws of the State of Minnesota thereunto enabling, including Minnesota Statutes, Chapter 475, and pursuant to and in full conformity with resolutions of the Board of Education of the District, including a resolution adopted June 15, 2021 (the "Resolution"). This Bond is payable primarily from the Debt Service Fund (the "Debt Service Fund") of the District, but the Board is required by law to pay maturing principal hereof and interest thereon out of any funds in the treasury if moneys on hand in the Debt Service Fund are insufficient therefor. The Bonds of this issue are issuable only as fully registered bonds, in denominations of $5,000 or any integral multiple thereof, of single maturities.

Bonds of this issue are not subject to redemption or prepayment prior to their stated maturity dates.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the District at the principal corporate trust office of the Bond Registrar, by the registered owner hereof in person or by his/her/its attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his/her/its attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange, the District will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

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

It is hereby certified, recited, covenanted and agreed that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to happen, to exist and to be performed precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the District according to its terms have been done, have happened, do exist, and have been performed in regular and due form, time and manner as so required; that, prior to the issuance hereof, a direct, annual, ad valorem tax has been duly levied upon all taxable property in the District for the years and in amounts not less than five percent (5%) in excess of sums sufficient to pay the interest hereon and the principal hereof as the same respectively become due; that additional taxes, if needed to meet the principal and interest requirements of the Bonds, shall be levied upon all of such property without limitation as to rate or amount; and that the issuance of the Bonds does not cause the indebtedness of the District to exceed any constitutional or statutory limitation of indebtedness.

This Bond shall not be valid or obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been executed by the Bond Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, Special School District No. 1 (Minneapolis), Minnesota, by its Board of Education has caused this Bond to be executed by the facsimile signatures of the Chair of the Board of Education and the School District Clerk and has caused this Bond to be dated as of the date of original issue set forth above.

(Facsimile Signature)	(Facsimile Signature)
Chair of the Board of Education	School District Clerk

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned within.

Date of Authentication:_____

U.S. BANK NATIONAL ASSOCIATION,
as Bond Registrar

By _____
Authorized Signature

The following abbreviations, when used in the inscription of the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM —	as tenants in common	UTMA ..... as Custodian for ..... (Cust)	(Minor)
TEN ENT —	as tenants by the entireties	under Uniform Transfers to Minors Act ..... (State)	
JT TEN —	as joint tenants with right of survivorship and not as tenants in common		

Additional abbreviations may also be used, though not in the above list.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE:

_____

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

SIGNATURE GUARANTEE:

_____

Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE

Minneapolis Special School District No. 1, Minnesota
$18,725,000 General Obligation Refunding Bonds, Series 2021A
Tax Levy Schedule

Dated Date: 7/14/2021

Levy Year	Collection Year	Period Ending	Principal	Coupon	Interest	Debt Service	105% of DS
2020	2021	2/1/2022	1,550,000.00	5.00%	512,336.81	2,062,336.81	2,165,453.65
		8/1/2022	-		429,375.00		
2021	2022	2/1/2023	1,210,000.00	5.00%	429,375.00	2,068,750.00	2,172,187.50
		8/1/2023	-		399,125.00		
2022	2023	2/1/2024	1,270,000.00	5.00%	399,125.00	2,068,250.00	2,171,662.50
		8/1/2024	-		367,375.00		
2023	2024	2/1/2025	1,330,000.00	5.00%	367,375.00	2,064,750.00	2,167,987.50
		8/1/2025	-		334,125.00		
2024	2025	2/1/2026	1,400,000.00	5.00%	334,125.00	2,068,250.00	2,171,662.50
		8/1/2026	-		299,125.00		
2025	2026	2/1/2027	1,470,000.00	5.00%	299,125.00	2,068,250.00	2,171,662.50
		8/1/2027	-		262,375.00		
2026	2027	2/1/2028	1,545,000.00	5.00%	262,375.00	2,069,750.00	2,173,237.50
		8/1/2028	-		223,750.00		
2027	2028	2/1/2029	1,620,000.00	5.00%	223,750.00	2,067,500.00	2,170,875.00
		8/1/2029	-		183,250.00		
2028	2029	2/1/2030	1,700,000.00	5.00%	183,250.00	2,066,500.00	2,169,825.00
		8/1/2030	-		140,750.00		
2029	2030	2/1/2031	1,785,000.00	5.00%	140,750.00	2,066,500.00	2,169,825.00
		8/1/2031	-		96,125.00		
2030	2031	2/1/2032	1,875,000.00	5.00%	96,125.00	2,067,250.00	2,170,612.50
		8/1/2032	-		49,250.00		
2031	2032	2/1/2033	1,970,000.00	5.00%	49,250.00	2,068,500.00	2,171,925.00
		Total	18,725,000.00		6,081,586.81	24,806,586.81	26,046,916.15

Prepared by PFM Financial Advisors LLC 6/15/2021

Minneapolis Public Schools

List A: All Employees: Tuesday, August 10, 2021

Hiring - Licensed

Erica Ahlgren	Research, Evaluation, Assessment & Acct	Teacher, District Program Facilitator	7/1/2021
Constance Anderson	Henry High	Assistant Principal, High School	7/1/2021
Kristin Bauck	Teaching & Learning	Teacher, District Program Facilitator	8/9/2021
Jose Becerra-Cardenas	Emerson Spanish Immersion	Assistant Principal, Elementary	7/1/2021
Teighan Brummel	Hall International	Teacher, Music	8/15/2021
Shelly Clausen	Teaching & Learning	Teacher, TOSA Literacy Specialist	6/14/2021
Andrea Echelberger	ABE Hourly	Teacher, Adult Basic Ed (Hourly)	6/21/2021
Angela Ellefson	Henry High	Teacher, Special Education	7/1/2021
Laura Guerrero	Jefferson Elementary	Teacher, TOSA Literacy Specialist	8/1/2021
Salado Hasan	College and Career Readiness	Teacher, Counselor Spec Asgn (COSA)	8/9/2021
Heather Hauck	Henry High	Teacher, TOSA General	6/14/2021
Kathryn Hyams	Anne Sullivan	Teacher, High Five	8/15/2021
Tyler Kadlec	Anthony	Teacher, Social Worker	8/8/2021
Virginia Kelly	Franklin Middle	Teacher, Math	8/15/2021
Suzan Krygowski	Folwell Performing Arts	Teacher, High Five	8/15/2021
Hilary Laing	Teaching & Learning	Teacher, TOSA Literacy Specialist	6/14/2021
Hilary Laing	Teaching & Learning	Teacher, TOSA Literacy Specialist	6/14/2021
Brenda Line	Early Childhood Education	Teacher, District Program Facilitator	8/15/2021
Nathan Loesch	Jefferson Elementary	Teacher, Music	8/15/2021
Tyler Martin	Whittier Community School	Teacher, Elementary	8/15/2021
Ruth Martinez	Sheridan	Teacher, High Five	6/23/2021

Minneapolis Public Schools

List A: All Employees: Tuesday, August 10, 2021

Hiring - Licensed

Erin Mccormick	Non-Public Guidance & Counseling	Teacher, Counselor	8/9/2021
Paul Mcnamee	North (ISA)	Teacher, Work Experience Coordinator	8/15/2021
Alma Mitre	Teaching & Learning	Teacher, TOSA General	8/15/2021
Juli Montgomery-Riess	Andersen United	Teacher, Counselor	7/6/2021
Shoua Moua	Jefferson Elementary	Teacher, Counselor	8/9/2021
Olivia Musser	Speech Language Clinicians	Teacher, Speech Language Clinician	6/21/2021
Karianne Page	Dowling Elementary	Principal, Elementary	7/1/2021
Rachel Patrick	Jenny Lind	Teacher, Music	8/15/2021
Natalie Rummel	Kenwood Elementary	Teacher, Special Education	8/15/2021
Molly Schned	Teaching & Learning	Teacher, TOSA Literacy Specialist	6/14/2021
Stephen Searl	Armatage	Principal, Elementary	7/1/2021
Elizabeth Shypulski	Jefferson Elementary	Teacher, World Languages (Spanish)	8/15/2021
Arianne Slaughter	Folwell Performing Arts	Teacher, High Five	8/15/2021
Lindsey Thompson	FAIR Senior	Teacher, Math	8/15/2021
Megan Trenda	Multilingual	Teacher, District Program Facilitator	8/8/2021
Margaret Vecchio-Smith	Burroughs	Principal, Elementary	7/12/2021
Julia Whitman	Jefferson Elementary	Teacher, Science	8/15/2021

Hiring - Non Licensed

Eugene Allen	Engineers, Zone 2	Custodian	6/25/2021
Echo Ballard	Engineers, Zone 1	Custodian	7/26/2021
Mickey Beaty	Special Ed Support	Materials Coordinator	8/2/2021

Minneapolis Public Schools

List A: All Employees: Tuesday, August 10, 2021

Hiring - Non Licensed

Erica Bonde	Early Childhood Education Program 1	Associate Educator	8/23/2021
Brenden Bosquez	Engineers, Zone 2	Custodian	7/6/2021
Bridget Cook	Environmental Health Safety	Safety Specialist	8/9/2021
Esteban Daza-Uribe	Transportation	School Bus Driver In Training	6/21/2021
Nicole Deverich	Design & Training	Manager, IT Design and Training Services	6/8/2021
Jessica Grunau	Lucy Craft Laney at Cleveland Park	Associate Educator	8/23/2021
Iris Helm-Hernandez	Minneapolis Kids	Child Care Assistant	7/1/2021
Kevin Henderson	Engineers, Zone 2	Custodian	7/27/2021
Emmanuel Hill	KBEM Radio	Associate Educator	7/6/2021
Torrance Hill	Athletics	Assistant Director, Athletics	7/1/2021
Joshlin Holliday	Engineers, Zone 2	Custodian	6/28/2021
Sharay Houston	Engineers, Zone 1	Custodian	7/14/2021
Marylyn Howard	Engineers, Zone 1	Custodian	7/13/2021
Darrell Jackson	Engineers, Zone 1	Custodian	6/21/2021
Henry Jacox	Transportation	School Bus Driver In Training	6/15/2021
Margaret Kennedy	Bancroft Elementary	Special Education Assistant	8/23/2021
Amy Kurvers	Payroll	Payroll Specialist	7/19/2021
Charles Lemon	Grow Your Own, Special Education	ESP Resident, Special Education	6/14/2021
Zack Levinger	Bancroft Elementary	Special Education Assistant	8/23/2021
Derrick Lind	Engineers, Zone 1	Custodian	7/19/2021
Carlos Martinez Escobar	Transportation	School Bus Driver In Training	7/6/2021

Minneapolis Public Schools

List A: All Employees: Tuesday, August 10, 2021

Hiring - Non Licensed

Abdulaha Mohamed	Adult Basic Education	Associate Educator	6/11/2021
Susana Paredesde Daugherty	Marcy Open School	Bilingual Program Assistant	8/23/2021
Natasha Rambacchus	Talent Acquisition	Manager, Talent Acquisition	7/12/2021
Andrew Rance	Grants Accounting	Accountant, Senior	7/13/2021
Eileen Reyes	Bryn Mawr Primary	Associate Educator	9/2/2021
Andrei Santamaria	CWS, Distribution	Warehouse Specialist, Distribution	6/28/2021
Martha Smith	Talent Acquisition	Human Resources Specialist	7/13/2021
Summer Spence-Decker	Engineers, Zone 2	Custodian	7/7/2021
David Stier	Indian Education	School Success Program Assistant	7/1/2021
Emily Syrstad	Engineers, Zone 1	Custodian	6/22/2021
Katharine Truer	Folwell Performing Arts	Associate Educator	8/23/2021
Gaozouapa Vue	Early Childhood Education Program 2	Associate Educator	7/13/2021
Timothy Wesley	Franklin Middle	Special Education Assistant	8/31/2021
Kearraih Zayzay	Office of the General Counsel	Paralegal	7/13/2021

Discharges

Licensed

Non-Licensed

Special Education Assistant	06-23-2021	2021-6-ER-4548

Probationary Separations

Licensed

Teacher, World Languages (Arabic)	07-01-2021	2021-8-ER-1000
Teacher, Technology	07-01-2021	2021-8-ER-1001
Teacher, Technology	07-01-2021	2021-8-ER-1002
Teacher, Work Experience	07-01-2021	2021-8-ER-1003
Teacher, Elementary	07-01-2021	2021-8-ER-1004
Teacher, Physical Education	07-01-2021	2021-8-ER-1005
Teacher, World Languages (Ojibwe)	07-01-2021	2021-8-ER-1006
Teacher, World Languages (Ojibwe)	07-01-2021	2021-8-ER-1007
Teacher, Special Education	07-01-2021	2021-8-ER-1008
Teacher, Social Studies	07-01-2021	2021-8-ER-1009
Teacher, Science	07-01-2021	2021-8-ER-1010
Teacher, Special Education	07-01-2021	2021-8-ER-1011
Teacher, Special Education	07-01-2021	2021-8-ER-1012
Teacher, Work Experience	07-01-2021	2021-8-ER-1013
Teacher, World Languages (Hmong)	07-01-2021	2021-8-ER-1014

Licensed, Staff Reduction

Non-Licensed

CWS Production Assistant	07-08-2021	2021-8-ER-4780

Non-Licensed, Staff Reduction

Associate Educator	07-01-2021	2021-8-ER-1015
Site Coordinator, GEAR UP	07-01-2021	2021-8-ER-1016
Account Clerk, Senior	07-01-2021	2021-8-ER-1017
Associate Educator	07-01-2021	2021-8-ER-1018
Associate Educator	07-01-2021	2021-8-ER-1019
Office Assistant	07-01-2021	2021-8-ER-1020
Associate Educator	07-01-2021	2021-8-ER-1021
Associate Educator	07-01-2021	2021-8-ER-1022

Layoffs

Licensed

Non-Licensed

Associate Educator	07-01-2021	2021-8-ER-1023
Associate Educator	07-01-2021	2021-8-ER-1024
Associate Educator	07-01-2021	2021-8-ER-1025
Associate Educator	07-01-2021	2021-8-ER-1026
Associate Educator	07-01-2021	2021-8-ER-1027
Associate Educator	07-01-2021	2021-8-ER-1028
Associate Educator	07-01-2021	2021-8-ER-1029
Associate Educator	07-01-2021	2021-8-ER-1030
Associate Educator	07-01-2021	2021-8-ER-1031
Associate Educator	07-01-2021	2021-8-ER-1032
School Success Program Assistant	07-01-2021	2021-8-ER-1033
Site Coordinator, Teen Parent Services	07-01-2021	2021-8-ER-1034
Associate Educator	07-01-2021	2021-8-ER-1035
Associate Educator	07-01-2021	2021-8-ER-1036
Site Coordinator, GEAR UP	07-01-2021	2021-8-ER-1037
Associate Educator	07-01-2021	2021-8-ER-1038
Associate Educator	07-01-2021	2021-8-ER-1040
Associate Educator	07-01-2021	2021-8-ER-1041
Associate Educator	07-01-2021	2021-8-ER-1042
Office of the General Counsel	07-01-2021	2021-8-ER-1043
School Success Program Assistant	07-01-2021	2021-8-ER-1044
Associate Educator	07-01-2021	2021-8-ER-1045
School Success Program Assistant	07-01-2021	2021-8-ER-1046

Associate Educator	07-01-2021	2021-8-ER-1047
Associate Educator	07-01-2021	2021-8-ER-1048
School Success Program Assistant	07-01-2021	2021-8-ER-1049

Administrative Contract Non-Renewals

Contract between Special School District Number 1
and
Achieve!Minneapolis (AchieveMpls)

For Support of the Career and College Initiative

THIS CONTRACT, entered into this 1st day of July, 2021, by and between Special School District No. 1, acting through the Board of Education, (herein called the "School District") and Achieve!Minneapolis (AchieveMpls), a Minnesota nonprofit corporation, (herein called the "Contractor"). The School District enters into contract with the contractor for the amount of **$500,000,** which covers a portion of the total program budget for the operation of the Career and College Centers and contributing to the School District's college and career readiness system.

WHEREAS, the School District is committed to increasing academic achievement for all students and to ensuring that every student who graduates from Minneapolis Public Schools is college and career ready; and

WHEREAS, the Contractor has represented itself as experienced in providing services that prepare students to succeed in college, careers and work; and

WHEREAS, the School District wishes to engage the Contractor to provide said services under the terms of this Contract (the "Contract");

NOW THEREFORE, it is agreed between the parties hereto that;

I. TIME OF PERFORMANCE

Services of the Contractor shall begin on the 1st day of July, 2021, and shall continue until the 30th day of June, 2022, or until terminated by either party as provided for in Part II, General Conditions, attached hereto.

II. COMPENSATION

It is expressly agreed and understood that all compensation including reimbursable expenses, if any, to be paid by the School District under this Contract shall not under any circumstances exceed $500,000; for services as defined in this Contract in accordance with a project budget approved by the School District, that is on file with the School District's designated Representative.

Expense Reimbursement. Reimbursable expenses shall be paid quarterly upon proper submission of itemized invoices to the School District. The School District agrees to pay

for reimbursable expenses, within thirty (30) days of receipt of invoice, for only expenses as per the approved budget, and in compliance with this Contract.

III. BUDGET

This Contract for $500,000 represents a portion of the total program budget for College & Career Center services.

IV. SCHOOL DISTRICT RESPONSIBILITIES

School district agrees to provide a space within the school (stand-alone if at all possible) for the CCC that functions as the office of the CCC Coordinator and the meeting and program space for student advising activities. The AchieveMpls Coordinator will control usage of the space, including activities run by other programs and staff. School district also agrees to outfit all CCC with functioning desks, tables and chairs and with functional technology that is updated in accordance with the district schedule.

V. CONTRACTOR RESPONSIBILITIES

Contractor agrees to provide college and career readiness services to MPS high school students through 11 full or part-time Career and College Centers (CCCs) at Edison, Henry, North, Roosevelt, South, Southwest, Washburn, Wellstone, Longfellow, FAIR and Heritage

VI.

The contracted amount of $500,000 covers a portion of the cost of staffing the Career and College Centers with Coordinators who are competent to manage the centers, coordinate activities (approved by building principal or designated leadership), counseling team, and provide services and activities listed in this document.
In addition to the staff provided above, AchieveMpls will actively engage with the CCR department at MPS to support the District level College Access Network to ensure all college access providers across the district are coordinated.

Goals and Metrics

MPS Office of College & Career Readiness and AchieveMpls will work in collaboration to achieve the following goals*:

Increase My Life Plan task progress rate to 85% for all students grades 9-12
Increase 9th -12th grade on track readiness (district wide) for SY21 in the following areas: • *All students passing all core class from 75% to 78% by the end of each grade* • *Increase African American, American Indian, and Hispanic students passing all core courses by 5%*

Increase senior postsecondary applications by 5%
Increase senior applications to trade programs by 5%
Increase senior student FAFSA/Dream Act by 3%

AchieveMpls

1. CCC Coordinators will meet one on one with at least 1/3 of all students in the schools served every year. 75% of high school seniors will utilize the career and college center services at least once during their senior year.
2. Coordinators will facilitate opportunities so that seniors have a college experience either meeting with a rep, visiting a college or attending a college fair.
3. Coordinators will work in collaboration with their counseling teams to facilitate career exploration lessons and events, such as career panels, career fairs, and worksite tours, for students in alignment with MLP milestones.
4. Coordinators will convene site level College Access Network, where applicable, to promote collaboration with other career and college readiness programs.

**Note the goals listed are from SY20-21 and may adjust slightly as joint planning happens in summer of 2021.*

Reports

Contractor agrees to partner with the representatives of the MPS College & Career Readiness team to provide and document the proposed outputs and services detailed above. Contractor agrees to provide quarterly disaggregated (F/R, Race, SPED, ESL) reports on activities and outputs to the MPS executive Director of College and Career Readiness, MPS Davis Lead Counselors, Principals or his/her designee.

Scope of Service

1. Help to coordinate and align career and college readiness at the district and school level

   District level:

   a. Contribute expertise to MPS Office of College & Career Readiness in designing and implementing a district-wide career and college readiness system with common goals, strategies and processes, metrics and evaluation.
   b. Meet monthly (more frequently when necessary) with representatives of the Office of College & Career Readiness to review implementation of system elements across all sites, coordinate work, solve problems, remove barriers, and analyze progress on key metrics.

c. Participate in joint district-wide meetings of counselors and CCC staff to coordinate work and share professional development.
d. Partner with school district in efforts to increase all staff ownership of, and commitment to, implementing the college and career readiness system.

School level:

e. Principal, or assigned building leadership, will provide final approval for all CCC activities.
f. Partner with school leadership teams (administration, counseling team and/or Instructional Leadership Team (ILT)) to implement college and career readiness systems and expectations at the site. This site-level partnership will include:
    i. Meetings between principal or designee and AchieveMpls coordinator and CCC leadership twice each school year.
    ii. Coordinator participation in regular meetings with the site counseling team.
    iii. Coordinator participation in full school staff meetings when appropriate.
g. Convene site level College Access Network, where applicable, to promote collaboration with other career and college readiness programs.

2. Assist students and their families in planning for and preparing for college
    a. Provide assistance to students and families on how to research/apply to college or other post-secondary education options (Including but not limited to: 2 yr. college, 4yr. college, trade/apprenticeship, military, or district approved certificate programs).
    b. Provide assistance on how to complete financial aid including the FAFSA and Dream Act.
    c. Provide assistance on how to complete scholarships.
    d. Promote, support and/or coordinate opportunities for students to prepare for appropriate tests for post-secondary options.
    e. Support and/or help to coordinate ACT for all juniors. PENDING AVAILABILITY
    f. Coordinate opportunities for students to connect with representatives from colleges and other post-secondary options (including but not limited to 2 yr. college, 4yr. college, trade/apprenticeship, military, or district approved certificate programs).
    g. Promote and support opportunities for students to visit colleges provided by other organizations; directly provide opportunities where needed to fill gaps.
    h. Coordinate college fairs, in collaboration with Minnesota Association of Counselors of Color (MnACC)
3. Assist students in planning for careers:

a. Provide individualized assistance to students regarding job searches and career-related activities (review/submission process).
b. Maintain up-to-date resources about career opportunities and the academic and professional requirements to access those opportunities.
c. Assist students with My Life Plan modules related to work readiness and career exploration, as well as other internet-based tools related to careers.
d. Offer workshop or one-to-one assistance in resume writing, job applications submission.
e. Coordinate career exposure events at each high school.

4. Establish the Career and College Center as a Community Hub
   a. Where applicable, train and manage volunteers to assist students and families in navigating the post-secondary planning process (college and job applications, financial aid, scholarship applications, etc.).
   b. Maintain the graduation coach program to four selected schools.
   c. Facilitate the use of CCC space by other career and college readiness service providers.

5. Provide effective communications to Davis Center CCR Department, students, families and volunteers
   a. Collaborate with counselors to communicate regularly with families and students via an e-mail and/or hard copy newsletter regarding activities in the Center, upcoming events, deadlines, etc.
   b. Collaborate with counselors to provide family information sessions about planning and preparing for college and career.
   c. Communicate regularly with school administration, the counseling team and all staff on issues related to career and college readiness.
   d. Create, present, and distribute presentations for students/families that gives articulated information about services provided through the CCCs as well as services coordinated by site based school counselors

VII. NOTICES

Any notice or demand, which may or must be given or made by a party to this Contract, under the terms of this Contract or any law or regulation, shall be in writing and shall be sent registered or certified mail to the other party addressed as follows:

CONTRACTOR
Danielle Grant
President and CEO
AchieveMpls
111 Third Avenue South, Suite 5

Minneapolis, MN 55401
Phone: (612) 455-1555 Fax: (612) 455-1531
Email: dgrant@achievempls.org
SCHOOL DISTRICT
and

1250 W Broadway Ave, Minneapolis, MN 55411
Phone: (612) 668-0000 Fax: (612) 668-0145
Email: mpssup@mpls.k12.mn.us
Email**:**

Any party may designate a different addressee or address at any time by giving written notice thereof as above provided. Any notice, if mailed, properly addressed, postage prepaid, registered or certified mail, shall be deemed dispatched on the registered date or that stamped on the certified mail receipt and shall be deemed received when it is actually received. Any notice delivered by hand shall be deemed received upon actual delivery.

VI. TERMS AND CONDITIONS

This Contract is subject to and incorporates all the terms and conditions set forth in Exhibit A General Conditions attached hereto.

VII. INSURANCE

Contractor agrees to keep in force during the term of this agreement adequate insurance by an insurer or company acceptable to the School District in the School District's reasonable discretion. Contractor's policy of insurance shall have a limit of at least the tort liability limits set forth in Minnesota Statue 466.04 and statutory workers compensation coverage. Such policy shall contain a provision that the policy shall not be cancelled without a thirty (30) day written notice to the District. Contractor shall name the School District as an additional insured with respect to Contractor's use of and/or access to the Premises. Contractor must deliver to the School District certificates of insurance or copies of policies of insurance showing this coverage to be in effect with premiums fully paid prior to access to the Premises.

VIII. INDEMNIFICATION

A. Contractor shall indemnify and save and hold the School District, its employees, officers, directors, subcontractors and agents (collectively "Employees") harmless against any and all claims, demands, suits, costs, judgments, or other forms of liability to third parties, actual or claimed, including attorneys' fees, for injury to property or persons, occurring or allegedly occurring in, on or about Contractor's property, based on conduct committed by Contractor or by its employees, officers,

directors, subcontractors, or agents (collectively "Employees"). Upon timely written notice from the School District, Contractor shall defend the School District in any such action or proceeding brought against School District.

B. Unless the claim is a claim from which School District is immune, School District shall indemnify and hold Contractor, and its Employees, harmless against any and all claims, demands, suits, costs, judgments or other forms of liability to third parties, actual or claimed, including attorneys' fees, for injury to property or persons, occurring or allegedly occurring in or about School District property from conduct committed by the School District or by its Employees. Upon timely written notice from Contractor, the School District shall defend Contractor in any action within the scope of this subparagraph B. that is brought against Contractor.

C. The foregoing provisions shall not be deemed a waiver of any kind of applicable limitations of liability to third parties provided or available to School District.

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Contractor is to be and shall remain an independent contractor with respect to all services performed under this Contract. Contractor represents that it has, or will secure at its own expense, all personnel required to perform services under this Contract.

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Any alterations, variations, modifications, or waivers of provisions of this Contract including any attachments, shall be valid only when they have been reduced to writing as an amendment to this Contract and duly signed by the parties hereto. In the event any provision of this Contract is found to be contrary to state or federal law, then such provision shall be deemed invalid except to the extent permitted by law, but all other provisions of the Contract shall continue in full force and effect. The parties agree to attempt to renegotiate in good faith any provision deemed invalid because it is contrary to state or federal law.

XI. TERMINATION OF CONTRACT

A. Without Cause. This Contract or a portion thereof may be canceled by either party, without cause, upon thirty (30) days' written notice to the other party, or at any time with the mutual consent of the parties.

B. With Cause. If either party to this Contract defaults or fails to perform any portion of the Contract, the non-defaulting party may cancel the Contract on ten days' notice.

C. Steps After Notice of Cancellation. After receipt of notice of cancellation, and except as otherwise directed, Contractor shall discontinue provision of services on that date or on the date specified in the notice of cancellation and follow all other School District directives. Contractor agrees to return all private education records about MPS students.

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B. Liability for Damages and Right to Set Off. Notwithstanding the above, Contractor shall not be relieved of liability to the School District for damages sustained by the School District by virtue of any breach of this Contract by Contractor, and the School District may withhold payments to Contractor for the purpose of set-off.

C. Nonexclusive Remedy. Any right or remedy provided in this Contract is not the exclusive right or remedy of either party for any default by the other party, but is in addition to any other right or remedy hereunder or allowed by law or equity.

D. No Waiver. Either party's failure to insist upon strict performance of any requirement of the Contract or to exercise any right contained in the Contract, shall not be a waiver or relinquishment of any requirement.

XIII. MINNESOTA LAW TO GOVERN

This Contract shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to the Contract shall be originated in the State of Minnesota.

XIV. ENTIRE CONTRACT

This Contract shall constitute the full and complete Contract between the parties to the Contract. All prior representations, understandings and agreements are merged into this Contract and are superseded by this Contract. Except as otherwise provided herein, the covenants and agreements herein contained shall bind and inure to the benefit of District, its successors and assigns, and Provider and its successors and assigns. Attachments A and B are attached hereto and incorporated by reference.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date first written above.

FOR THE Contractor:
Federal ID No. 41-1425264

By: _  _____
Danielle Grant
Its: President and CEO
Date: ___7/21/21_____

FOR THE School District:

By _____
Special School District 1 Board of Education

Date: _____

EXHIBIT A – GENERAL CONDITIONS

1. Interest of Members of the School District
   The Contractor agrees that no member of the governing body, officer, employee or agent of the School District shall have any interest, financial or otherwise, direct or indirect, in the Contract.

2. Equal Opportunity Statement
   Contractor agrees to comply with the provisions of all applicable federal, state and City of Minneapolis statutes, ordinances and regulations pertaining to civil rights and nondiscrimination including, without limitation, Minnesota Statues, Section 181.59 and Chapter 363, and Minneapolis Code of Ordinances, Chapter 139, incorporated herein by reference.

3. Non-Discrimination
   During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, national origin, disability, sexual orientation, age, marital status or public assistance status. The Contractor will take affirmative action to ensure that applicants for employment and employees are treated without unlawful discrimination or harassment because of their race, color, creed, religion, sex, national origin, disability, sexual orientation, age, marital status or public assistance status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, all required notices that set forth the provisions of this nondiscrimination clause.

   The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, sex, national origin, disability, sexual orientation, age, marital status, or public assistance status.

   No funds received under this Contract shall be used to provide religious or sectarian training or services.

   The Contractor shall comply with any applicable federal or state law regarding non-discrimination.

4. Transfer of Interest
   The Contractor shall not assign any interest in the Contract, and shall not transfer any interest in the same either by assignment or novation without the prior written approval of the School District, provided, however, that claims for money due or to income due to the Contractor may be assigned to a bank, trust company or other financial institution, or to a Trustee in Bankruptcy without such approval. Notice to any such assignment or transfer shall be furnished to the School District. The Contractor shall not subcontract any services under this Contract without prior approval of the School District Representative designated herein.

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7. Independent Contract
   Nothing contained in this Contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Contractor shall at all times remain an independent Contractor with respect to the services to be performed under this Contract. Any and all employees of Contractor or other persons engaged in the performance of any work or services required by Contractor under this Contract shall be considered employees or sub-contractors of the Contractor only and not of the School District; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of Minnesota or any other state, on behalf of said employees or other persons while so engaged in any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of Contractor.

8. Accounting Standards
   The Contractor agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to

properly account for expenses incurred under this Contract.

9. Data Privacy
   For purposes of this Contract all data on individuals created, collected, received, stored, used, or disseminated by Contractor in the performance of this Contract are subject to the requirements of the Minnesota Data Practices Act, Minn. Stat. Chapter 13 and the Minnesota Rules implementing the Act now in force or hereafter adopted as well as any applicable Federal laws on data privacy, and Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. All subcontracts shall contain this paragraph or similar data privacy compliance requirements.

10. Records Disclosure/Retention
    Contractor's books, records, documents, papers, accounting procedures and practices, and other evidences relevant to this Contract may be subject to the examination, duplication, transcription and audit by the School District and the State Auditor, in accordance with Minn. Stat. § 16C.05, subd. 5. Such evidences are also subject to review by the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. The Contractor agrees to maintain such evidences for a period of six (6) years from the date services or payment were last provided or made or longer if any audit in progress requires a longer retention period.

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

12. Bureau of Citizenship and Immigration Services (BCIS) Requirements
    Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

13. Materials
    All finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials resulting from this Contract shall be made available to the School

District upon approval of the final report or upon request by the School District at any time before then. The School District may use, extend, or enlarge any document produced under this Contract without the consent, permission of, or further compensation to the Contractor.

14. Conflict of Interest / Code of Ethics

Contractor agrees to be bound by the School District's Code of Ethics. Contractor certifies that to the best of its knowledge all School District employees and officers participating in this Contract have also complied with that Code. It is agreed by the Parties that any violation of the Code of Ethics constitutes grounds for the School District to void this Contract. All questions relative to this section shall be referred to the School District and shall be promptly answered.

15. BACKGROUND CHECKS

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

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

Contract between Special School District Number 1
and
Achieve!Minneapolis (AchieveMpls)

For Support of the Career and College Initiative

THIS CONTRACT, entered into this 1st day of August, 2021, by and between Special School District No. 1, acting through the Board of Education, (herein called the "School District") and Achieve!Minneapolis (AchieveMpls), a Minnesota nonprofit corporation, (herein called the "Contractor"). The School District enters into contract with the contractor for the amount of **$465,000,** which covers a portion of the total budget for the delivery of additional Career and College Readiness services as well as Youth Re-Engagement services.

WHEREAS, the School District is committed to increasing academic achievement for all students and to ensuring that every student who graduates from Minneapolis Public Schools is college and career ready; and

WHEREAS, the Contractor has represented itself as experienced in providing services that prepare students to succeed in college, careers and work; and

WHEREAS, the School District wishes to engage the Contractor to provide said services under the terms of this Contract (the "Contract");

NOW THEREFORE, it is agreed between the parties hereto that;

I. TIME OF PERFORMANCE

Services of the Contractor shall begin on the 1st day of August, 2021, and shall continue until the 30th day of June, 2022, or until terminated by either party as provided for in Part II, General Conditions, attached hereto.

II. COMPENSATION

It is expressly agreed and understood that all compensation including reimbursable expenses, if any, to be paid by the School District under this Contract shall not under any circumstances exceed $465,000; for services as defined in this Contract in accordance with a project budget approved by the School District, that is on file with the School District's designated Representative.

Expense Reimbursement. Reimbursable expenses shall be paid quarterly upon proper submission of itemized invoices to the School District. The School District agrees to pay for reimbursable expenses, within thirty (30) days of receipt of invoice, for only expenses as per the approved budget, and in compliance with this Contract.

III. BUDGET

This Contract for $465,000 represents a portion of the total program budget for College & Career readiness and Youth Re-engagement services.

IV. SCHOOL DISTRICT RESPONSIBILITIES

School district agrees to provide a space within the school (stand-alone if at all possible) for the CCC that functions as the office of the CCC Coordinator and the meeting and program space for student advising activities. School district will provide technology that facilitates the delivery of CCC services, including a laptop for each coordinator, computers for student use in the CCC, and access to a printer and copier. The AchieveMpls Coordinator will control usage of the space, including activities run by other programs and staff. School district also agrees to outfit all CCC with functioning desks, tables and chairs and with functional technology that is updated in accordance with the district schedule.

School District agrees to collaborate with AchieveMpls to ensure the best working locations for Youth Re-engagement Staff, including space within schools or spaces managed by community partners. School District will provide the youth re-engagement manager and specialists with laptops as well as access to relevant digital platforms (such as Naviance and Discovery) and office supplies, including a printer and copier.

V. CONTRACTOR RESPONSIBILITIES

Contractor agrees to provide college and career readiness services to MPS high school students at Washburn, Heritage, Longfellow, FAIR, and MPS Online. These services will support all students, but will particularly target seniors and 5th year seniors. Contractor agrees to provide youth re-engagement services targeting 5th year seniors across the district as well as students who disengaged with school during the disruption of the pandemic and remote learning.

VI.

The contracted amount of $465,000 covers a portion of the cost of hiring, train, and support Career and College Center Coordinators and Youth Re-engagement Specialists who are competent to provide individualized and group career and college readiness advising and post-secondary planning guidance and to partner with counseling teams, school administrators, and other Career and College-oriented CBOs in service of supporting students' post-secondary plan development.

Goals and Metrics

MPS Office of College & Career Readiness and AchieveMpls CCC Coordinators will work in collaboration to achieve the following goals*:

Increase My Life Plan task progress rate to 85% for all students grades 9-12
Increase 9th -12th grade on track readiness (district wide) for SY21 in the following areas: • *All students passing all core class from 75% to 78% by the end of each grade* • *Increase African American, American Indian, and Hispanic students passing all core courses by 5%*
Increase senior postsecondary applications by 5%
Increase senior applications to trade programs by 5%
Increase senior student FAFSA/Dream Act by 3%

AchieveMpls

1. CCC Coordinators will meet one on one with at least 1/3 of all students in the schools served every year. 60% of high school seniors will utilize the career and college center services at least once during their senior year.
2. Coordinators will facilitate opportunities so that seniors have college experiences either meeting with a rep, visiting a college, or attending a college fair.
3. Coordinators will work in collaboration with their counseling teams to facilitate career exploration lessons and events, such as career panels, career fairs, and worksite tours, for students in alignment with MLP milestones.
4. Coordinators will convene site level College Access Network, where applicable, to promote collaboration with other career and college readiness programs.

**Note the goals listed are from SY20-21 and may adjust slightly as joint planning happens in summer of 2021.*

Youth Re-Engagement Team

1. Establish partnerships within MPS departments and with local CBOs and institutions providing job training, apprenticeships, and transitional supports to establish a shared network of resources for students, particularly 5th year seniors
2. Deploy a diverse and culturally-specific outreach strategy to connect with target students, including collaboration with PACs, community institutions, school personnel, focus groups, etc.
3. 50% of target students re-engage with an educational or career pathway (defined as: re-enrolling or increased attendance at high school, enrollment in an alternative GED program, dual enrollment, certificate or job training program, etc)

Reports

Contractor agrees to partner with the representatives of the MPS College & Career

Readiness team to provide and document the proposed outputs and services detailed above. Contractor agrees to provide quarterly disaggregated (F/R, Race, SPED, ESL) reports on activities and outputs to the MPS executive Director of College and Career Readiness, MPS Davis Lead Counselors, Principals or his/her designee.

Scope of Service

CCC Coordinators will deepen existing CCR services within their buildings, providing additional support and outreach to students whose post-secondary plans have been most impacted by the pandemic, including Juniors, Seniors, and 5th year Seniors. Coordinators will support all students in their buildings and will specifically target students who face additional barriers to post-secondary access and career opportunities for their services. Coordinators will work in partnership with school administration and counseling teams to identify and prioritize students for outreach and to determine specific support strategies.

CCC Coordinators will:

- Partner deeply with school counseling teams to develop and deliver high quality, school-wide services and curriculum that guide students to develop career interests, understand and explore career pathway options, and prepare for the post-secondary transition.
- Co-implement Career and College curriculum (with school counseling teams) related to student development plans (MLP)
- Provide culturally responsive one-on-one advising sessions that provide guidance to students on developing personal career interests; college and career pathways; transitional planning.
- Plan CCR information activities and events (with schools):
    - Coordinate college fairs (MNACC, NACAC)
    - Coordinate rep visits
    - Coordinate college tours
    - Conduct FAFSA completion sessions
    - Conduct college application sessions
    - Coordinate admissions testing for students
    - Hold family CCR events
    - Host career speaker series (Gr 10)
    - Host targeted career experiences (e.g. field trips, lunch panels, networking events, career videos)

The Youth Re-engagement Team will develop and deliver a re-engagement strategy targeting fifth-year students, students who stopped attending during the pandemic, and those who are in credit recovery or who are off-track to graduate given the impacts of the pandemic and remote learning on their ability to engage in school. This team will provide district-wide services and will focus as much as possible on providing culturally specific support for student populations who have been disproportionately impacted by the pandemic, virtual learning, and the local civil unrest. This team will work closely in partnership with other district departments working on youth re-engagement and will coordinate services and strategies as well as identify and prioritize students through that collaboration.

The Re-engagement team's objective is to reengage students with their education and career pathway and to support them in taking steps to enroll in and attend school and/or alternative credit, degree, or job training programs. Support will consist of personalized outreach and advising, connections to resources, people, and opportunities, consultation and guidance, and family engagement and support.

VII. NOTICES

Any notice or demand, which may or must be given or made by a party to this Contract, under the terms of this Contract or any law or regulation, shall be in writing and shall be sent registered or certified mail to the other party addressed as follows:

CONTRACTOR
Danielle Grant
President and CEO
AchieveMpls
2829 University Ave SE, Suite 850
Minneapolis, MN 55414
Phone: (612) 455-1530 Fax: (612) 455-1531
Email: dgrant@achievempls.org

SCHOOL DISTRICT
Jim Bierma
Executive Director of College and Career Readiness
1250 W Broadway Ave, Minneapolis, MN 55411
Phone: 651-303-2736 Fax: (612) 668-0145
Email: james.bierma@mpls.k12.mn.us

Any party may designate a different addressee or address at any time by giving written notice thereof as above provided. Any notice, if mailed, properly addressed, postage prepaid, registered or certified mail, shall be deemed dispatched on the registered date or that stamped on the certified mail receipt and shall be deemed received when it is actually received. Any notice delivered by hand shall be deemed received upon actual delivery.

VI. TERMS AND CONDITIONS

This Contract is subject to and incorporates all the terms and conditions set forth in Exhibit A General Conditions attached hereto.

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FOR THE Contractor:
Federal ID No. 41-1425264

By: _Danielle Grant_____
Danielle Grant
Its: President and CEO
Date: _7/26/21_____

FOR THE School District:

By _____
Special School District 1 Board of Education

Date: _____

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   The Contractor agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under this Contract.

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Minnesota Rules implementing the Act now in force or hereafter adopted as well as any applicable Federal laws on data privacy, and Contractor must comply with any applicable requirements as if it were a governmental entity. The remedies in Minn. Stat. § 13.08 apply to the Contractor. All subcontracts shall contain this paragraph or similar data privacy compliance requirements.

10. Records Disclosure/Retention
Contractor's books, records, documents, papers, accounting procedures and practices, and other evidences relevant to this Contract may be subject to the examination, duplication, transcription and audit by the School District and the State Auditor, in accordance with Minn. Stat. § 16C.05, subd. 5. Such evidences are also subject to review by the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract. The Contractor agrees to maintain such evidences for a period of six (6) years from the date services or payment were last provided or made or longer if any audit in progress requires a longer retention period.

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

12. Bureau of Citizenship and Immigration Services (BCIS) Requirements
Contractor shall comply with all applicable requirements of the BCIS relating to employment including but not limited to confirming nationality for all employees and complying with requirements for employing aliens if appropriate.

13. Materials
All finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials resulting from this Contract shall be made available to the School District upon approval of the final report or upon request by the School District at any time before then. The School District may use, extend, or enlarge any document produced under this Contract without the consent, permission of, or further compensation to the Contractor.

14. Conflict of Interest / Code of Ethics
Contractor agrees to be bound by the School District's Code of Ethics. Contractor certifies that to the best of its knowledge all School District employees and officers participating in

this Contract have also complied with that Code. It is agreed by the Parties that any violation of the Code of Ethics constitutes grounds for the School District to void this Contract. All questions relative to this section shall be referred to the School District and shall be promptly answered.

15. BACKGROUND CHECKS

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

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

ACT®
Terms and Conditions

These Terms and Conditions are a binding legal Agreement ("Agreement") between ACT, Inc., a non-profit corporation having a principal place of business at 500 ACT Drive, Iowa City, IA 52243 ("ACT") and MINNEAPOLIS PUBLIC SCHOOL DISTRICT, having an address of 1250 W BROADWAY AVE, MINNEAPOLIS, MN 55411-2533 ("Customer"). ACT provides a variety of products and services to help individuals achieve education and career success ("Assessments and Services"). This Agreement provides the terms and conditions pursuant to which the Assessments and Services are offered to Customer by ACT. Each Assessment and Service ordered by Customer will also be subject to Supplemental Terms and Conditions applicable to such product or service. By ordering and using ACT Assessments and Services, Customer expressly agrees to these Terms and Conditions, and the Supplemental Terms and Conditions for each Assessment and Service.

1. Term: This Agreement shall commence on the date an Enrollment Form or Order for Assessments and Services is placed by Customer and shall remain in effect through August 31st of the following calendar year. To the extent Customer has elected to enroll for three years, this Agreement will remain effective to govern applicable Assessments and Services provided through the full enrollment period.

2. Services to be Provided: The Assessments and Services will be provided pursuant to ACT's standard delivery specifications and requirements, as indicated in the Supplemental Terms and Conditions for each Assessment and Service ordered. To the extent the Customer also receives ACT Assessments and Services pursuant to a contract between ACT and a State education agency, the terms of the agreement between ACT and the State education agency apply to the services provided to Customer pursuant to that State Agreement.

3. Payment Terms: Customer agrees to pay ACT the amounts set forth in the Supplemental Terms and Conditions for the delivery of the Assessments and Services. Customer shall make all payments within thirty (30) days of receipt of an invoice from ACT. Customer will pay a service fee of one percent (1%) per month or the maximum rate allowed by law, whichever is less, on any fees not paid when due under this Agreement. Please note that ACT may place your order on hold for issues related to credit or outstanding invoices. All invoices shall be sent to the "Bill-To" address identified by Customer on the Enrollment Form. Customer warrants and represents that the Bill-To entity and address identified in the Enrollment Form is responsible for making payment on Customer's account. To the extent the Bill-To address/entity identified in the Enrollment Form fails to make payment, ACT shall send the invoice to Customer's address and Customer shall be obligated to make payment immediately. Customer shall be responsible for any sales, use, or other taxes due as a result of any fees paid to ACT under this Agreement, unless Customer is exempt from tax as evidenced by a valid tax exemption certificate provided to ACT. Customer shall promptly provide ACT with Customer required purchase order, as applicable, prior to the scheduled delivery of Assessments and Services.

4. Ownership of Materials: ACT owns the Assessments, including but not limited to, paper based or online assessment documents, testing materials, administration and registration materials, publications, data, reports, documentation, related materials, trademarks and all associated intellectual property rights, including any and all derivatives or modifications created during the term of this Agreement (collectively, the "ACT Materials"). Except as expressly granted in a Supplemental Terms and Conditions, Customer does not acquire any right, title, or interest in or to the ACT Materials. Customer shall not copy, modify, enhance, reverse engineer, or make any addition to the ACT Materials. Customer may not sell or otherwise transfer the ACT Materials to any other person, provided however that Customer may provide the Assessments to authorized, registered examinees and its personnel solely for testing and interpretation purposes. Customer may not (a) use the ACT Materials for any other purpose, (b) assign, license, sell,

loan, lease, or otherwise transfer the ACT Materials in whole or in part, (c) authorize or allow a third party to use the ACT online test and Services or ACT Materials, (d) copy, or allow anyone else to copy, in whole or in part, the ACT Materials, or (e) modify, reverse engineer, decompile, or disassemble the ACT online system or Materials.

5. Confidentiality: Customer agrees that neither it nor its employees shall at any time during or following the Term, either directly or indirectly, publish, display or otherwise disclose to any person, organization, or entity in any manner whatsoever any ACT Materials, except as strictly necessary for Customer to use the ACT Materials for their intended purpose under this Agreement. Customer shall protect the ACT Materials in accordance with ACT's procedures and using a standard of care appropriate for secure test materials. To the extent Customer believes a statutory 'Freedom of Information Act' provision requires the public release of ACT Materials, Customer will provide ACT with notice of such request and allow ACT a reasonable time to petition for an exemption to the public release. All ACT Materials shall be and remain the property of ACT notwithstanding the subsequent termination of this Agreement. The ACT Materials shall, within ten (10) days of ACT's written request, be returned to ACT (including all copies).

6. Testing Procedures: Customer agrees to administer the Assessments and Services in accordance with all policies and procedures provided by ACT. Customer shall store the ACT Materials at secure location(s) approved by ACT. Customer agrees that all used and unused ACT Materials will be returned to ACT, in accordance with the policies and procedures provided by ACT, for scoring and/or processing. Customer agrees to fully cooperate with ACT, and cause those individuals involved in the administration of or preparation for the Assessments ("Administration Staff") to fully cooperate with ACT in the event of a test security incident. Customer acknowledges that failure to maintain the confidentiality of the Assessments will result in damages to ACT and may require ACT to develop a replacement form. Accordingly if through the fault of Customer or Administration Staff, the security of an Assessment is compromised, Customer agrees to pay ACT the costs of developing a new form in addition to any other remedies under the law. ACT may, in its sole and absolute discretion, cancel scores in cases of testing irregularities, which may include without limitation, use of a compromised test form, falsification by an examinee of his/her identity, impersonation of another examinee (surrogate testing), unusual similarities in the answers of examinees at the same test center, or other indicators that the test scores may not accurately reflect the examinee's level of educational development.

7. Online Assessment System: Some Assessments and Services are provided through an Online Assessment System. ACT will provide Customer with access to the Online Assessment System solely for the purpose of assessing Examinees at authorized test centers and using the ACT Materials solely in connection with the authorized administration of the Assessments. ACT has scheduled maintenance windows during which the Online Assessment System may be unavailable to Customer to allow for routine updates and maintenance. ACT publishes the times of the maintenance windows periodically on its website. ACT also reserves the right to make the Online Assessment System unavailable for unscheduled maintenance. ACT shall not be responsible for any damages or costs incurred by Customer, if any, for such downtime. The Online Assessment System may be modified or updated from time to time at ACT's sole discretion. ACT may charge a fee for new or optional services made available through the Online Assessment System, subject to written agreement of the Customer. Additional requirements regarding the Online Assessment System applicable to specific Assessments and Services may be included in each applicable Supplemental Terms and Conditions.

8. Data: The parties acknowledge and agree that ACT may use and disclose the data collected from the administration of the Assessments, as set forth in ACT's Privacy Policy available at www.act.org/privacy, as amended from time to time.

9. Limitation on Damages: THE LIABILITY OF ACT AND ANY ACT AFFILIATE OR LICENSOR FOR

DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT CUSTOMER HAS PAID HEREUNDER DURING THE APPLICABLE CONTRACT TERM. IN NO EVENT SHALL ACT OR ANY ACT AFFILIATE OR LICENSOR BE LIABLE TO CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES.

10. Warranty and Limitations: ACT WARRANTS THAT THE ASSESSMENTS HAVE BEEN DEVELOPED IN ACCORDANCE WITH AND THE SERVICES WILL BE PERFORMED IN A MANNER CONSISTENT WITH INDUSTRY STANDARDS. EXCEPT AS SET FORTH IN THIS SECTION, ACT EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND OR NATURE, EXPRESS OR IMPLIED AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USE OF TRADE. CUSTOMER WARRANTS THAT CUSTOMER HAS OBTAINED ALL NECESSARY PERMISSIONS FOR THE DELIVERY OF ASSESSMENT SERVICES AND THE ASSESSMENTS AND THAT CUSTOMER WILL USE, DELIVER, AND HANDLE DATA FROM THE ASSESSMENT SERVICES, AND WILL TAKE NECESSARY STEPS TO ASSIST ACT OR ITS AFFILIATES OR LICENSORS TO USE, DELIVER, AND HANDLE DATA FROM THE ASSESSMENT SERVICES, CONSISTENT WITH APPLICABLE LAWS, RULES, AND REGULATIONS.

11. Termination and Cancellation: Either party may terminate this Agreement upon written notice to the other party in the event that other party breaches its obligations under this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of such breach. This Agreement may also be terminated without cause at any time by either party giving thirty (30) days written notice to the other. Customer's participation in the Assessments and Services designated in a Supplemental Terms and Conditions will be automatically cancelled, and this Agreement will be deemed terminated without further notice if Customer fails to meet the Key Deadlines and provide the required information necessary for ACT to provide the Assessments and Services, as indicated in the Supplemental Terms and Conditions. Customer shall pay ACT for all Assessments and Services delivered through the date of termination. Upon termination of this Agreement for any reason, Customer shall immediately discontinue use of the ACT Materials and shall immediately return all copies of the ACT Materials in its possession. Upon the expiration or termination of this Agreement, the obligations set forth in the following provisions of the Agreement shall survive: Payment, Ownership of Materials, Confidentiality, Testing Procedures, Data, Limitation on Damages and Warranty and Limitations.

12. Force Majeure: ACT shall not be liable to Customer for any delay or failure to perform, which delay or failure is due to causes or circumstances beyond its control, including, without limitation, the actions of Customer, national emergencies, fire, flood, inclement weather, epidemics, or catastrophe, acts of God, governmental authorities, or parties not under the control of ACT, insurrection, war, riots, or failure of transportation, communication, or power supply. ACT shall exercise commercially reasonable efforts to mitigate the extent of the excusable delay or failure and its adverse consequences; provided, however, that should any such delay or failure continue for more than sixty (60) days, the Agreement may be terminated by either the party upon notice to the other.

13. Assignment: This Agreement may not be assigned by Customer without the express prior written consent of ACT. No permitted assignment shall relieve Customer of its obligations under the Agreement.

14. Relationship of the Parties: The parties to this Agreement are independent contractors. Neither party shall have the right or authority or shall hold itself out to have the right or authority to bind the other party, nor shall either party be responsible for the acts or omissions of the other.

15. No Third-Party Beneficiaries: The parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of the Parties based upon this Agreement.

16. Severability; Headings; Governing Law: Should any provision of this agreement be held by a court to be unenforceable, such provision shall be modified by the court and interpreted so as to best accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of the Agreement shall remain in full force and effect. Headings used in the Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. This Agreement shall be governed by the laws of the State of Iowa.

17. Entire Agreement: This Agreement, including all incorporated or referenced Supplemental Terms and Conditions, constitutes the entire agreement between the parties with respect to the Assessments and Services and supersedes all other prior agreements and understandings, both written and oral. The terms and conditions contained in this Agreement are the only conditions applying to the delivery of the Assessments and Services. Except as may be incorporated in a Supplemental Terms and Conditions, ACT expressly objects to and rejects any different or additional terms included in Customer's request for proposal, quotation, purchase order, acknowledgment form, or other documents that purport to bind the parties. Certain Assessments and Services may be subject to additional or different terms and conditions, which are set forth in the Supplemental Terms and Conditions. No waiver, consent, modification, or amendment to this Agreement shall be binding unless in writing and signed by both parties.

18. Notices: Notices under this Agreement shall be deemed to be adequate and sufficient notice if given in writing and delivered via (a) registered or certified mail, postage prepaid, in which case notice shall be deemed to have been received three business days following deposit to U.S. mail; or (b) a nationally recognized overnight air courier, next day delivery, prepaid, in which case such notice shall be deemed to have been received one business day following delivery to such nationally recognized overnight air courier. All notices shall be sent to ACT at the following address: ACT, Inc. 500 ACT Drive, P.O. Box 168, Iowa City, Iowa 52243-0168, Attention: General Counsel. All notices to Customer shall be sent to the address provided by Customer in the Enrollment Form.

19. Customer Authorization: The Customer's named representative placing this Order, and agreeing to the terms and conditions, represents and warrants (a) that it has the requisite authority to enter into this Agreement; and (b) that the individual(s) signing this Agreement on behalf of such party is (are) authorized to do so.

By signing below or by the use of electronic signature(s), the parties' authorized representatives hereby indicate their authority to execute, and acceptance of the terms and conditions of this Description of Services, incorporated into the Agreement.

ACT, Inc.	**MINNEAPOLIS PUBLIC SCHOOL DISTRICT**
Signature: DocuSigned by: Blake Curwen B21CAE5161004F6...	Signature: _____
Name: Blake Curwen	Name:
Title: Vice President	Title:
Date: 7/22/2021	Date:

ACT® District Testing Program Supplemental Terms and Conditions

1. ACT District Testing. ACT will support the Customer's administration of the ACT assessments to its eligible 10th, 11th, and/or 12th grade students, as applicable. Under this Agreement "the ACT" is used to refer to

paper-based and/or online assessments that include English, Mathematics, Reading and Science assessments, as well as an Interest Inventory. The ACT taken with the Writing assessment is included, if selected by Customer on the ACT District Testing Enrollment Form ("Enrollment Form"), for an additional fee (collectively "Services"). Customer may administer the ACT during the available Testing Windows selected by Customer on the Enrollment Form, or otherwise noted on the ACT District Testing Website available at: https://success.act.org/s/article/The-ACT-District-Testing-Details ("Website"). The Website is periodically updated to provide information for each Testing Window. Customer is required to check the Website regularly for updates regarding the Assessments and Services. To the extent Customer also receives ACT assessment services pursuant to an agreement between ACT and a State education agency, the terms of the agreement between ACT and the State education agency will govern the provision of services under that State Agreement.

2. Term of Services. ACT will provide ACT District Testing Services for Customer for each Test Window selected by Customer in the ACT online registration system, conditioned upon Customer providing all required information and completing all required actions by the Key Deadlines indicated on the Website. In the event Customer fails to provide required information and data by the Key Dates and Deadlines, ACT will be unable to provide services, and may terminate this Agreement or require Customer to reschedule for an alternate Test Window.

3. Services and Customer Required Actions. ACT will provide Customer with standard ACT District Testing Services, as more fully described on the Website, which may be updated from time to time. The Services will include test administration, scoring, and reporting services for the ACT. Customer is responsible for regularly reviewing the Website to identify any changes to the Schedule of Events, Key Deadlines, and other customer required actions. To the extent Customer fails to complete any required actions by the Key Deadlines detailed on the Website, ACT may not provide the Services to Customer for the selected Test Window.

4. Fees and Invoicing.

a. Customer Enrollment Determination. The fees owed by Customer for the Services provided for ACT District Testing will be based on the total number of students included in the Customer's Student Data Upload (SDU) file(s) in the ACT Online Platform as of the last day of the Makeup Accommodation Test Window (total "Enrollment"). Except as otherwise agreed by ACT, the Enrollment is not based on the number of assessments eligible to be scored.

b. Fee Calculation. ACT will charge Customer the Enrollment Fee per student indicated on the table below for the total Enrollment for the applicable Assessment Option at the applicable Program Price Tier.

Program Price Tier	Assessment Options	
	ACT without Writing	ACT with Writing
FRLP 0-49%	$48.00	$62.00
FRLP 50-74%	$46.00	$61.00
FRLP 75-100%	$44.00	$59.00

c. Invoicing and Payment. ACT will submit an invoice to Customer for all Enrollment Fees owed under this Agreement after the last day of the Makeup Accommodations Test Window for each selected Test Window included in Customer's Enrollment Form. The invoice will reflect the Fee Calculation. Customer shall make payment as set forth in the Payment Terms. ACT is not obligated to provide any credits or refunds, including but not limited to refunds or credits for the difference between the Enrollment and the number of scores provided.

d. Fee Waivers. Student fee waivers and vouchers are not accepted as a form of payment for the ACT District Testing program.

e. FRLP Tiers. ACT's standard Enrollment Fee is based on the Customer's percentage of students eligible for the Free and Reduced Lunch Program (FRLP), across all Schools in the Customer's territory or jurisdiction. Customer shall identify its applicable FRLP percentage on its Enrollment Form, and ACT may verify the accuracy of the applicable percentage based on federally reported data.

5. Computer Requirements. In the event Customer administers the online assessment, Customer will comply with the computer configuration requirements located at http://www.act.org/content/act/en/products-and-services/state-and-district-solutions/act-online-testing.html. Compliant computer configuration is required to properly access and use the ACT Online Assessment System. ACT shall have no liability relating to Customer's failure to comply with ACT's computer requirements. ACT may revise these configuration requirements from time to time in its sole discretion. Customer shall be responsible for implementing any hardware or software updates or changes necessary to meet the revised computer configuration requirements for the Online Assessment System within the time frame set forth in the written or electronic notice from ACT. If Customer cannot implement the required configuration updates, Customer may (a) request paper-based testing in the Online Platform, if timely (b) provide ACT with notice of cancellation of the Services.

6. U.S. Government End Users. The ACT taken online is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire The ACT online system with only those rights set forth herein.

7. Limited Use of Assessments and Services. Subject to this Agreement, ACT hereby grants to the Customer a limited, revocable, non-exclusive, non-transferable, and non-sublicensable right during the term of this Agreement to use the Assessments and Services. All Assessments and Services made available under this Agreement are licensed, not sold, by ACT to the Customer. Except to the extent expressly granted in this Agreement, no rights are granted by ACT under this Agreement.

8. Non-College Reportable Program (*Limited Availability*): To the extent Customer has enrolled in a Non-College Reportable ("NCR") administration of the ACT assessments to its eligible 10th, 11th, and/or 12th grade students, ACT will provide NCR Services as detailed at https://content.act.org/ncr_only/ ("NCR Website"). Customer is obligated to complete the District Testing Program requirements detailed on the NCR Website in order to participate in each applicable NCR test session. To the extent Customer has elected to enroll for three years, this Agreement will remain effective to govern all Assessments and Services provided through the full enrollment period and Customer must enroll in at least one test session during each year. ACT will not report scores earned through the NCR administration of the ACT to colleges, scholarship agencies, or any other entities. The test coordinator must notify examinees that NCR scores are for district assessment purposes only. Students must read and agree to the terms and conditions of testing with NCR materials provided on the front cover of the test booklet by breaking the seal on the test booklet at the time of test administration.

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR SERVICES – $25,000 above

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and ARCH Language Network "Contractor" (collectively "parties") to provide district wide interpretation services over the phone in effort to increase the capacity of MPS schools and department to secure interpreters to all schools [Mutilingual, Communications, Engagement and External Relations; Board of Education; Special Education, Early Childhood Education and ECFE; Adult basic Ed; Extended Learning. to District-wide.

TERM OF CONTRACT

1.1 This Contract is effective on August 1, 2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until June 30, 2022, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 ***Total Obligation***

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $128,240.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

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

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

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

3.3 ***Taxes.***

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

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

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

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

4 GENERAL TERMS AND CONDITIONS

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

5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

6 BACKGROUND CHECKS

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

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

7 DATA PRIVACY

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

8 OWNERSHIP OF MATERIAL

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

9 USE OF DISTRICT NAME OR LOGO

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

10 INDEPENDENT CONTRACTOR

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

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

11 WORKER HEALTH, SAFETY AND TRAINING

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

12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

13 INSURANCE

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

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

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

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

14 INDEMNIFICATION

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

15 LIMITATION ON LIABILTY

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

16 CONFLICT OF INTEREST/CODE OF ETHICS

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

17 COMPLIANCE WITH LAWS AND DEBARMENT

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

18 TERMINATION

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

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

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

19 RETURN OF DATA

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

20 RECORDS MANAGEMENT AND MAINTENANCE

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

delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

21 NOTICES/ADMINISTRATION

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

Special School District No. 1

Division: Communications
Attn: Sharifa Urey
1250 W Broadway
Minneapolis, MN 55411
Email: Sharifa.urey@mpls.k12.mn.us

CONTRACTOR

ARCH Language Network
Phone: 651.789.7015
Address: 125 Little Canada, RD. West little Canada, MN 55117
Email: rhastings@archlanguage.com

ACKNOWLEDGMENT

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

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

22 NON-WAIVER

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

23 ASSIGNMENT

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

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

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

25 WARRANTY

25.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all

defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

26 SEVERABILITY

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

27 SURVIVABILITY

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

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

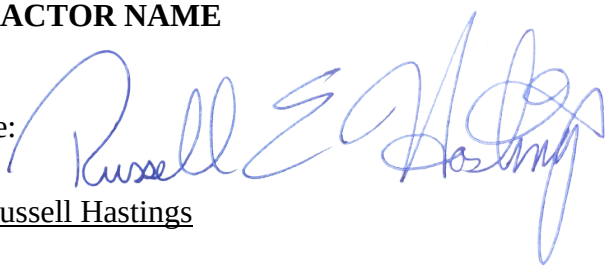
Name:

(Printed)

Title: Board of Education

Date: _____

CONTRACTOR NAME

Signature: 

Name: Russell Hastings
(Printed)

Title: President

Date: 07/23/2021

Exhibit A:

Deliverables:

Provide district-wide interpretation services over the phone in effort to increase capacity of MPS schools and departments to secure interpreters. All schools- multilingual, communications, engagement and external relations; Board of Education; Special Education; Early Childhood Education and ECFE; Adult Ed; Extended Learning.

Service Outcome:

Face to Face interpreting, document translation, interpretation for parent-teacher conference, on-site interpretation for school-wide and district events, provide a high-quality web based electronic tracking system, provide transparency of all requests, and confirmations and un-used requests.

Method of Evaluation:

A variety of measurements are used: family feedback, accuracy of reports, and fulfillment of interpreting requests, staffing training and customer service.

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EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Payments will be completed after the completion of services,

[The remainder of this page intentionally left blank.]

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

COMMUNITY PARTNER CONTRACT FOR SERVICES ($25,000+)

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Urban Debate League/Augsburg University, "Contractor" (collectively "parties").

1. TERM OF CONTRACT

1.1. This Contract is effective on August 30, 2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until June 30, 2022 or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2. SCOPE OF WORK

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

3. CONSIDERATION AND TERMS OF PAYMENT

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

3.1. Total Obligation.

3.2.

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed $225,000. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.3. Frequency of Invoicing and Terms of Payment.

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

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

3.4. Taxes.

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

above.

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

3.5. Fund Availability; Federal Funds Contingency.

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

4. GENERAL TERMS AND CONDITIONS

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

5. AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

6. BACKGROUND CHECKS

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

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

7. DATA PRIVACY

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

8. STUDENT DATA

8.1. Contractors who require access to student data agree to the following:

8.1.1. Contractors agree to attend District provided training on data privacy at least one time per year and follow District processes to obtain data.

8.1.2. Contractors will obtain a District release of information on each individual student, and access information solely through the District's Community Partner Portal. Releases of information are accepted on an ongoing basis.

8.1.3. Contractors needing basic, de-identified and aggregate student data, as defined by the District, must contact Partnership Evaluation (partnership.evaluation@mpls.k12.mn.us). Basic reports are subject to a fee.

8.1.4. Contractors needing data for research or evaluation must contact the District's Research, Evaluation and Assessment (http://rea.mpls.k12.mn.us) and follow the applicable processes. Requests are also subject to a fee.

8.1.5. Contractors applying for grants that need District student data for reporting purposes are required to contact Resource Development and Innovation (http://rdi.mpls.k12.mn.us) for a letter of support and approval.

8.2. If Contractor has been hired to do work as an agent for the District, Contractor agrees that when it receives data it shall do the following:

8.2.1. Ensure that all student/family information will be treated as confidential information. Such information will not be discussed, shared or released unless needed to perform the task for which Contractor was selected;

8.2.2. Ensure that no copies of data are made. If copies are made, all copies must be shredded or returned to the District;

8.2.3. Establish policies and procedures to protect the confidentiality of the data;

8.2.4. Securely destroy all data at the end of the Contract or within one year if the data is needed;

8.2.5. Inform the District, in writing, about any data breach that occurs (letter must include specific information about what happened, when, and proposed method for resolving the issue);

8.2.6. Allow the district to review and approve any reported results, prior to public distribution.

9. USE OF DISTRICT SPACE

9.1. Contractor agrees that if it will be using District space it will obtain a lease, license or permit. If such lease, license or permit is terminated or revoked, the District shall also have the right, at its discretion, to terminate this contract without regard to notices required herein.

10. USE OF DISTRICT NAME OR LOGO

10.1. Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the District or the name of

any representative of the District in any sales promotion work or advertising, or any form of publicity, without the written permission of the District.

11. MALTREATMENT OF MINORS REPORTING ACT

11.1. Contractor shall comply with all of the provisions of the Maltreatment of Minors Reporting Act, Minn. Stat. § 626.556.

12. PROFESSIONAL STANDARDS OF BEHAVIOR

12.1. Contractor shall maintain professional standards of behavior under the leadership and guidance of the building principal or site administrator.

13. OWNERSHIP OF MATERIAL

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

14. INDEPENDENT CONTRACTOR

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

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

15. WORKER HEALTH, SAFETY AND TRAINING

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

16. BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

17. INSURANCE

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

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

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

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

18. INDEMNIFICATION

18.1. Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. This shall not apply injuries, claims, damages, or loss caused by the intentional, willful, or wanton acts of District.

19. LIMITATION ON LIABILTY

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

20. CONFLICT OF INTEREST/CODE OF ETHICS

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

21. COMPLIANCE WITH LAWS AND DEBARMENT

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

22. TERMINATION

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

22.2. District may terminate this Contract in whole or in part for Cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. In this event, District will not be liable for any amounts; but Contractor shall be liable to District for all losses, damages, and expenses. including, without limitation, the excess cost of recouping similar goods or services; shipping charges for any items District may at its option return to Contractor, including items already delivered, but for which District no longer has any use because of Contractor's default; and amounts paid by District for any items District has received but returns to Contractor. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

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

23. RETURN OF DATA

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

information in Contractor's possession or control, and provide District with proof of such destruction.

24. RECORDS MANAGEMENT AND MAINTENANCE

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

25. NOTICES/ADMINISTRATION

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

Special School District No. 1

Name of the District Signer: Jim Bierma

Title: College and Career Readiness Executive Director

Email: james.bierma@mpls.k12.mn.us

Partner

Name: Amy Cram Helwich

Email: cramhe@augsburg.edu

Address: 2211 Riverside Ave, Minneapolis, MN 55454

26. ACKNOWLEDGMENT

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

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

27. NON-WAIVER

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

28. ASSIGNMENT

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

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

29. CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

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

30. WARRANTY

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

31. SEVERABILITY

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

32. SURVIVABILITY

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

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

By: _____

Name:

Title:

Date: _____

PARTNER

By: _____

Name: Karen Kaivola

Title: Provost and Senior VP for Academic and Student Affairs, Ph.D.

Email: provost@augsburg.edu

Date: 7/30/2021

EXHIBIT A: PROGRAMMING PROVIDED

Description of Program and Delivery:

Provide programming to implement and support debate teams and tournaments for Minneapolis Public School students at the middle and high school level. Programs include: Middle and High School National Topic Debate, Spanish Debate, East African Debate, and Financial Literacy Debate.

Service Outcome:

Students will develop their critical thinking, social and emotional learning, develop persuasive arguments, and participate in group activities that will enhance their sense of community at the school.

Method of Evaluation

Student participation hours, standardized test scores, SEL outcomes, and number of debate meets.

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

The payment terms are as follows: Minneapolis Public Schools will provide payment to the Urban Debate League during the 2021-22 school year.

[The remainder of this page intentionally left blank.]

FOURTH AMENDMENT TO CONTRACT BETWEEN: SPECIAL SCHOOL DISTRICT NO. 1 AND BUSCH ARCHITECTS ,INC

This Amendment ("Amendment") to the Contract between Special School District No. 1 and Busch Architects ,Inc, dated May 6, 2019 ("Contract") is made and entered into by and between Special School District No. 1 ("District") and Busch Architects ,Inc ("Contractor") (collectively "parties").

WHEREAS, Special School District No. 1, a special a school district created and existing under Minnesota law ("District") and Busch Architects ,Inc ("Contractor") entered into a contract titled KENNY SCHOOL IMPROVEMENTS AND RENEWAL for a period between June 4, 2021 through December 31, 2023 ("Contract"), and

WHEREAS, the Parties now desire to amend the contract;

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

AMD #4: Increase in design fees for owner requested design changes at Kenny Elementary School. The amount of the increase requested is $146,400.00

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

By: _____

Name: _____

Title: _____

Date: _____

Busch Architects ,Inc

By: KC Busch

Name: Kevin C. Busch

Title: CEO

Date: 7-16-21

AMENDMENT #2 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 8/10/2021 ("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 7/1/2021 through 6/30/2022 ("Contract"), and

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

1. *Original contract amount:* $90,000
2. ***Cumulative contract amount:*** **$195,000**

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

Section: 1.1 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 Canvas Health, "Contractor" (collectively "parties") to provide mental health services to additional schools - Lucy Laney, FAIR, Burroughs, Hale, Field, Lake Harriet Lower, Lake Harriet Upper, Kenny and Armatage 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 $195,000.** 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 increase of 0.5 FTE at FAIR High School.

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

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name:

Title: Board Chair

Date: _____

Canvas Health:

Signature: _____

Name: Matthew Eastwood

Title: CEO

Date: 7/27/2021

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 8/10/2021 ("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 8/10/2021 through 6/30/2022 ("Contract"), and

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

1. *Original contract amount:* $276,000
2. *Accumulative contract amount:* $306,000

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 $306,000.00. 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 School.

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

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name:

Title:

Date: _____

Change Inc.:

Signature: Jody Nelson

Name: Jody Nelson

Title: Executive Director

Date: 7/26/2021

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and CH Robinson "Contractor" (collectively "parties") to provide Cosmetically Imperfect Produce Program. to D-Ops-Culinary and Nutrition Services.

1 TERM OF CONTRACT

1.1 This Contract is effective on 8/03/2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2022., or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $220,000. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

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

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

3.3 *Taxes.*

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

that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

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

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

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

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

10 DATA PRIVACY

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

11 USE OF DISTRICT NAME OR LOGO

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

12 INDEPENDENT CONTRACTOR

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

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

13 WORKER HEALTH, SAFETY AND TRAINING

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

14 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

15 INSURANCE

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

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

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

16 INDEMNIFICATION

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

17 LIMITATION ON LIABILTY

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

18 CONFLICT OF INTEREST/CODE OF ETHICS

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

19 COMPLIANCE WITH LAWS AND DEBARMENT

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

20 TERMINATION

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

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

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District

is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

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

22 RECORDS MANAGEMENT AND MAINTENANCE

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

23 NOTICES/ADMINISTRATION

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

Special School District No. 1
Division: D-Ops-Culinary and Nutrition Services.

Attn: Josiah nebo
1250 W Broadway
Minneapolis, MN 55411
Email: Josiah.nebo@mpls.k12.mn.us

CONTRACTOR

NAME: Legal department
Address: 14701 Charlson Road, Eden Prairie, MN 55347
Phone: 952-937-7840
Email: Legal@chrobinsn.com

ACKNOWLEDGMENT

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

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

24 NON-WAIVER

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

25 ASSIGNMENT

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

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

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

27 WARRANTY

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

28 SEVERABILITY

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

29 SURVIVABILITY

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

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Jennifer (on behalf of BOE) Lindquist (on behalf of BOE)
(Printed)

Title: Board of Education

Date: _____

CH Robinson

Signature: _____

Name: _____
(Printed)

Title: _____

Date: _____

EXHIBIT A: SCOPE OF WORK

Deliverables:

Purchase Cosmetically Imperfect Produce Program

Service Outcome:

Purchase Cosmetically Imperfect Produce Program

Method of Evaluation

Purchase Cosmetically Imperfect Produce Program; checking quality and timeliness of delivery

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Net 30.

[The remainder of this page intentionally left blank.]

19GREE002 Green Central Elementary
Full-Service Community School Renovation

Contract Sum: $760,220.00

Contractor: Construction Results Corporation

Project Name and Number

Green Central Elementary
Full-Service Community School Renovation
3416 Fourth Avenue South
Minneapolis, MN 55408
19GREE002

Description

Renovate existing music classrooms to be become family center. Renovate existing second floor locker rooms to become music rooms.

Contract Sum details

Item	Price	Status
Base Bid	$723,220	accepted
Alt #1: Exterior Windows	$37,000	accepted
Alt #2: Second Floor Restroom	$37,000	rejected

Contract Documents

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

AIA® Document A101® – 2017

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

AGREEMENT made as of the 11th day of August in the year 2021
(In words, indicate day, month and year.)

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

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

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

Construction Results Corporation
5465 Highway 169 North
Plymouth, MN 55442

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

Green Central ES Full-Service Community School Renovation
3416 Fourth Avenue South
Minneapolis, MN 55408

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

Wold Architects and Engineers
332 Minnesota Street, Suite W2000
Saint Paul, MN 55101

The Owner and Contractor agree as follows.

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

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

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

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

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

[ ] The date of this Agreement.

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

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

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

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

§ 3.3 Substantial Completion

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

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

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

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

(Table Deleted)

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

ARTICLE 4 CONTRACT SUM

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

§ 4.2 Alternates

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

(Table Deleted)

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

(Paragraph Deleted)

(Table Deleted)

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

(Paragraph Deleted)

(Table Deleted)

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

(Paragraph Deleted)

(Table Deleted)

§ 4.5 Liquidated damages

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Contractor and Owner recognized that time is of the essence for the Project and the Owner will suffer financial loss if the Work is not completed in the time specified in the Contract Documents. The parties also recognized the delays, expenses, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, the Owner and Contractor agree that as liquidated
damages for delay (but not as penalty), Contractor shall pay Owner $1,000.00 per calendar day for each day that expires after the time specified for Substantial Completion in EXH-D Project Schedule until such time the Work is determined to be substantially complete by the
Owner.

(Paragraph Deleted)

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

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

(Paragraph Deleted)

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

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

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

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

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

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

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

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

.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and

.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

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

(Paragraph Deleted)

5% (five percent)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

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

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
Prior to Substantial Completion and at the discretion of the Owner, retainage may be reduced. If the Work has been 50% completed as
determined by the Architect and is satisfactory to the Owner, then 90% of the retained amount may be released to the Contractor for completed work (with 10% of the total retained by the Owner.) Upon Substantial Completion, additional retainage may be returned to the Contractor as recommended by the Architect and approved by the Owner to an amount sufficient to satisfactorily complete the Work. Retainage release will comply with Minnesota Statute 15.72 after Substantial Completion and punch list acceptance by the Owner.

(Paragraph Deleted)

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

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

§ 5.2 Final Payment

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

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

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.2 a final Certificate for Payment has been issued by the Architect.

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

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

§ 5.3 Interest

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

(Paragraph Deleted)

§ 5.4 Prompt Payment to Subcontractors

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

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

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

§ 6.1.1 Mediation

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

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

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

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

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

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

[X] Litigation in a court of competent jurisdiction

[ ] 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)

Jessica Pavelka
1250 West Broadway Avenue
Minneapolis, MN 55411

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

TBD

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

§ 8.5 Insurance and Bonds

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

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

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

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

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

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor

.2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds

.3 AIA Document A201™–2017, General Conditions of the Contract for Construction

.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

January 31, 2020

.5 Drawings

Number	Title	Date

.6 Specifications

Section	Title	Date	Pages

.7 Addenda, if any:

Number	Date	Pages

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

.8 Other Exhibits:

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(Paragraphs Deleted)

EXH-B Project Charter
(Paragraph Deleted)

EXH-C Owner Insurance
EXH-D Project Schedule

(Paragraph Deleted)

(Table Deleted)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

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

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

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
(Printed name and title)	Mike Luurtsema, President *(Printed name and title)*

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

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:10:06 ET on 07/19/2021.

PAGE 1

AGREEMENT made as of the 11th day of August in the year 2021

...

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

...

Construction Results Corporation
5465 Highway 169 North
Plymouth, MN 55442

...

Green Central ES Full-Service Community School Renovation
3416 Fourth Avenue South
Minneapolis, MN 55408

...

Wold Architects and Engineers
332 Minnesota Street, Suite W2000
Saint Paul, MN 55101

PAGE 2

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

...

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

PAGE 3

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

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...

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

...

~~**Portion of Work** **Substantial Completion Date**~~

...

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

...

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

...

~~**Item** **Price**~~

...

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

...

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

...

~~**Item** **Price** **Conditions for Acceptance**~~

...

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

...

~~*(Identify each allowance.)*~~

...

~~**Item** **Price**~~

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...

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

...

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

...

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

...

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

PAGE 4

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

...

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

...

Owner.

...

~~**§ 4.6** Other:~~

...

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

...

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

...

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

...

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

...

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

PAGE 5

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

...

5% (five percent)

...

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

...

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

...

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

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

...

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

...

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

PAGE 6

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

...

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

...

Payment.

...

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

...

~~*(Insert rate*~~

...

§ 5.4 Prompt Payment to Subcontractors

...

This Contract requires the Contractor and all Subcontractors and Sub-subcontractors (of any tier) to promptly pay any subcontractor or material supplier contract within ten (10) days of receipt of ~~interest agreed upon, if any.)~~payment by Owner for undisputed services provided by the party requesting payment. The party responsible for payment (other than the Owner) shall pay interest of one and one half (1-1/2) percent per month to the party

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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 mayrequest Binding Dispute Resolution.*

...

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

PAGE 7

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

...

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

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...

Jessica Pavelka
1250 West Broadway Avenue
Minneapolis, MN 55411

...

TBD

PAGE 8

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

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

...

January 31, 2020

PAGE 9

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

...

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

...

EXH-B Project Charter

...

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

...

EXH-C Owner Insurance

...

EXH-D Project Schedule

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...

~~[~] The Sustainability Plan:~~

...

~~Title~~	~~Date~~	~~Pages~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:10:06 ET on 07/19/2021 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)

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AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 11th day of August in the year 2021
(In words, indicate day, month and year.)

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

Green Central ES Full-Service Community School Renovation
3416 Fourth Avenue South
Minneapolis, MN 55408

THE OWNER:
(Name, legal status and address)

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

THE CONTRACTOR:
(Name, legal status and address)

Construction Results Corporation
5465 Highway 169 North
Plymouth, MN 55442

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

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

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

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

ARTICLE A.1 GENERAL

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

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

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

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§ A.2.2 Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance
§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

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

Causes of Loss	Sub-Limit

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

Coverage	Sub-Limit

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

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

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

§ A.2.3.3 Insurance for Existing Structures
If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

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

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

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

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

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

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

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

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.

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

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

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

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

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

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

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

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the 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;

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

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

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

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

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

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

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

(Paragraph deleted)

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

(Paragraphs deleted)

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

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The 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:

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(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:

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Additions and Deletions Report for

AIA® Document A101® – 2017 Exhibit A

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:11:30 ET on 07/19/2021.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 11th day of August in the year 2021

...

Green Central ES Full-Service Community School Renovation
3416 Fourth Avenue South
Minneapolis, MN 55408

...

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

...

Construction Results Corporation
5465 Highway 169 North
Plymouth, MN 55442

PAGE 2

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

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

...

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§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits ~~of not less than ($) each occurrence, ($) general aggregate, and ($) aggregate for products-completed operations hazard,~~ as defined in EXH-C Owner Insurance providing coverage for claims including
PAGE 5

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

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

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

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

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

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

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

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

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

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

§ A.3.3.2 The Contractor shall purchase and maintain the ~~following types and limits of insurance in accordance with Section A.3.3.1.~~
~~*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*~~types and limits of insurance as defined in EXH-C Owner Insurance.

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

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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

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Exhibit B – Project Charter

Project Name and Number

Green Central Elementary
Full-Service Community School Renovation
3416 Fourth Avenue South
Minneapolis, MN 55408
19GREE002

Description

Renovate existing music classrooms to be become family center. Renovate existing second floor locker rooms to become music rooms.

Contract Sum

The Contract Sum shall be $760,220.00

Alternates

Item	Price	Status
Alt #1: Exterior Windows	$37,000	Accepted
Alt #2: Second Floor Restroom	$37,000	Rejected

Unit Prices

Item	Units and Limitations	Price per Unit ($0.00)
Carpet	Per square yard	$65.00

EXHIBIT C Owner Insurance

Insurance Requirements

1. CONSULTANT'S INSURANCE – to be used with AIA B101-2017, AIA C103-2015, or similar non-contractor consultants:
   The Consultant shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

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

      i. Coverage A is statutory.

      ii. Coverage B
      $500,000 Each Accident
      $500,000 Each Employee
      $500,000 Policy Limit (Disease)

   b. Comprehensive General Liability Insurance *

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

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

   c. Automobile Insurance

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

   d. Professional Liability Insurance

      i. Per Claim $2,000,000

ii. For projects with an estimated construction Contract Sum of over $10,000,000 or major structural work an aggregate is required as follows:
Aggregate $4,000,000

e. Umbrella Liability Insurance

i. Per Occurrence $2,000,000

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

f. Manned or Unmanned Aircraft Coverage (if used)

i. Per Claim $1,000,000

ii. Aggregate $1,000,000

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

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

2. CONSULTANT'S OBLIGATIONS

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

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

3. PROFESSIONAL LIABILITY INSURANCE

   a. Professional Liability Coverage of $2,000,000 shall be maintained for one (1) year from the date of Substantial Completion. If the Consultant discontinues its business and if directed by Owner in writing, Consultant shall purchase such insurance in such amount for an extended discovery period beyond the one (1) year after the date of Substantial Completion, with the premium cost to be a reimbursable expense paid by the Owner. The limit of liability for such policy may not be reduced below $2,000,000 without the Owner giving its prior, written consent. All policies of insurance that Consultant is required under the terms of this Exhibit C Owner's Insurance to secure and maintain shall bear the endorsement "Not to be canceled until sixty (60) calendar days after Owner has received a written notice from insurer as evidence by a return receipt of registered or certified mail."

   b. The Owner shall not be responsible for obtaining or paying premiums or other expenses in connection with insurance required to be carried under the Agreement or normally carried by the Consultant's consultants, and the obligation to obtain such insurance and to pay such premiums and other expenses shall be solely that of the Consultant.

   c. The Consultant shall bear all the costs of any and all deductible amounts under any insurance policies required to be carried under the Agreement and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance (to the extent that any amount resulted from damages that arose out of the Consultant's sole negligence.)

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

5. GENERALLY

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

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

Insurance requirements for Contractors

1. CONTRACTOR'S INSURANCE – to be used with AIA A101-2017
   The Contractor shall at its own expense maintain in effect at all times during the performance of the Work under the Agreement at least the following coverage and limits of insurance:

   a. Commercial General Liability

      i. General Aggregate $1,500,000

      ii. Products/Completed Operations Aggregate $1,500,000

      iii. Per Occurrence $1,500,000

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

   b. Automobile Insurance

      i. Per Occurrence $1,000,000

      ii. PIP Basic

      iii. Underinsured Motorist $1,000,000

      iv. Uninsured Motorist $1,000,000

   c. Workers Compensation

      i. Coverage A is statutory.

      ii. Coverage B $500,000 Each Accident

      iii. $500,000 Each Employee

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

   i. Per Claim $2,000,000

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

e. Manned or Unmanned Aircraft Coverage (if used)

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

f. Property Insurance

   i. Per Claim $1,000,000

   ii. Aggregate $1,000,000

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

g. Builders “all risk” Insurance

   i. Per Claim $2,000,000

   ii. Aggregate $4,000,000

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

h. Umbrella Liability

   i. Aggregate limit $5,000,000

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

Exhibit D – Project Schedule

Project Name and Number

Green Central Elementary
Full-Service Community School Renovation
3416 Fourth Avenue South
Minneapolis, MN 55408
19GREE002

Description

Renovate existing music classrooms to be become family center. Renovate existing second floor locker rooms to become music rooms.

Schedule

Substantial Completion

The Work will be substantially complete on or before January 28, 2022.

Portion of Work

Portion of Work	Substantial Completion Date
Phase 1 – Second Floor Classrooms	November 19, 2021
Phase 2 – First Floor Family Center	January 28, 2022

AIA® Document E203™ – 2013

Building Information Modeling and Digital Data Exhibit

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

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

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

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

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

3 DIGITAL DATA PROTOCOLS

4 BUILDING INFORMATION MODELING PROTOCOLS

5 OTHER TERMS AND CONDITIONS

ARTICLE 1 GENERAL PROVISIONS

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

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

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

§ 1.3 Adjustments to the Agreement

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

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

§ 1.3.3 Notice required under this Section 1.3 shall be provided within thirty days of receipt of the protocols, unless otherwise indicated below:
(If the Parties require a notice period other than thirty days from receipt of the protocols, indicate the notice period below.)

§ 1.4 Definitions

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

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

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

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

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

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

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

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

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

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

§ 1.4.11 Party and Parties. The terms "Party" and "Parties" refer to the signing parties to the Agreement.

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

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ARTICLE 2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

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

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

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

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

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

ARTICLE 3 DIGITAL DATA PROTOCOLS

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

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

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

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

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

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

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

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

§ 3.4 Unauthorized Use

§ 3.4.1 Prior to Establishment of Digital Data Protocols

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

§ 3.4.2 Following Establishment of Digital Data Protocols

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

§ 3.5 Digital Data Management

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

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

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

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

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

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

Responsible Project Participant	Project Milestone

ARTICLE 4 BUILDING INFORMATION MODELING PROTOCOLS

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

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

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

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

Project Portion for Modeling	Responsible Project Participant

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

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

§ 4.4 Ancillary Modeling Activities. Indicate additional Modeling activities agreed upon by the Parties, but not to be included in AIA Document G202–2013, if any.
(Describe any Modeling activities, such as renderings, animations, performance simulations, or other similar use, including the anticipated amount and scope of any such Modeling activities.)

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

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

§ 4.5.1 The Modeling protocols shall address the following:

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

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.8 Anticipated Authorized Uses for facilities management or otherwise, following completion of the Project; and

.9 Other topics to be addressed by the Modeling protocols: *(Identify additional topics to be addressed by the Modeling Protocols.)*

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

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

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

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

§ 4.7 Unauthorized Use

§ 4.7.1 Prior to Establishment of Modeling Protocols

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

§ 4.7.2 Following Establishment of Modeling Protocols

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

§ 4.8 Model Management

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

Responsible Project Participant	Project Milestone

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

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

.2 Model file storage location(s)

.3 Processes for transferring and accessing Model files

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

.5 Processes for aggregating Model files from varying software platforms

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 5 OTHER TERMS AND CONDITIONS

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

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PAGE 1

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

PAGE 4

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

PAGE 5

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

...

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

...

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

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

...

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

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

...

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

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§ 4.9.4 Energy Management	Applicable	Owner	
§ 4.9.5 Space Management	Applicable	Owner	
§ 4.9.6 Maintenance Management	Applicable	Owner	

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

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:15:52 on 03/23/2018 under Order No. 8259021829 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document E203™ - 2013, Building Information Modeling and Digital Data Exhibit, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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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)

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.

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§ 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 in tended 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.

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

§ 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

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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.

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§ 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.

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§ 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.

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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 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, expect 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:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others (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, expect 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.

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§ 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 comp0leted 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 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.

§ 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.

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§ 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.

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

§ 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,

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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

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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.

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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 an 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.

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§ 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 subrogration shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from

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an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner may self-insure and maintain the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

(Paragraph Deleted)

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6.1 Contractor shall furnish a Performance Bond and a Payment Bond to the Owner in the amount of one hundred percent (100%) of the Contract Sum and issued by a Surety Company authorized to do business in the State of Minnesota, rated "A" or better, and approved by the Owner. The Performance Bond shall be in accordance with Minnesota Statutory requirements, and shall be in the form included in the Project Manual. The Bonds shall allow for any additions or deductions to the Contract Sum.

§ 11.6.2 In order to be acceptable as a surety, Contractor's bonding company bust 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 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.

§ 12.2.3 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.

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§ 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

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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.

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§ 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

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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.

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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.**

...

§ 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

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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.

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

...

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

...

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

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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.

...

§ 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.

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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

...

~~§ 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.

...

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§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.**3.2.1.2** The Contractor shall carefully study and compare the Contract Documents with existing conditions at the job site and shall immediately report in writing to the Architect any error, inconsistency, or omission which the Contractor may

PAGE 15

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the discover or any materials, systems, procedures, or methods of construction, either shown on the Drawings or specified, which the Contractor has reason to believe are incorrect, inadequate, obsolete, unsuitable for the purpose intended or which the Contractor has reason to believe would constitute or result in a violation of the Contractor's warranty under Paragraph 3.5 or applicable law. The Contractor shall not proceed with any work in such areas until written instructions are received from the Architect.

...

Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor **§ 3.2.2** The Contractor shall perform the Work in accordance with the Contract Documents and submittals accepted pursuant to Paragraph 3.12.

...

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.

...

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

...

§ 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

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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.

...

§ 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.

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If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than ~~14~~ ten (10) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

...

§ 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

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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

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Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

...

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

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

...

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

...

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

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

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except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall hire a professional utilities locator to verify locations of all public and private utilities prior to initiating any cutting work. the Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

...

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

PAGE 21

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

...

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

...

~~**ARTICLE**~~ **~~fees.~~**

...

ARTICLE 4 ARCHITECT

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§ 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.

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...

§ 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.~~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.

...

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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 of safety 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

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and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions so rendered in good faith.

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

...

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

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

...

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

...

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

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Owner and the Architect shall limit the responsibility of the Contractor to furnish materials, products, equipment, and services in conformance with the requirements of the Contract Documents.

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

...

§ 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

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for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not ~~apparent.~~reasonably discoverable.

...

§ 6.2.3 ~~The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.~~Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

...

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

...

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

...

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

...

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor.~~An order for a minor change in the Work may be issued by the Architect alone.~~

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

...

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

1. For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost,
2. For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor.
3. For each Subcontractor or Sub-subcontractor involved for Work performed by the Subcontractor's or Sub-subcontractor's own forces, ten percent (10%) of the cost.
4. For each Subcontractor for Work performed by the Subcontractor's Sub-subcontractor, five percent (5%) of the amount due the Subcontractor.

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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, expect those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

...

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

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.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or ~~others;~~others (at rates approved by the Owner);

...

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

...

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

...

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

...

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

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

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...

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract ~~Time.~~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.

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§ 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, expect 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.

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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 comp0leted 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~~or 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.

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

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

...

~~shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.~~**§ 9.8.7** The Architect shall make inspection(s) for Substantial Completion and Final Completion in accordance with the AIA Document B101 Owner Architect Agreement. If additional inspections are required due to the Contractor's failure to complete previously listed corrective or uncompleted work, the Architect's expense for conducting such re-inspections and related time in processing, reviewing, and revision of requirements shall be charged to the Contractor and such payment shall be accomplished by a deductive Change Order to the Contractor.

...

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

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§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in ~~effect,~~ effect and will not be canceled or allowed to expire until at least sixty (60) days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, ~~and (6) if required by the Owner,~~ including a summary listing all applicable warranties both standard and extended, itemized by specification section and included at the front of the Operation and Maintenance manuals, and (6) other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

...

§ 9.11 DAMAGES FOR DELAY

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§ 9.11.1 The Contractor shall be responsible for damages incurred by the Owner and any other separate contractors for delay resulting from the Contractor's failure to complete the Work within the contract Time or resulting from the progress of the Work failing to substantially conform to the Project Construction Schedule.

...

§ 9.11.2 If the Contractor is delayed by the Owner, Architect, or any agent or employee of any of the foregoing, the Contractor's sole and exclusive remedy for the delay shall be the right to a time extension for completion of the Contract and not damages. This paragraph does not preclude Contractor's recovery of damage for contractor-caused delays under other provisions of the Contract

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~~ARTICLE~~ Documents.

...

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

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§ ~~10.1~~ 10.1.1 Safety Precautions and Programs

...

§ 10.1.2 The Contractor shall comply with all applicable laws and regulations. Notwithstanding any language to the contrary, the Owner shall not have any responsibility for job site inspections or safety recommendations. Any inspections or observations by the Owner or the Architect are solely for the benefit of the Owner and shall not create any duties or obligations to anyone

...

~~§~~ else.

...

§ 10.2 Safety of Persons and Property

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If either party suffers injury or ~~damage~~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~~

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~~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.

...

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§ 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

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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 an 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

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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.

...

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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 subrogration 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.

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...

~~**§ 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 bust 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.

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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

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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~~ of 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 ~~Interest~~NON-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:

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...

"During the performance of this Agreement, the provider agrees to the following: No contractor, material supplier, vendor, or other person shall on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from ~~the date payment~~ full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964."

...

Upon request, the provider shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The provider shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

...

The provider acknowledges that the violation of the above-stated paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

...

~~due at~~ This Agreement may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under this Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

...

~~the rate the parties agree upon~~ **§ 13.5.2** During the completion of the work and all other services required by the Contract Documents, the Architect and Contractor agree that no contractor, material supplier, vendor, or other person shall, on the basis of sex, race, creed, color, religion, national origin, age, marital status, sexual orientation, or disability be excluded from full employment rights in participation in, be denied the benefits of, or be otherwise subjected to discrimination under the provisions of any and all applicable Federal and State laws against discrimination, including the Minnesota Human Rights Act and the Civil Rights Act of 1964. Upon request, the Architect and Contractor shall furnish all information and reports required by the Owner, or by the rules and regulations of investigation to ascertain compliance with all applicable rules and regulations. The Architect and Contractor shall also comply with any applicable licensing requirements of the Minnesota Department of Human Services in employment of personnel.

...

Architect and Contractor acknowledge that the violation of the above-states paragraph is a misdemeanor pursuant to Minnesota Statutes Section 181.59.

...

The Contract Documents may be cancelled or terminated by the Owner or any other person authorized to grant the contracts for employment under this Agreement, and all money due, or to become due under the Agreement may be forfeited for a second or any subsequent violation of the non-discriminatory terms stated above.

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~~in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~ **§ 13.6** No action or failure to act by the Owner shall constitute a waiver of a right or duty afforded the Owner under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence of the Owner in a breach of the Contract Documents, except as may be specifically agreed in writing. None of the approval of any Application for Payment, the making of any payment, the giving of any approval or consent, the use or occupancy of the Work, or any part thereof, the making of final payment, or any other action or inaction on the part of the Owner or Architect shall constitute a waiver of claims by or rights of the Owner or an acceptance of any Work that is not in accordance with the Contract Documents. The Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the representations of the Owner or Architect, or by inspections, tests, or approvals required or performed by the Owner or Architect or anyone else.

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§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases or decreases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include reasonable profit. No adjustment shall be made to the extent

...

~~**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.~~

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§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within ~~21~~ ten (10) days after occurrence of the event giving rise to such Claim or within ~~21~~ ten (10) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Any additional Claim made after and relating to the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

...

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

...

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. Subject to paragraph 15.1.5, no such continuing performance by the Contractor, nor payment by the Owner shall be deemed a waiver of, or to otherwise impair any such Claim.

...

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§ 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

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Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

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§ 15.2.2 The ~~Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions:~~ Architect will review Claims and take one or more of the following preliminary actions within ten (10) days of receipt of a Claim: (1) request additional supporting data from the ~~claimant or a response with supporting data from the other party, (2)~~ claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in ~~part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.~~part stating reasons for the rejection, (4) recommend approval of the Claim by the other party, or (5) suggest a compromise. If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect shall notify the parties in writing that the Architect's decision will be made within ten (10) days, which decision shall be final subject to action at law as provided in Paragraph 15.3.

...

§ 15.2.3 ~~In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.~~If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.

...

§ 15.2.4 If ~~the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.~~a Claim has not been resolved, the party making the Claim shall, within ten (10 days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim, or (3) notify the Architect that the initial Claim stands.

...

§ 15.2.5 ~~The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial~~ If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven (7) days, which decision shall be final and binding on the parties but subject ~~to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.~~to action at law. Upon expiration of such time period, the Architect will render to the parties

...

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~the Architect's written decision relative to the

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...

~~§ 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.~~

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...

~~§ 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.~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Minneapolis Public Schools, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:38:16 ET on 11/28/2018 under Order No. 8259021829 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Indianhead Foodservice Dist., Inc. "Contractor" (collectively "parties") to provide supplies and groceries at D-Ops-Culinary and Nutrition Services.

1 TERM OF CONTRACT

1.1 This Contract is effective on 8/3/2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 6/30/2022., or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $5,500,000. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

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

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

3.3 *Taxes.*

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

that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

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

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

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

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

10 DATA PRIVACY

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

11 USE OF DISTRICT NAME OR LOGO

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

12 INDEPENDENT CONTRACTOR

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

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

13 WORKER HEALTH, SAFETY AND TRAINING

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

14 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

15 INSURANCE

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

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

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

16 INDEMNIFICATION

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

17 LIMITATION ON LIABILTY

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

18 CONFLICT OF INTEREST/CODE OF ETHICS

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

19 COMPLIANCE WITH LAWS AND DEBARMENT

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

20 TERMINATION

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

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

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District

is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

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

22 RECORDS MANAGEMENT AND MAINTENANCE

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

23 NOTICES/ADMINISTRATION

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

Special School District No. 1
Division: D-Ops-Culinary and Nutrition Services
Attn: Josiah Nebo
1250 W Broadway
Minneapolis, MN 55411
Email: Josiah.nebo@mpls.k12.mn.us

CONTRACTOR

NAME: Heather Yanta.
Address: Click or tap here to enter text. 313 Hastings Place Eau Claire, WI 54701
Phone: 612-802-7460
Email: hyanta@CALLIFD.com

ACKNOWLEDGMENT

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

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

24 NON-WAIVER

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

25 ASSIGNMENT

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

JMK

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

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

27 WARRANTY

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

28 SEVERABILITY

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

29 SURVIVABILITY

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

JMIC

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: _____
(Printed)

Title: _____

Date: _____

CONTRACTOR NAME

Signature: Jim Kacvinsky

Name: Jim Kacvinsky
(Printed)

Title: VP Sales & Marketing

Date: 8/2/2021

JMK

EXHIBIT A: SCOPE OF WORK

Deliverables:

Vendor will provide food and supplies for fiscal year 21-22 at a

98% fill rate

Service Outcome:

Vendor will provide food and supplies for fiscal year 21-22 at a

98% fill rate

Method of Evaluation

Customer service satisfaction, timely deliveries of products, and fill rate

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Net 30

[The remainder of this page intentionally left blank.]

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Amendment to the Professional Services Agreement

PROJECT: *(name and address)*
North High School
Special School District No. 1
1500 James Avenue
Minneapolis, MN 55411

AGREEMENT INFORMATION:
Date: January 28, 2021

AMENDMENT INFORMATION:
Amendment Number: 1

Date: July 6, 2021

OWNER: *(name and address)*
Minneapolis Public Schools
SSD 1
1250 West Broadway Avenue
Minneapolis, MN 55411

ARCHITECT: *(name and address)*
LSE Architects, Inc.
100 Portland Avenue, Suite 100
Minneapolis, MN 55401

The Owner and Architect amend the Agreement as follows:
Architectural, Civil, Structural, Mechanical, Electrical and Plumbing engineering and architecture for the renovation and addition to North High School and the North CTE center, Phases 1 through 3. The project will be a multi-phased construction project over several years. The adjustment in fee is for design services based on a construction budget of $59,256,000.

The Architect's compensation and schedule shall be adjusted as follows:

Compensation Adjustment:
Based on the percentage of the construction budget based on the agreement of 6.75% for design fees, the adjustment to the fee is $3,058,270. This fee adjustment includes schematic design through bid phase services.The fee does not include the estimated expenses.

Schedule Adjustment:
The following milestones will adjust the schedule.

Project Phase	Duration	Completion Date
Contract Amendment		8/13/2021
Schematic Design Report	10 weeks	10/22/2021
Best Value Estimate #1	2 weeks	11/5/2021
Design Development	5 weeks	12/10/2021
Cost Estimate #2	2 weeks	12/24/2021
PDR	6 weeks	2/4/2022
Construction Documents	16 weeks	5/27/2022
Bidding Phase	4 weeks	6/24/2022
Construction Contract Approval		8/2022

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User Notes: (3B9ADA57)

SIGNATURES:

LSE Architects, Inc	Minneapolis Public Schools
ARCHITECT *(Firm name)*	**OWNER** *(Firm name)*
SIGNATURE	**SIGNATURE**
Quintin J. Scott, President	
PRINTED NAME AND TITLE	**PRINTED NAME AND TITLE**
07/27/2021	
DATE	**DATE**

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User Notes: (3B9ADA57)

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR SERVICES – $25,000 above

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Learning Disabilities Assocation "Contractor" (collectively "parties") to provide provide Title I instructional services to eligible students at DeLasalle High School and St. John Paul II Catholic School to D-AO-Funded Programs and School Improvement.

TERM OF CONTRACT

1.1 This Contract is effective on 08/10/2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2022, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 ***Total Obligation***

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses shall not exceed $159,275.57. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

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

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

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

3.3 ***Taxes.***

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

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

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

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

4 GENERAL TERMS AND CONDITIONS

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

5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

6 BACKGROUND CHECKS

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

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

7 DATA PRIVACY

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

8 OWNERSHIP OF MATERIAL

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

9 USE OF DISTRICT NAME OR LOGO

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

10 INDEPENDENT CONTRACTOR

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

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

11 WORKER HEALTH, SAFETY AND TRAINING

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

12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

13 INSURANCE

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

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

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

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

14 INDEMNIFICATION

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

15 LIMITATION ON LIABILTY

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

16 CONFLICT OF INTEREST/CODE OF ETHICS

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

17 COMPLIANCE WITH LAWS AND DEBARMENT

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

18 TERMINATION

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

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

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

19 RETURN OF DATA

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

20 RECORDS MANAGEMENT AND MAINTENANCE

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

delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Contract shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

21 NOTICES/ADMINISTRATION

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

Special School District No. 1

Division: D-AO- Funded Programs and School Improvement$
Attn: Eric Moore
Address: 1250 W Broadway, Minneapolis, MN 55411
Email: Eric.Moore@mpls.k12.mn.us

CONTRACTOR

Learning Disabilities Association; Martha Moriarty
Phone: 952-582-6001
Address: 6100 Golden Valley Rd, Minneapolis, MN 55422
Email: mm@ldaminnesota.org

ACKNOWLEDGMENT

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

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

22 NON-WAIVER

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

23 ASSIGNMENT

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

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

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

25 WARRANTY

25.1 Contractor expressly warrants and guarantees that the services performed under this Contract will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any and as applicable) provided under this Contract: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of District as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written document provided to or in the possession of District; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties are breached, Contractor agrees to correct all

defects and nonconformities at Contractor's sole expense, to be liable for all direct damages suffered District and any other persons, and to defend, indemnify, and hold harmless District and its Board, officers, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by District.

26 SEVERABILITY

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

27 SURVIVABILITY

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

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name:

(Printed)

Title:

Date: _____

CONTRACTOR NAME

Signature: 

Name: Martha Moriarty
(Printed)

Title: Executive Director

Date: August 2, 2021

Exhibit A:

Deliverables:

To provide Title I instructional services to Title eligible students in the nonpublic schools for the purpose of accelerating reading, math, and English language proficiency for participating students. Services are provided to Title I eligible students attending DeLasalle High School and St. John Paul II Nonpublic schools in grades K-12 and designed to help students achieve grade level proficiency, based on standardized assessments, in the areas of reading, math, and English proficiency.

Service Outcome:

A. Community Partner. PROVIDER shall apply and become certified as a Minneapolis Public Schools Community Partner prior to providing any services under this contract and provide evidence of certification.

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

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

D. Family Communication. PROVIDER shall ensure families are notified regarding their child's eligibility for service and provided information regarding their child's progress including, but not limited to the following:

1. PROVIDER shall notify families of their child's Title I eligibility in the form of a MPS Title I Parent Notification Letter by October 20th, 2021.

2. Families of students who are identified as eligible for and provided Title I services after October 20th, 2021 will be notified via letter by PROVIDER no more than two weeks after PROVIDER has received notice of the student's Title I eligibility.

3. PROVIDER will hold an annual MPS Title I Parent/Family Information Meeting with parents of Title I students by October 20th, 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Beginning September 2021, PROVIDER shall submit its invoices by the 15th of each month following services to DISTRICT in the previous month as described in Exhibit A of this contract, including daily attendance records.

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

Method of Evaluation:

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

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

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

Fees:

DISTRICT and PROVIDER have agreed that the PROVIDER's rate for a 1.0 full time equivalent (FTE) for Title I instructional services and Title IV services is $89,280 which equals an hourly rate of $62.00. It is understood that a 1.0 FTE is equal to 40 hours per week for 36 weeks which includes but is not limited to instructional services, instructional preparation, consultation and coordination of Title services, and tutor professional development.

A. Administrative Costs: In all cases described in Exhibit A, the DISTRICT shall pay PROVIDER administrative costs in an amount not exceeding 10% of the total for Title I instructional services.

B. Family Involvement Costs. DISTRICT shall pay PROVIDER $150.00 per hour for services related to family involvement and family involvement activities. The provision of services related to family involvement is subject to the expectations set forth in Exhibit A.

C. Invoices. PROVIDER shall submit an invoice on its organizational letterhead for each month of service. From October 15, 2021 to June 15, 2022 PROVIDER shall submit invoices by the 15th of the month following the previous month of service for which it is billing DISTRICT based on the hourly rates listed above and listed in Exhibit B. Invoices must delineate services provided and fees billed for instructional services, family involvement services, professional development services, and administration services for each nonpublic school. PROVIDER shall submit its final invoice for fiscal year 2021-22 so that it is received by DISTRICT no later than July 9, 2022. PROVIDER understands that DISTRICT will make no payment on any invoice for the 2021-22 fiscal year if it receives after invoices July 10, 2022. DISTRICT reserves the right to request additional information from PROVIDER.

Invoices and related attached attendance sheets must include the following information:

1. Names of the school(s) where the service was provided;
2. Name of student(s) served;
3. Date(s) of service;
4. A detailed summary of the services provided;
5. Number of students served per week;
6. Number of minutes of service per student per session;
7. Subject area of service provided to student (e.g., math, reading, etc.);
8. Monthly expenses per school category (Instructional Services, Professional Development, and/or Administration);
9. Total expenditures for each school for the year.

D. Payment. DISTRICT shall pay PROVIDER within thirty (30) days of receipt of each complete invoice submitted in compliance with this Contract. DISTRICT does not pay in advance for services.

E. Allowable Costs: For the purposes of this Contract, costs are defined by the DISTRICT as:
1. Instructional: PROVIDER costs for teacher and instructional aide salaries, including fringe benefits; instructional materials, including items such as books, computers and software for student use, workbooks, and supplies.
2. Administrative: PROVIDER costs incurred to administer the program, including but not limited to: salaries and fringe benefits of the Director, computer assistants, area supervisors, and support staff; office rent and utilities; office equipment and supplies; postage and mailings; telephone; travel; special capital expenses; professional development for Title I teachers and supervisors who are employees of the PROVIDER; and the PROVIDER'S fee.
3. Professional Development: PROVIDER costs incurred to provide professional development activities to the private school teachers of active students.

F. Site and Service Limits. The sites to be serviced by PROVIDER are listed in Exhibit B and incorporated herein. DISTRICT shall not pay an amount greater than what is listed in Exhibit B per school and shall not pay an amount greater than what is delineated by each particular budget line for services at each listed school.

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EXHIBIT B: PAYMENT TERMS

Site and Service Limits(LDA 2021-2022)						
School	Services to be Provided	Number of Title I Instructional Hours	Title I	Estimated # of Family Inv. Hours	Title I Family Involvement	Total
De La Salle	Academic Services	1,096.77	$ 68,000.00	5	$ 750.00	$ 68,750.00
SJPII	Academic Services	1,472.19	$ 91,275.57	7.34	$ 1,101.00	$ 92,376.57
REA	10% Admin		$ 15,927.56			$ 15,927.56
Total			**$ 175,203.13**	**12.34**	**$ 1,851.00**	**$ 177,054.13**
	Hourly Rate	$ 62.00		Fam Inv. Rate	$ 150.00	

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AGENCY PREPAID TRANSIT FARE AGREEMENT

This Agreement is made by and between the **Metropolitan Council,** a public corporation and political subdivision of the State of Minnesota ("the Council"), through its Metro Transit division, and MINNEAPOLIS PUBLIC SCHOOLS _ ("the Agency").

RECITALS:

1. The Council is authorized in accordance with Minnesota Statutes, section 473.405, to operate public transit systems in the metropolitan area, as defined by Minnesota Statutes, section 473.121, subdivision 2. Minnesota Statutes, sections 473.387 and 473.408 authorize the Council to design and administer special transportation programs and establish special fare programs.

2. The Agency is an eligible participant as defined by the Program Requirements and wishes to participate in the following program:

   ☐ **Eligible Charitable Organization (ECO)**

   x **Fares Program**

   ☐ **Job Seeker Program**

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

1. **Program Requirements.** The Agency agrees to abide by the Program Requirements for the program in which it participates, as described in the Attachment to this Agreement. The Council reserves the right, in its sole discretion, to modify the Program Requirements, including eligibility requirements, upon reasonable notice to the Agency.

2. **Purchase and Delivery.** The Agency will purchase prepaid transit fares ("Transit Fares") according to the Program Requirements. If the number of Transit Fares purchased from the Council differs from the actual number of Transit Fares delivered to the Agency, the Agency shall notify the Council's Metro Transit Supervisor of Sales Operations in writing of the discrepancy. The Agency must provide notice within 3 business days of delivery. Failure to provide timely notice constitutes a waiver of any claims based on any discrepancies.

3. **Payment.** The Agency must pay for all Transit Fares within 30 days of the date of invoice whether or not the Agency has sold or distributed the Transit Fares. The Council reserves the right to reduce or withhold quantities ordered if the Agency has an outstanding invoice for Transit Fares that is more than 40 days old.

4. **Loss or Theft of Fare Media.** After delivery to the Agency, the Council is not liable for any lost or stolen Transit Fares.

5. **Term.** This Agreement is effective upon execution by the Parties' authorized representatives. Either Party may terminate this Agreement at any time, for any reason, upon 30 days' written notice to the other Party. This Agreement will terminate immediately if the Agency is no longer eligible to participate in the program according to the Program Requirements. Upon termination, the Agency will pay for all undisputed, outstanding invoices within 30 days after the effective date of termination, or within 30 days after the date of receipt of an undisputed invoice, whichever is later.

6. **Record Keeping.** The Agency shall maintain accurate and complete records and accounts of the sale and distribution of all Transit Fares. Pursuant to Minnesota Statutes section 16C.05 the records, accounts, and accounting practices of the Agency that are relevant to this Agreement are subject to examination by the Council or the State Auditor for a minimum of six years.

7. **Assignment Prohibited.** The Agency may not assign this Agreement, or any Transit Fares obtained pursuant to this Agreement, to a new owner without prior written approval from the Council. The Agency must notify the Council in writing at least 30 days prior to an ownership change. This Agreement will terminate automatically if Agency ownership changes, unless the Council has approved the assignment of this Agreement and any related Transit Fares in writing.

8. **Legal Compliance.** The Agency must comply with all applicable federal, state, and local laws. This Agreement shall be governed by and construed according to the laws of the State of Minnesota, without reference to its conflict of law provisions.

9. **No Employment Relationship.** Nothing in this Agreement shall be construed to create an employment relationship between the Parties and their respective officers, employees, and agents.

10. **Complete Agreement.** This Agreement constitutes the complete and final agreement between the Parties and supersedes all oral agreements and negotiations between the Parties relating to the subject matter of this Agreement. Any modification to this Agreement must be made in a writing signed by the Parties' authorized representatives. One or more waivers by one Party of any provision, term, condition, or covenant shall not be construed by the other Party as a waiver of a subsequent breach of the same by the other Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives. This Agreement is effective on the date the Council's authorized representative signs this Agreement.

METROPOLITAN COUNCIL

Nicholas Eull
Nicholas Eull
Sr. Finance Manager, Metro Transit

Date: 6/28/2021

AGENCY

_____

By: _____

Its: _____

Date: _____

Contact Person: Dawn Schnickel
Address:
MPS Transportation Department
1001 2nd Ave. N, MPLS MN 55405
Telephone: 612-668-2330

Email: dawn.schnickel@mpls.k12.mn.us

ATTACHMENT

PROGRAM REQUIREMENTS

Fares Program

The Fares Program is designed for organizations that purchase Transit Fares in bulk on credit. The Transit Fares may then be provided at or below cost to Agency participants, such as employees or clients, at the Agency's discretion.

Program Rate: Cash Value Price

Eligible Individuals: Agency participants, defined as: _____

_____

_____

Requirements:

1. The Agency may only resell Transit Fares on the Go-To Card to Agency participants.
2. The Agency may only add Mobility or Reduced Fares to the Go-To Card when Agency participants provide proper identification.
3. The Agency may not resell the Transit Fares for more than the cash value price of the fares purchased from the Council.

Jobseeker Program

The Council is authorized under Minnesota Statutes section 473.387, subdivision 3 to establish a program to increase the availability and utility of public transit services and reduce transportation costs for persons who are seeking employment and who lack private means of transportation. An Agency is eligible for the Jobseeker program if it is a private, non-profit, tax-exempt, or public organization that provides public employment assistance services to eligible individuals. The Agency may purchase Transit Fares from the Council at 50% of the cash value price.

Program Rate: 50% Discount from Cash Value Price

Eligible Individuals: individuals who are actively seeking employment and who lack private means of transportation.

Requirements:

1. The Agency must be a private, nonprofit, or public organization providing employment assistance services to individuals seeking employment.
2. The Agency must provide the Council with an IRS Form 990 or a copy of the Agency's bylaws setting forth a statement of its employment services to individuals seeking employment.
3. The Agency must notify the Council immediately if there is a change in its service purpose during the term of this Agreement, or within 30 days if there is a change in its organizational structure or tax-exempt status.
4. If the Agency resells the Council-provided Transit Fares to eligible individuals, the Agency cannot resell the Transit Fares at a cost higher than the discounted price paid by the Agency. The Agency may only resell or distribute the Transit Fares to eligible individuals receiving the Agency's employment assistance services and may not resell or distribute the Transit Fares to anyone else, regardless of whether the other individual is a recipient of other Agency services.

Eligible Charitable Organization Program

The Council is authorized under Minnesota Statutes section 473.408, subdivision 8 to provide Transit Fares at a special discount to charitable organizations. In 2009, the Council initiated a pilot program to increase the availability of public transit services for persons who are a "Homeless Individual" by selling discounted Transit Fares to charitable organizations. A "Homeless Individual" means:

(1) an individual who lacks a fixed, regular, and adequate nighttime residence; and

(2) an individual who has a primary nighttime residence that is:

(i) a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations;

(ii) an institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(See Minnesota Statutes, section 116L.361, subdivision 5). A Homeless Individual does not include any individual imprisoned or otherwise detained under federal or state law. Participating Agencies may purchase select Transit Fares from the Council at 50% of the cash value price.

Program Rate: 50% Discount on Tokens and other Transit Fares

Eligible Individuals: Only Homeless Individuals as defined above

Requirements:

1. The Agency must be a charitable organization as described in section 501(c)(3) of the Internal Revenue Code. The Agency must notify the Council immediately if there is a change in its

service purpose during the term of this Agreement, or within 30 days if there is a change in its organizational structure or tax-exempt status.

2. The Agency must distribute discounted tokens only to Homeless Individuals at no cost.
3. The Agency must notify the Council immediately if there is a change in its legal status or service purpose during the term of this Agreement, or within 30 days if there is a change in its organizational structure or tax-exempt status.

MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR SERVICES – under $25,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Minneapolis Youth Coordinating Board, a corporation under the laws of the State "Contractor" (collectively "parties") to provide trained youth outreach workers working 5.5 hours per day (@23 per hour) five days a week for 171 days plus a Project Manager to enhance our schoolwide engagement plans and extend them to the trip home.

TERM OF CONTRACT

1.1. This Contract is effective on 9/1/2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 6/30/2022, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2. SCOPE OF WORK

Contractor shall perform all of the services set forth herein. Contractor understands that time is of the essence in this Contract and agrees to meet all milestones indicated in this section, in the Contract herein and any exhibits attached hereto.

2.1. Deliverables:

Trained youth outreach workers from the MYCB will operate inside Patrick Henry School in order to enhance our position school-wide engagement plans and extend them to the trip home. Teams will be made up of four or less youth workers. The team will be in the building over lunch hour and then be with the students as they leave and in the immediate surrounding community (generally 11 am to 4 pm depending on the school time plus 30 minute youth worker debrief at the end of each shift.) The teams will not be MPS employees so therefore they will not be used as student supervisors or expected to act as security for the schools.

2.2 Service Outcome:

Increased student engagement by increased quantity and quality of interactions. Decreased referrals/suspensions for issues in the non-classroom areas during the team's shifts. Measured across comparable time periods at the conclusion of the school year.

2.3 Method of Evaluation:

Number of general engagements- September 2021 and June 2022. Number of interventions in potentially volatile situations- September 2021 and June 2022. Discovery reports on referrals/ suspensions- September 2021 and June 2022. Reflections on daily activity- bi weekly summaries

3. CONSIDERATION AND TERMS OF PAYMENT

3.1. The consideration for all services (and goods if any) performed or supplied by Contractor under this Contract shall be paid by District as follows. District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed $114,707.00 Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2. Payment shall be made by District within thirty (30) days upon Contractor's presentation of an invoice for goods delivered or services rendered pursuant to this Contract. The Contractor's standard invoice shall be submitted after satisfactory completion of services on a monthly basis. District has no obligation to pay for services that are not satisfactorily performed or performed in violation of federal, state or local law, ordinance, rule or regulation. If either party does not dispute an invoice in writing within 180 days of receipt of the invoice, no action challenging the invoice may be taken.

4. AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

5. BACKGROUND CHECKS

5.1. Contractor shall screen Contractor and all paid and volunteer employees and agents, including interviews, reference checks, credit history (if handling district funds), driving history and insurance coverage (if transporting district staff, students or families). And, Contractor shall conduct criminal background checks in accordance with state and federal law and District policy for Contractor and all paid and volunteer employees and agents who will have direct contact with children under this Contract. Background checks will be done prior to any contact with children, and shall be done in accordance with applicable state and federal laws.

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

6. DATA PRIVACY

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

7. OWNERSHIP OF MATERIAL

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

8. INDEPENDENT CONTRACTOR

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

8.2. District does not have the right to control the procedures for accomplishing the contracted services. The Contractor is to set his/her/its own schedule, determine own methods, furnish own tools, take care of own expenses, provide own office space among other matters.

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

9. WORKER HEALTH, SAFETY AND TRAINING

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

Contractor shall develop and implement an emergency plan and procedures to follow in emergencies.

10. INSURANCE

10.1. Contractor maintains a program of self-insurance authorized by Minnesota Statute Section 471.981 or maintains an insurance program with the coverages required below.

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

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

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

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

11. INDEMNIFICATION

11.1. Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of District. Contractor shall not settle or compromise any claim in which the District has been

named a party and for which Contractor must indemnify the District without a signed agreement approved by the District

12. TERMINATION

12.1. The District and/or Contractor may terminate this Contract at any time without cause, upon thirty (30) days written notice to the other Party. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by District in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after receipt of notice of termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided. District may terminate this Contract in whole or in part for *Cause* upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract.

12.2. Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined.

13. RECORDS MANAGEMENT AND MAINTENANCE

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

14. AUTHORIZED REPRESENTATIVE

The District's Authorized Representative is Shawn Harris-Berry, or his/her successor, whose contact information is (612) 668-0000, 1250 W Broadway Minneapolis Minnesota 55411, and who has the responsibility to monitor the Contractor's performance and the authority to accept notices and services provided under this Contract.

The Contractor's Authorized Representative is Primary Contact:Ann DeGroot: Primary Contact Phone Number: 612.673.2060- Primary Contact Email: Ann.DeGroot@minneapolismn.gov -

Organization Address: 330 2nd Avenue S, #540 who has the responsibility to ensure satisfactory services are provided and the authority to accept notices. If the Authorized Representative changes at any time, the Contractor must immediately notify the District.

15. ASSIGNMENT

15.1. Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract.

16. CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

16.1. This Contract shall be construed under Minnesota law. Any action arising out of this Contract shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Contract constitutes the entire Contract and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. Any amendments to this Contract shall be in writing and executed by same parties who executed the original Contract, or their successors in office.

17. COMPLIANCE WITH LAWS AND DEBARMENT

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

[The remainder of this page has been intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: Shawn Harris-Berry

(Printed)

Title: Associate Suptd.

Date: _____

CONTRACTOR NAME

Signature: Ann Marie DeGroot

Name: Ann DeGroot
(Printed)

Title: Director

Date: 8-9-21

EXHIBIT B: PAYMENT TERMS

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MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Pan-o-Gold Baking Company. "Contractor" (collectively "parties") to provide fresh baked bread at D-Ops-Culinary and Nutrition Services.

1 TERM OF CONTRACT

1.1 This Contract is effective on 8/3/2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 6/30/2022, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $200,000. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

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

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

3.3 *Taxes.*

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

that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

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

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

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

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

10 DATA PRIVACY

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

11 USE OF DISTRICT NAME OR LOGO

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

12 INDEPENDENT CONTRACTOR

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

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

13 WORKER HEALTH, SAFETY AND TRAINING

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

14 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

15 INSURANCE

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

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

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

16 INDEMNIFICATION

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

17 LIMITATION ON LIABILTY

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

18 CONFLICT OF INTEREST/CODE OF ETHICS

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

19 COMPLIANCE WITH LAWS AND DEBARMENT

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

20 TERMINATION

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

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

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District

is determined. The rights or remedies provided here shall not limit the District, in case of any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

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

22 RECORDS MANAGEMENT AND MAINTENANCE

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

23 NOTICES/ADMINISTRATION

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

Special School District No. 1
Division: D-Ops-Culinary and Nutrition Services.
Attn: Josiah Nebo.
1250 W Broadway
Minneapolis, MN 55411
Email: Josiah.nebo@mpls.k12.mn.us

CONTRACTOR

NAME: Mark Ubl.
Address: 444 E Germain st. St Cloud, MN 56302
Phone: 320-252-0249.
Email: Mubl@panogold.Com

ACKNOWLEDGMENT

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

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

24 NON-WAIVER

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

25 ASSIGNMENT

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

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

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

27 WARRANTY

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

28 SEVERABILITY

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

29 SURVIVABILITY

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

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name: _____
(Printed)

Title: _____.

Date: _____

CONTRACTOR NAME

Signature: Mark Ubl

Name: Mark Ubl
(Printed)

Title: VP of Sales

Date: 7-30-21

EXHIBIT A: SCOPE OF WORK

Deliverables:

Fresh baked breads

Service Outcome:

Fresh baked bread delivered

Method of Evaluation

Fresh baked bread delivered to the Nutrition center and School sites kitchen in a timely manner.

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MINNEAPOLIS PUBLIC SCHOOLS
Urban Education. Global Citizens.

COMMUNITY PARTNER CONTRACT FOR SERVICES ($25,000+)

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Project Success, "Contractor" (collectively "parties").

1. TERM OF CONTRACT

1.1. This Contract is effective on August 15, 2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until July 30, 2022 or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2. SCOPE OF WORK

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

3. CONSIDERATION AND TERMS OF PAYMENT

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

3.1. Total Obligation.

3.2.

District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed $225,000.00. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.3. Frequency of Invoicing and Terms of Payment.

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

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

3.4. Taxes.

District is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70. Contractor shall not charge District for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Contract; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70]. Contractor shall promptly reimburse District for any and all such sales and use taxes

paid by District to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

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

3.5. Fund Availability; Federal Funds Contingency.

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

4. GENERAL TERMS AND CONDITIONS

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

5. AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Contract, Contractor certifies that it complies with all applicable federal and state laws as well as District policies related to non-discrimination, equal employment opportunity, and affirmative action.

6. BACKGROUND CHECKS

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

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

7. DATA PRIVACY

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

8. STUDENT DATA

8.1. Contractors who require access to student data agree to the following:

8.1.1. Contractors agree to attend District provided training on data privacy at least one time per year and follow District processes to obtain data.

8.1.2. Contractors will obtain a District release of information on each individual student, and access information solely through the District's Community Partner Portal. Releases of information are accepted on an ongoing basis.

8.1.3. Contractors needing basic, de-identified and aggregate student data, as defined by the District, must contact Partnership Evaluation (partnership.evaluation@mpls.k12.mn.us). Basic reports are subject to a fee.

8.1.4. Contractors needing data for research or evaluation must contact the District's Research, Evaluation and Assessment (http://rea.mpls.k12.mn.us) and follow the applicable processes. Requests are also subject to a fee.

8.1.5. Contractors applying for grants that need District student data for reporting purposes are required to contact Resource Development and Innovation (http://rdi.mpls.k12.mn.us) for a letter of support and approval.

8.2. If Contractor has been hired to do work as an agent for the District, Contractor agrees that when it receives data it shall do the following:

8.2.1. Ensure that all student/family information will be treated as confidential information. Such information will not be discussed, shared or released unless needed to perform the task for which Contractor was selected;

8.2.2. Ensure that no copies of data are made. If copies are made, all copies must be shredded or returned to the District;

8.2.3. Establish policies and procedures to protect the confidentiality of the data;

8.2.4. Securely destroy all data at the end of the Contract or within one year if the data is needed;

8.2.5. Inform the District, in writing, about any data breach that occurs (letter must include specific information about what happened, when, and proposed method for resolving the issue);

8.2.6. Allow the district to review and approve any reported results, prior to public distribution.

9. USE OF DISTRICT SPACE

9.1. Contractor agrees that if it will be using District space it will obtain a lease, license or permit. If such lease, license or permit is terminated or revoked, the District shall also have the right, at its discretion, to terminate this contract without regard to notices required herein.

10. USE OF DISTRICT NAME OR LOGO

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

11. MALTREATMENT OF MINORS REPORTING ACT

11.1. Contractor shall comply with all of the provisions of the Maltreatment of Minors Reporting Act, Minn. Stat. § 626.556.

12. PROFESSIONAL STANDARDS OF BEHAVIOR

12.1. Contractor shall maintain professional standards of behavior under the leadership and guidance of the building principal or site administrator.

13. OWNERSHIP OF MATERIAL

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

14. INDEPENDENT CONTRACTOR

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

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

or defending against any responsibility therefore which is asserted against District to the extent permitted by law.

15. WORKER HEALTH, SAFETY AND TRAINING

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

16. BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

17. INSURANCE

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

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

17.3. Contractor or its members shall also maintain property insurance coverage for the facility in which the program is located if it is not in a district building. Contractor and

its members shall obtain and maintain insurance covering claims for the loss of or damage to its personal property that may be caused by students attending its programs.

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

18. INDEMNIFICATION

18.1. Contractor agrees to release, defend, indemnify, and hold harmless District, its board, officers, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties. This shall not apply injuries, claims, damages, or loss caused by the intentional, willful, or wanton acts of District.

19. LIMITATION ON LIABILTY

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

20. CONFLICT OF INTEREST/CODE OF ETHICS

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

21. COMPLIANCE WITH LAWS AND DEBARMENT

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

the event of such termination or suspension and Contractor shall be responsible for any costs incurred by District in connection therewith.

22. TERMINATION

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

22.2. District may terminate this Contract in whole or in part for Cause upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Contract, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Contract. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Contract shall, without limitation, be causes allowing District to terminate for cause. In this event, District will not be liable for any amounts; but Contractor shall be liable to District for all losses, damages, and expenses. including, without limitation, the excess cost of recouping similar goods or services; shipping charges for any items District may at its option return to Contractor, including items already delivered, but for which District no longer has any use because of Contractor's default; and amounts paid by District for any items District has received but returns to Contractor. If a determination is made that District improperly terminated this Contract for Cause, then such termination shall be deemed to have been for without cause.

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

23. RETURN OF DATA

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

24. RECORDS MANAGEMENT AND MAINTENANCE

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

25. NOTICES/ADMINISTRATION

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

Special School District No. 1

Name of the District Signer: Aimee Fearing

Title: Senior Academic Officer

Email: aimee.fearing@mpls.k12.mn.us

Partner

Name: Adrienne Diercks

Email: adrienned@projectsuccess.org

Address: 1 Groveland Terr Ste 300 Minneapolis MN 55403

26. ACKNOWLEDGMENT

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

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

27. NON-WAIVER

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

28. ASSIGNMENT

28.1. Contractor may not assign any obligations of this Contract without the prior written consent of District. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Contract. This Contract shall be

binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Contract shall be void. Notwithstanding any notice of assignment, District's tender of payment to Contractor named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

29. CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

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

30. WARRANTY

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

31. SEVERABILITY

31.1. If any provision of this Contract shall be invalid or unenforceable with respect to any party, the remainder of the Contract, or the application of such provision to persons

other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Contract shall be valid and be enforceable to the fullest extent permitted by law.

32. SURVIVABILITY

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

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

By: _____

Name:

Title:

Date:

PARTNER

By: _____

Name: Adrienne Diercks

Title: Executive Director

Email: adrienned@projectsuccess.org

Phone: 612-868-8510

Date: August 3, 2021

EXHIBIT A: PROGRAMMING PROVIDED

Description of Program and Delivery

Project Success

Project Success motivates and inspires each student in every school we serve to dream about their futures, help them create a plan to get there, and give them the tools and support they need to achieve their goals. Over the course of seven years — beginning in grade 6 and continuing through grade 12 — we engage students in-class through a facilitated curriculum and through local-to-global expeditions, arts programming, and skills-based certificates.

The four components of Project Success programming include:

- **Curriculum**: Our curriculum is delivered by professional facilitators through our monthly in-class workshops and throughout all of the rest of our programming. Our proven methodology helps students dream, ignite and grow.
- **Arts**: We utilize the power of theater and the arts to inspire, build community, act as a springboard for discussion and encourage students to tell their own stories. Arts include musicals and theater performances with Project Success.
- **Expeditions**: Local and global expeditions allow students to see a part of the world they have never seen before, or see something familiar in a new way, building confidence and opening new doors for their futures. Expeditions include college and career exploration, outdoor adventures, and global experiences.
- **Institute**: Certificates in computer coding, financial literacy, performing arts, and cooking on evenings and weekends through the Project Success Institute ignite possibilities for students and prepare them for life after high school.

Project Success complements the work of teachers and counselors by enriching the core curriculum and creating long-term relationships with students over seven years. Working in tandem with schools whom Project Success has deep and long-term relationships, Project Success will ensure that programs and activities address the unique needs of each student.

The targeted curriculum will promote growth for students in both academic and non-academic areas. Programming will connect students to their classmates and to peers at other schools and encourage student engagement in their schoolwork, future planning, and community. All program components are designed and proven to help students gain confidence and resilience in creative thinking, decision making, goal setting, and resourcefulness while developing the skills and generating the support to plan their futures.

Project Success helps 6^{th}-12^{th} grade students across Minneapolis to:

- **DREAM:** Develop the integrated identity needed to discover their motivations, engage their
- imaginations, and envision future possibilities in school, work and life.
- **PLAN:** Develop the agency needed to identify and access support that will help them focus on their futures and practice strategies that will promote their future planning.
- **ACT:** Develop the competencies needed to take action towards their future goals and apply values, successes and failures to their future decisions.

Project Success values equity, diversity, inclusion, and accessibility and strives to ensure all staff have the proper training to deliver on those promises in our programming. All Project Success staff and board members have participated in the Culturally Responsive Leadership Institute to further develop

understanding and tools for humanizing students and creating culturally responsive school communities and programming. The Workshops Team, including all Project Success facilitators, engage in ongoing monthly culturally responsive teaching training led by Laura Garcia, Director of Schools and Curriculum, to develop socially just, inclusive classroom practices. The Program Operations team engages in consistent, ongoing training around inclusion, equity, and accessibility in planning and executing all program events.

Project Success will break down barriers to access for students through providing access to technology and transportation for programs, individualized curriculum tailored to each student mindful of their abilities and experiences. Activities will be hosted in-person, along with hybrid offerings, based on safety guidance from the CDC and MN Department of Health.

Minneapolis High School Partners:
Edison High School
FAIR
Longfellow Alternative High School
MPS Online
North High Academies
Patrick Henry High School
Roosevelt High School
South High School
Southwest High School
Washburn High School
Wellstone International High School

Minneapolis Middle School Partners:
Andersen United Community School
Anne Sullivan Communication Center
Anthony Middle School
Anwatin Middle School
Franklin Middle School
Jefferson Middle School
Justice Page Middle School
MPS Online
Northeast Middle School
Olson Middle School
Sanford Middle School

Deliverables:

Project Success will offer a variety of experiences outside of classroom time for all of the Minneapolis public school students in each of the partner schools. Project Success experiential learning opportunities outside of class build on the foundation of our monthly workshops and the trusting relationships students develop with Project Success. Each experience incorporates a curriculum that encourages students to apply what they have learned, reflect on themselves and the world around them, and build and refine their skills and future plans. All 6th-12th grade students district-wide participate in programming, providing for increased interaction between students of different backgrounds.
Project Success is here for students and families and continuing to offer programming within the following categories:

- Monthly In-Classroom Workshops

- College and Career Tours and Exploration
- Project Success Institute Certificates
- Global Experiences
- Musicals
- Outdoor Adventures
- Theater Experiences

Project Success College and Career Tours and Exploration

College Tours: Project Success will be offering a variety of in-person college tours, including four year colleges two year colleges, HBCUs, tribal colleges, technical schools and more. College tours are free, offered during non-school time, and open to all 9th-12th grade students. These tours will be held over MEA and other non-school days in the Minnesota and Wisconsin areas. Project Success will offer a Chicago college tour in Spring 2021 for 100+ high school seniors to spend spring break touring colleges and learning about their postsecondary education options. Tour are equally fun and informative and packed with admissions presentations, campus tours, multicultural presentations, student panels, Project Success workshops, food, and more.

Admission Session Student Panels: Project Success will host a variety of virtual admission sessions on the website for students to access at any time. These include four year colleges, two year colleges, HBCUs, tribal colleges, technical schools, and more. Virtual sessions are free and available to all students. They provide an opportunity for students to connect with admissions representatives and current college students, primarily Minneapolis public school alumni, to learn more about what the college can do for them!

Admission Session Student Panels are being offered with Florida Agricultural and Mechanical University (HBCU), Morehouse College (HBCU), Spelman College (HBCU), Columbia College Chicago, DePaul University, Loyola University Chicago, Northwestern University, Roosevelt University, University of Illinois at Chicago, Augsburg University, Carleton College, Concordia College, Fond du Lac Tribal and Community College, Hamline University, Hennepin Technical College, Minneapolis College of Art and Design, Minneapolis Community and Technical College, Minnesota State University Mankato, North Hennepin Community College, Rochester Institute of Technology: National Technical Institute for the Deaf, Summit Academy OIC, St. Catherine's University, University of Minnesota – Morris, University of Minnesota – Twin Cities, University of St. Thomas, Alcorn State University (HBCU), Fisk University (HBCU), Howard University (HBCU), The College of Menominee Nation, University of Wisconsin – Eau Claire, University of Wisconsin – River Falls, and more.

Multi-college student panels: Project Success will host a variety of multi-college student panels on the website for students to access at any time. Virtual sessions are free and open to all students. They provide an opportunity for students to connect with former MPS high school students as they share their stories, experiences, and insights from their college! This is an opportunity for students to ask questions and compare and contrast up to 5 different colleges in one session.

Podcast: College Conversations: How do students decide which college or post-secondary option is best for them? Project Success facilitator Kyle interviews MPS students and experts on important post-secondary related topics, all to help inform the decision-making process. 16 episodes are already available on the website with 5 episodes planned to be recorded in Fall 2020.

Episode 1: Decision Making

Episode 2: First-Generation Scholars
Episode 3: Self-Advocacy
Episode 4: Community & Campus Support
Episode 5: Financial Aid
Episode 6: Which Type of College is Right for me?
Episode 7: STEM College & Career Exploration
Episode 8: Business Degrees; Myths & Advice
Episode 9: Being a College Athlete
Episode 10: Pathways After High School (Part 1/3)
Episode 11: Pathways After High School (Part 2/3)
Episode 12: Pathways After High school (Part 3/3)
Episode 13: Why Choose an HBCU?
Episode 14: Undocumented Students and College; Myths & Advice
Episode 15: What is Summer Melt and how do you keep cool?
Episode 16: Connecting to your purpose
Episode 17: Coming Fall 2020
Episode 18: Coming Fall 2020
Episode 19: Coming Fall 2020
Episode 20: Coming Fall 2020
Episode 21: Coming Fall 2020

Career Tours: Project Success will host multiple dynamic field trips for middle school students to explore unique career fields and pathways. These field trips will include site tours of local corporations and job sites to give middle school students access to learn about jobs available to them, motivate them to complete their K12 education, and inspire them to plan for after graduation.

Project Success Institute Certificate Programs

The Project Success Institute provides young people with experiences that stretch, deepen, and hone their aspirations. Project Success offers workshops and certificates in performing arts, financial literacy, wellness, and computer coding so that students have a broader sense of the occupations and lifestyles available to them, both in the future and in their lives today. Opportunities for Minneapolis Public School students in grades 9-12 take place during evenings and weekends. All levels of experience are welcome.

There are three trimesters offered in the Institute with four certificates on evening and weekends for a duration of 10 weeks. On average, 30-40 students participate in each evening's certificate program, representing all of the MPS high schools. During fall and winter trimesters for the Institute, all Institute courses will take place virtually with engaging, interactive components for the full class each night along with one-on-one coaching. There are also hybrid components included, such as delivery of groceries to student homes for students to participate in the cooking certificate.

Fall 2020 Institute Schedule – 10 Weeks

- Mondays: BIKE REPAIR
    - Students will learn about bike repair and cycling via a special project led by a Project Success and Minneapolis public schools alum.
- Tuesdays: FINANCIAL LITERACY
    - Students learn how to manage a personal budget and take a critical look at how financial institutions affect our lives so they can reach their goals.
- Wednesdays: COOKING

- Students build home cooking skills by exploring moist and dry heat, seasoning, and exploring the roots of cooking styles across the world.
- Thursdays: CODING
  - Students build fundamental coding skills by working with professional programmers to learn the basics of computer coding.

Winter 2021 Institute Schedule – 10 Wees

- Mondays: ARTS CERTIFICATE
- Tuesdays: FINANCIAL LITERACY
  - Students learn how to manage a personal budget and take a critical look at how financial institutions affect our lives so they can reach their goals.
- Wednesdays: COOKING
  - Students build home cooking skills by exploring moist and dry heat, seasoning, and exploring the roots of cooking styles across the world.
- Thursdays: CODING
  - Students build fundamental coding skills by working with professional programmers to learn the basics of computer coding.

Spring 2021 Institute Schedule – 10 Weeks

- Mondays: ARTS CERTIFICATE
- Tuesdays: FINANCIAL LITERACY
  - Students learn how to manage a personal budget and take a critical look at how financial institutions affect our lives so they can reach their goals.
- Wednesdays: COOKING
  - Students build home cooking skills by exploring moist and dry heat, seasoning, and exploring the roots of cooking styles across the world.
- Thursdays: CODING
  - Students build fundamental coding skills by working with professional programmers to learn the basics of computer coding.

Outdoor Adventures

Outdoor Adventure Days (Including River Adventure Days and Paddle Adventure Days): Project Success will host adventure days in the outdoors during the school day for middle school students. Students engage in interactive activities together helping them to grow their love and understanding of nature and the outdoors. To host Project Success Outdoor Adventure Days, Project Success partners with organizations including Wilderness Inquiry, Friends of the BWCA, and The Loppet Foundation. These subcontractors provide guides and equipment for these experiences and we have been partners with them for many years, some up to 20 years. Project Success utilizes our relationships with the schools, students, and families to do the coordination, planning, and execution for the outdoor adventure days. Project Success builds the entire experience with social-emotional learning based curriculum integrated into each activity and part of the day, leaning on our deep and lasting relationships with students and families. These days integrate feedback from the schools, students, and families to create a tailored experience for the students participating to ensure it is impactful and focused on helping students learn about who they are and what they want for their futures.

Winter-Adventure Days: These days are hosting on weekends to allow for students to participate with their families. Families have the opportunity to come together in local Minneapolis parks for days of

sledding, snowshoeing, roasting s'mores, and more as they learn about exploring the great outdoors in the winter months.

Boundary Water Canoe Area Trips: Since 1999, Project Success has brought middle school students on a 7-day adventure in the Boundary Waters Canoe Area Wilderness each summer. In the BWCA, students build strength of mind and body, gain appreciation for nature, work together as a community and inspire each other. These skills and character assets are critical for academic and life success and helps schools build connectedness, an important factor for positive academic and social and emotional outcomes. Project Success is planning for trips to the Boundary Waters including up to 150 middle school students from across the district's middle schools during June-July 2022.

Theater Experiences

Evening & Weekend Theater Events: Project Success offers multiple theater events each year to students and their families, at no cost due to the generous in-kind donations from over 40 theater partners. In addition to a free ticket to a performance for a student and their family members, Project Success offers transportation and child-care, welcomes families in the lobby before each performance, coordinates post-play discussions and back-stage tours, and contacts families in their own languages. These events are wonderful bonding experiences for young people and their family members as well as powerful audience-building tools for the theater partners. Through Project Success, students and their families attend diverse theater performances together, enriching their shared family experiences and increasing opportunities for interactions, which can lead to more positive family relationships and greater home support for youth—shown to have a positive impact on student achievement.

Field Trips: In addition to evening and weekend events, Project Success offers field trips to schools throughout the year based on interest, availability, and curriculum in the schools that tie to performances being offered.

Spotlight Series: Ongoing, curated resource list of other arts opportunities available to students, families and teachers to access, no added curricular aspect from PS. Within this category there are two subsets:

- Available Anytime - any free and open arts performances or content, no limit on tickets/access/cost.
- Limited Run - any shows that include an access code or short-term run of the show, may have a limit on ticket numbers for various reasons

Online Arts with Project Success: Live or pre-recorded opportunities promoted directly to students and families and included curricular aspect for student engagement/link to workshop curriculum.

Virtual Field Trips and Residencies: Handpicked opportunities to work with teachers on providing in-class arts experiences (live or pre-recorded). Project Success will collaborate with partner teachers to create a fit for what they want and need to align with the ELA curriculum.

Global Experiences

Each year, Project Success offers global expeditions to global cities in the United States and internationally for students. We also focus on connecting students to other students and experiences worldwide, from home.

Pen Pal Connections: Pen Pal Connections is a unique opportunity to foster ongoing dialogue and

understanding among youth. During this 12-week correspondence, students will be asked to send three letters, emails, audio recordings, or videos and can expect to receive three correspondences. This will occur on an alternating basis every two weeks. All correspondences will be sent through the PS team and a partner teacher at the pen pal's school. More than 150 students 6th-12th graders across all Minneapolis partner schools are participating and connecting with students from Mexico, Senegal, Czech Republic, Brazil, France, and more! Students are celebrating our shared humanity and building cross-cultural understandings.

Global Expeditions: In Spring 2022, Project Success will conduct trips to Boston and to Washington D.C. and all high school principals will be invited to select students to participate. A total of 80-100 students will participate in these trips.

Middle School Musicals

Project Success will host middle school musicals at 3 schools in the 2021-2022 school year, including Anwatin, Northeast, and Sanford. Up to 100 students at each school will work in front of and behind the scenes for eight weeks every day acting, dancing and singing with professional artists and working with high quality sound, sets, lighting and costumes. This one-on-one contact between local artist educators and students, and the experience of the musical performance itself, is one of the key ways in which Project Success helps students build confidence, gain new experiences, and learn more about themselves and each other through the power of theater.

Service Outcome

Contractor will increase interracial contact to enhance learning at racially identifiable schools and reduce the opportunity gap for students through experiences of excellence in arts, expeditions, and certificates for middle and high school students.

The Project Success model is proven and is linked to better in-school outcomes such as attendance and grade point average – particularly for students where the achievement gap is the widest, and when asked who "assisted them in future planning," 88% of high school students rated Project Success ahead of friends, counselors and teachers and second only to parents and guardians.

After conducting a data analysis with Minneapolis Public Schools Department of Research, Evaluation, Assessment and Accountability (REAA), Eric Moore, Chief of Accountability, Innovation and Research, Minneapolis Public Schools shared "Project Success helps support our efforts in closing the achievement gaps. We see statistically significant positive gains in on-time graduation rates, attendance and, most importantly, grade point average."

The University of Minnesota Center for Applied Research and Educational Improvement (CAREI) reports that Project Success students are developing key soft skills needed for future success:

- 80% of students say Project Success helps them understand themselves and each other better.
- 90% of teachers report Project Success helps students to be more self-aware of their strengths, and better problem solvers.
- 90% of High School students report Project Success helps them think about their future, set goals and create a plan for after graduation.
- Project Success makes a positive, enduring difference in students' lives. When teachers change or families move throughout the district, Project Success is still there, providing consistent, hands-on support for youth at a critical time in their development.

Method of Evaluation

Project Success seeks ongoing feedback from students, teachers, principals, and parents to ensure Project Success is effectively reaching students. Project Success conducts mid and end of year surveys with partner teachers, hosts one-on-one check ins with principals multiple times yearly, and seeks and utilizes students from students year-round. Feedback is incorporated in a timely manner to enhance program services and outcomes.

In addition, Project Success has partnered with The University of Minnesota Center for Applied Research and Educational Improvement (CAREI) to conduct independent evaluations, and works closely with Minneapolis Public Schools Department of Research, Evaluation, Assessment and Accountability to analyze data in the context of students' academic achievement and engagement.

Project Success uses measurement and evaluation data to:
1) Verify that the program is achieving the desired outcomes;
2) Inform current and future program planning and program refinements; and
3) Be accountable to our youth, teachers, schools, theaters, parents, and funders.

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

The payment terms are as follows: Click or tap here to enter text.

[The remainder of this page intentionally left blank.]

MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Russ Davis Wholesale. "Contractor" (collectively "parties") to provide fresh fruit and vegetables for Culinary and Wellness Services.

1 TERM OF CONTRACT

1.1 This Contract is effective on 8/3/2021. or the date of the last signature of the parties, whichever is later, and shall remain in effect until 6/30/2022., or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $2,000,000. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

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

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

3.3 *Taxes.*

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

that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

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

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

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

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

10 DATA PRIVACY

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

11 USE OF DISTRICT NAME OR LOGO

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

12 INDEPENDENT CONTRACTOR

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

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

13 WORKER HEALTH, SAFETY AND TRAINING

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

14 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

15 INSURANCE

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

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

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

16 INDEMNIFICATION

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

17 LIMITATION ON LIABILTY

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

18 CONFLICT OF INTEREST/CODE OF ETHICS

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

19 COMPLIANCE WITH LAWS AND DEBARMENT

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

20 TERMINATION

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

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

20.3 Notwithstanding the above, Contractor shall not be relieved of liability to the District for damages sustained by the District as a result of any breach of this Contract by the contactor. The District, may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the District is determined. The rights or remedies provided here shall not limit the District, in case of

any default, error or omissions, by the Contractor, from asserting any other right or remedy allowed by law. Nothing in this Contract shall be construed as a waiver of any right, remedy, liability limit or immunity of the District under law.

21 RETURN OF DATA

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

22 RECORDS MANAGEMENT AND MAINTENANCE

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

23 NOTICES/ADMINISTRATION

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

Special School District No. 1
Division: D-Ops-Culinary and Nutrition Services
Attn: Josiah Nebo
1250 W Broadway
Minneapolis, MN 55411
Email: Josiah.nebo@mpls.k12.mn.us

CONTRACTOR

NAME: Cricket James
Address: 2805 W. Service RD
Phone: 651-289-2336
Email: CJames@russdaviswholesale.com

ACKNOWLEDGMENT

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

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

24 NON-WAIVER

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

25 ASSIGNMENT

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

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

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

27 WARRANTY

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

28 SEVERABILITY

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

29 SURVIVABILITY

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

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SPECIAL SCHOOL DISTRICT NO. 1

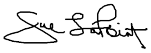
Signature: _____

Name: _____
(Printed)

Title: _____

Date: _____

CONTRACTOR NAME

Signature:  _____

Name: Sue LaPoint _____
(Printed)

Title: Senior Account Manager, National & Wholesale Accounts

Date: 7/30/2021 _____

EXHIBIT A: SCOPE OF WORK

Deliverables:

Supply and process produce for Culinary and Wellness Services nutrition programs

Service Outcome:

Click or tap here to enter text.

Method of Evaluation

Fulfilment rate, customer services satisfaction

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Net 30

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CONTRACT FOR SERVICES

($25,000+)

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Smart Care Equipment Solutions, "Contractor" (collectively "parties") to provide Commercial kitchen equipment preventive maintenance and emergency repair services to D-Ops-Culinary and Nutrition Services.

1 *TERM OF CONTRACT*

1.1 This Contract is effective on 07/01/2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2024, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 ***Total Obligation.***
District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed $175,000.00, anually. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

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

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

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

3.3 ***Taxes.***

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

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

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

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

4 GENERAL TERMS AND CONDITIONS

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

5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

6 BACKGROUND CHECKS

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

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

7 DATA PRIVACY

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

8 OWNERSHIP OF MATERIAL

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

9 USE OF DISTRICT NAME OR LOGO

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

10 INDEPENDENT CONTRATOR

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

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

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

11 WORKER HEALTH, SAFETY AND TRAINING

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

12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

13 INSURANCE

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

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

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

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

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

14 INDEMNIFICATION

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

15 LIMITATION ON LIABILTY

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

16 CONFLICT OF INTEREST/CODE OF ETHICS

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

17 COMPLIANCE WITH LAWS AND DEBARMENT

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

18 TERMINATION

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

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

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

19 RETURN OF DATA

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

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

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

20 RECORDS MANAGEMENT AND MAINTENANCE

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

21 NOTICES/ADMINISTRATION

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

Special School District No. 1
D-Ops-Culinary and Nutrition Services
Attn: Sounitda (on behalf of COO) Saymongkhon
1250 W Broadway
Minneapolis, MN 55411
Email: sounitda.saymongkhon@mpls.k12.mn.us
Fax:

Smart Care Equipment Solutions

Attn: Adam Schoeneck

Address: 370 Wabasha ST N. St. Paul, MN 55123

Email: adam.schoeneck@smartcaresolutions.com

Fax: _____

22 ACKNOWLEDGMENT

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

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

23 NON-WAIVER

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

24 ASSIGNMENT

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

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

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

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

26 WARRANTY

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

27 SEVERABILITY

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

28 SURVIVABILITY

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

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

By: _____

Name: Jennifer (on behalf of BOE) Lindquist (on behalf of BOE)
(Printed)

Title:_____

Date: _____

Smart Care Equipment Solutions

By: Dave Beehler

Name: Dave Beehler
(Printed)

Title: Vice President Finance | Smart Care® Equipment Solutions

Date: Aug 2, 2021

EXHIBIT A: SCOPE OF WORK

Description of Services and Service Delivery

Vendor will provide preventive maintenance and emergency repair services for CWS kitchen equipment

Service Outcome

Semiannual preventive maintenance and emergency repair services

Method of Evaluation

Timely repair services and quality of preventative maintenance services

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

The payment terms are as follows:

If there are no exhibits:

This Exhibit and page have been intentionally left blank.

MINNEAPOLIS
PUBLIC SCHOOLS
Urban Education. Global Citizens.

CONTRACT FOR GOODS – above $50,000

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and St Paul Beverage Solutions, LLC "Contractor" (collectively "parties") to provide milk for School Lunch Program to Culinary and Wellness Services

1 TERM OF CONTRACT

1.1 This Contract is effective on 8/3/2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 6/30/2022., or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 *Total Obligation*

District's total obligation to Contractor/Vendor under this Contract, including compensation for goods, and/or services, and reimbursable expenses (if applicable), shall not exceed $650,000. Contractor/Vendor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

3.2 *Frequency of Invoicing and Terms of Payment*

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

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

3.3 *Taxes.*

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

respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse District for any and all such sales and use taxes provided above.

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

4 INSPECTION OF GOODS & REJECTION

4.1 Buyer is entitled to inspect the Goods upon delivery. If the Goods are unacceptable for any reason, Buyer must reject them at the time of delivery up to ten (10) business days from the date of delivery. If Buyer has not rejected the Goods within ten (10) business days from the date of delivery, Buyer shall have waived any right to reject that specific delivery of Goods.

4.2 In the event Buyer rejects the Goods, Buyer shall allow Seller a reasonable time to cure the deficiency. A reasonable time period shall be determined by industry standards for the Goods, as well as the Seller and Buyer.

5 RISK OF LOSS

5.1 Risk of loss will be on the Seller until the time when the Buyer accepts delivery. Seller shall maintain any and all necessary insurance in order to insure the Goods against loss at Seller's own expense.

6 TITLE

6.1 Title to the Goods will remain with the Seller until Buyer accepts delivery.

7 FORCE MAJEURE

7.1 Non-delivery or default of this Agreement due to labor disputes, transportation shortage, delay or shortage of materials to produce the Goods, fires, accidents, Acts of God, or any other causes outside of Seller's control shall be notified to Buyer immediately upon realization that it will not be able to deliver the Goods as promised. Either Party may terminate this Agreement upon such notice.

8 GENERAL TERMS AND CONDITIONS

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

9 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

10 DATA PRIVACY

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

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

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

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

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

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

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

17 LIMITATION ON LIABILTY

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

18 CONFLICT OF INTEREST/CODE OF ETHICS

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

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

20 TERMINATION

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

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

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

21 RETURN OF DATA

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

22 RECORDS MANAGEMENT AND MAINTENANCE

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

23 NOTICES/ADMINISTRATION

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

Special School District No. 1
Division: D-Ops-Culinary and Nutrition Services
Attn: Josiah Nebo
1250 W Broadway

Minneapolis, MN 55411
Email: Josiah.nebo@mpls.k12.mn.us

CONTRACTOR

NAME: Cheryl Benedict.
Address: 2080 Rice St, St Paul, MN
Phone: 651-855-6465.
Email: cbenedict@spbevso.com

ACKNOWLEDGMENT

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

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

24 NON-WAIVER

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

25 ASSIGNMENT

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

named herein, or to any person reasonably believed by District to be entitled to payment, shall satisfy District's obligation to pay, and in no event shall District be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

26 CHOICE OF LAW, FORUM SELECTION, ENTIRE CONTRACT AND AMENDMENT

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

27 WARRANTY

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

28 SEVERABILITY

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

29 SURVIVABILITY

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

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

Signature: Bryan Olson

Name: Bryan Olson
(Printed)

Title: VP of Sales and Marketing

Date: August 2nd, 2021

CONTRACTOR NAME

Signature: _____

Name: _____
(Printed)

Title: _____

Date: _____

EXHIBIT A: SCOPE OF WORK

Deliverables:

Supply milk to CWS for nutrition program

Service Outcome:

Supply milk to CWS for nutrition program

Method of Evaluation

Fulfilment rate, customer services satisfaction

[The remainder of this page intentionally left blank.]

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

Net 30

[The remainder of this page intentionally left blank.]

watercourse
COUNSELING CENTER

July 30, 2021

Watercourse Counseling Center School MH Expansion Proposal SY 2022

Service	Cost
Expansion of school mental health to Northrop, Dowling, Barton and Wenonah Schools.	$60,000
Continued support of Sullivan, Anderson, Bancroft, Emerson, Wittier, Lyndale, Loring, Cityview, Wellstone, Keewaydin, Kenwood, and Webster	$160,000
TOTAL	$220,000

Martha Olsen
Executive Director

7/30/21
Date

AMENDMENT 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 8/10/2021 ("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 8/10/2021 through 6/30/2022 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000524

1. *Original contract amount:* $170,000
2. *Accumulative contract amount:* $220,000

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 The Mental Health Collective (dba Watercourse Counseling Center), "Contractor" (collectively "parties") to provide mental health services to Andersen United, Emerson Spanish Dual Immersion, Loring, Lyndale, Bancroft, Whittier, Cityview, Wellstone, Keewaydin, Webster, Kenwood, 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 $220,000. 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.

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

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name:

Title:

Date: _____

Contractor

Signature: Martha Olsen

Name: Martha Olsen

Title: Executive Director

Date: 7/30/21

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 8/10/2021 ("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 8/11/2021 through 6/30/2022 ("Contract"), and

WHEREAS, the Parties now desire to amend the Contract number: SRM: 4400000525

1. *Original contract amount:* $210,000
2. *Accumulative contract amount:* $240,000

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 $240,000. 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.

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

(The remainder of this page intentionally left blank.)

SPECIAL SCHOOL DISTRICT NO. 1

Signature: _____

Name:

Title:

Date: _____

Washburn Center for Children:

Signature: _____

Name: Tom Steinmetz

Title: CEO

Date: 7/27/2021

CONTRACT FOR SERVICES

($25,000+)

This Contract is entered into between Special School District No. 1, "District", a special school district created and existing under the laws of Minnesota, and Whelan Security Co. dba GardaWorld Security Services, "Contractor" (collectively "parties") to provide To provide security personnel to the Davis Service Center to D-Ops-Operational and Security Services.

1 *TERM OF CONTRACT*

1.1 This Contract is effective on 07/01/2021 or the date of the last signature of the parties, whichever is later, and shall remain in effect until 06/30/2022, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Contract intended for District's protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Contract.

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

2 SCOPE OF WORK

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

3 CONSIDERATION AND TERMS OF PAYMENT

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

3.1 ***Total Obligation.***
District's total obligation to Contractor under this Contract, including compensation for goods, services, and reimbursable expenses, shall not exceed $173,091.52. Contractor shall not receive any additional reimbursement for materials or subsistence expenses incurred in the performance of this Contract.

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

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

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

3.3 ***Taxes.***

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

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

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

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

4 GENERAL TERMS AND CONDITIONS

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

5 AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY

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

6 BACKGROUND CHECKS

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

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

7 DATA PRIVACY

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

8 OWNERSHIP OF MATERIAL

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

9 USE OF DISTRICT NAME OR LOGO

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

10 INDEPENDENT CONTRATOR

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

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

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

11 WORKER HEALTH, SAFETY AND TRAINING

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

12 BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES REQUIREMENTS

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

13 INSURANCE

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

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

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

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

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

14 INDEMNIFICATION

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

15 LIMITATION ON LIABILTY

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

16 CONFLICT OF INTEREST/CODE OF ETHICS

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

17 COMPLIANCE WITH LAWS AND DEBARMENT

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

18 TERMINATION

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

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

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

19 RETURN OF DATA

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

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

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

20 RECORDS MANAGEMENT AND MAINTENANCE

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

21 NOTICES/ADMINISTRATION

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

Special School District No. 1
D-Ops-Operational and Security Services
Attn: Jason Matlock
1250 W Broadway
Minneapolis, MN 55411
Email: Jason.matlock@mpls.k12.mn.us
Fax:

Whelan Security (dba GardaWorld Security Services)

Attn:_____

Address: _____

Email: _____

Fax: _____

22 ACKNOWLEDGMEN**T**

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

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

23 NON-WAIVER

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

24 ASSIGNMENT

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

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

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

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

26 WARRANTY

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

27 SEVERABILITY

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

28 SURVIVABILITY

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

[The remainder of this page intentionally left blank.]

SPECIAL SCHOOL DISTRICT NO. 1

By: _____

Name: Karen DeVet
(Printed)

Title:_____

Date: _____

Whelan Security Co. dba GardaWorld Security Services

By: Luke Hutsell
Luke Hutsell (Jul 16, 2021 16:58 CDT)

Name: Luke Hutsell
(Printed)

Title: Region Vice President

Date: Jul 16, 2021

EXHIBIT A: SCOPE OF WORK

Description of Services and Service Delivery

To provide security and reception personnel for the new Educational Service Center at 1250 West Broadway, as well as event security. The personnel will support a safe and welcoming environment.

Service Outcome

Security will be provided onsite at the Davis Service Center between the hours of 6:00 am and 10:00 pm M-F plus planned events. Security personnel will follow procedures within their post orders that will be written in partnership with MPS and the security provider. Scope of work will be 2 officers and 1 supervisor. Officers will cover 2 shifts 6 to 2 and 2 to 10, supervisor is 10 to 6

Method of Evaluation

EMSS will monitor performance levels and conduct formal review of services at least annually.

EXHIBIT B: PAYMENT TERMS

If there are exhibits to describe the payment terms:

The payment terms are as follows:

If there are no exhibits:

This Exhibit and page have been intentionally left blank.

GardaWorld Contract

Final Audit Report 2021-07-16

Created:	2021-07-16
By:	Meredith Fullerton (mfullerton@whelansecurity.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAF7c6jpQwAUNpgA9zjL-hjsl2B0SVvQet

"GardaWorld Contract" History

Document created by Meredith Fullerton (mfullerton@whelansecurity.com)
2021-07-16 - 9:32:21 PM GMT- IP address: 71.14.250.18

Document emailed to Luke Hutsell (luke.hutsell@garda.com) for signature
2021-07-16 - 9:33:24 PM GMT

Email viewed by Luke Hutsell (luke.hutsell@garda.com)
2021-07-16 - 9:57:58 PM GMT- IP address: 107.77.206.160

Document e-signed by Luke Hutsell (luke.hutsell@garda.com)
Signature Date: 2021-07-16 - 9:58:40 PM GMT - Time Source: server- IP address: 107.77.206.160

Agreement completed.
2021-07-16 - 9:58:40 PM GMT

LICENSE

This License Agreement is made between **SPECIAL SCHOOL DISTRICT NO. 1,** a public body corporate and politic ("Licensor"), **and** Minneapolis Nature Preschool ("Licensee"), a non-profit organization.

RECITALS

A. Whereas, Licensor owns Bryn Mawr School (the "School") on real property located in the city of Minneapolis at 252 Upton Ave S., Minneapolis, MN (the "Property");

B. Whereas, Licensee wishes to use school space for a Preschool program during times as set forth in Exhibit B for Licensor students who attend Bryn Mawr Elementary School;

C. Whereas, Licensor and Licensee wish to allow this usage by entering into a formal license agreement for a term of approximately ten (10) month commencing on August 23, 2021, ("Commencement Date") and terminating on July 1, 2022. Licensee will pay the appropriate fees ("Fees") for use of the licensed space;

D. Whereas, Licensor has agreed to grant a license to Licensee; AND

E. Whereas, Licensor need to define their respective rights and responsibilities; Now therefore, in consideration of the mutual undertakings and agreements hereinafter set forth, the PARTIES agree as follows:

In consideration of the foregoing premises and the covenants herein, Licensor hereby grants a license to Licensee, and Licensee accepts such license, subject to the following terms and conditions:

1. License Granted. Licensor hereby grants to Licensee non-exclusive use of space in the school ("Licensed Space"), as identified in Exhibit A, subject to the following conditions:

   (a) Licensee shall have permission to use the Licensed Space as identified in Exhibit B and Section 3 "Permitted Use."

   (b) Licensee shall have permission to use the Licensed Space as under the conditions outlined in the License.

   (c) Licensee may bring into the Licensed Space instructional materials and supplies related to Permitted Use.

   (d) Licensee shall screen all paid and volunteer employees and agents of Licensee. Licensee shall conduct criminal background checks in accordance with state and federal law for all paid and volunteer employees and agents who will be in the Licensed Space and on School Property prior to any access to these areas. Licensee will take reasonable precautions to take care that its

paid employees and volunteers who will be in contact with District staff and students are appropriate persons to conduct such work.

(e) Changes in the scheduled time of use and licensed space may be adjusted during the Term only by amending the License provided both parties mutually agree to such changes.

2. Fees. Licensee will pay Fees for use of the Licensed Space at rates as identified in Exhibit B, with first month payment due on Commencement Date. Licensee will pay to Licensor a monthly fee on or before the first day of the month starting on the Commencement Date. Monthly fees must be received by Licensor at the address listed in Section 15, or other addresses as identified by written notice from Licensor to Licensee.

3. Permitted Use. Licensee may use the Licensed Space solely for purposes consistent with operating a preschool program in accordance with the authority contained in Minnesota Statutes section 123B.51, subdivision 2 and provided Licensee has approval from the appropriate school district curriculum staff person. Licensee shall not commit or permit any act or omission which results in the violation of any law, governmental regulation, or insurance policy of Licensor, relating to the School, or which shall increase Licensor's insurance rates on the School. Licensee shall not permit any conduct or condition which may unreasonably disturb or endanger other occupants of the School.

4. Building Rules and Emergency Procedures. Licensee shall conform to the written rules and emergency procedures established for the School, which may be obtained from the School Principal or his/her designee at the Site.

5. Building Maintenance/Capital Improvements/School Closure. Licensor reserves the right to close all or a portion of the school due to inclement weather, maintenance, and/or repair. Licensor will attempt to provide adequate notice to tenant of closures, however, due to circumstances, notice of such closure may be immediate in nature. Notice of school closing due to inclement weather will be as provided to the general public, via news sources or social media. Tenant shall not occupy the area during any weather school cancellation. Maintenance and repairs within the building will occur and Licensor will make every effort to provide adequate notice to Licensee as needed. Licensor reserves the right to access tenant areas to perform maintenance and repair at any time as needed to maintain building operations.

6. COVID Protocols. The following COVID Protocols apply to the Licensee during the Term of this License Agreement. The Licensee must develop a COVID-19 plan and submit the plan to the District prior to License Agreement commencement date. The plan must cover all aspects of testing, contact tracing, and staff/student health and safety. No staff/student is allowed on District property if they are exhibiting signs of illness. Masks are required to be worn inside all District facilities. Failure to follow District COVID-19 requirements may result in termination of the License Agreement.

7. Term. Term means the period commencing on the first day upon which the Licensed Space is made available to the Licensee by Licensor (the "Commencement Date") and continuing until the expiration of this license on July 1, 2022, unless sooner terminated in accordance with the terms and provisions of this license. Three months prior to expiration of the Term, parties may agree to discuss any renewal of this Agreement. Lessor shall provide Lessee written notice of

any request to renew not less than three months prior to expiration of the then current term. Fees for any Renewal Term would be reviewed, and any Renewal Terms would be agreed upon, and Amendment executed, by both parties.

8. Condition of Licensed Space. Licensee agrees that by executing this license it is accepting the Licensed Space in its condition "as-is," and that Licensor has made and makes no representation or warranty of any kind about the condition of the Licensed Space or its fitness for any use and that Licensor has no obligation hereunder to make repairs or replacements to the Licensed Space or any part thereof. Licensor agrees that after each use it will return the Licensed Space to the condition found at the start of each use at each of the Sites.

9. Indemnity. Licensor shall not be liable for, and Licensee shall defend and indemnify Licensor from any claim, demand, liability, judgment, award, fine, lien, loss, damage, expense, charge or cost of any kind or character (including actual attorneys' fees and court costs) arising directly or indirectly from Licensee's use of the Licensed Space including, but not limited to, all claims arising from any injury or damage to the person or property of Licensee, any other Licensee in the School, or to any other person in the School, negligence or misconduct of Licensee, its agents, servants or employees, invitees or licensees, or of any other person entering upon the Licensed Space under express or implied invitation of Licensee, or results from the violation of laws or ordinances, governmental orders of any kind or of the provisions of this license by Licensee, its agents, servants or employees.

   Licensor shall not be responsible for any personal property of Licensee at the Sites. Licensee's obligations under this paragraph will survive the expiration or termination of this License.

10. Insurance. Licensee must keep in force, at the expense of Licensee, at all times during the term of this agreement adequate insurance by an insurer or company acceptable to Licensor in Licensor's reasonable discretion. With respect to the Licensee, Licensee's policy of insurance shall have a limit of at least the tort liability limits as set forth in Minnesota Statute 466.04, as it may be amended from time to time. Licensee's insurance must cover, at a minimum, all furniture, fixtures, equipment, instructional material, and all other items brought to the Licensed Space upon the Commencement Date. Licensor shall have no liability for any business interruption or their loss resulting from damage to such property. Licensee shall also keep any improvements installed by Licensee at its expense, insured during the term of this License against loss or damage by fire and by any of the casualties covered by standard extended coverage in an amount at least equal to the insurable value of the Licensed Space, minus deductibles. Such policy shall contain a provision that the policy shall not be cancelled without a thirty (30) day written notice to Licensor. Licensee shall name Licensor as an additional insured with respect to Licensee's use of the Licensed Space. Licensee must deliver to Licensor certificates of insurance or copies of policies of insurance showing this coverage to be in effect with premiums fully paid prior to occupancy of the Licensed Space.

Revocation for Default or Abandonment.
If:

(a) Licensee is in default under any enumerated terms of this License and such default is not cured within twenty-four (24) hours after notice thereof to Licensee, or;

(b) Licensee has abandoned use of the Licensed Space (Licensee being deemed to have abandoned use of Licensed Space if, for any thirty (30) consecutive days, Licensee fails to appear at the Licensed Space locations during the months of September through May).

Then in addition to any remedies of Licensor available at law or in equity, this License shall automatically terminate and be revoked without further action or notice. Licensee acknowledges that this instrument is a license and not a lease, and that due to the nature of the Licensed Space and Licensee's Permitted Use therein, Licensor grants rights to Licensee under this license specifically and only on the basis that Licensor is entitled to terminate this license and revoke Licensee's right to use the Licensed Space under without legal process and without reinstatement rights and/or time periods.

Licensee shall remain liable for damage to the Licensed Space caused by Licensee, its agents, employees, and invitees. Licensee shall not be entitled to a refund of any prepaid license fees.

11. Alterations by Licensee. Licensee may not make any changes, additions or improvements to the Licensed Space.

12. No Ouster. Use of the Licensed Space by Licensor or its employees, or any other party at the direction of the Licensor, will not be construed as altering or diminishing Licensee's rights or obligations under this license.

13. Signs. Licensee may not place or permit signs on the exterior of the Licensed Space, exterior of the School Building, or elsewhere in the Licensed Space if visible from the exterior of the Licensed Space, except as otherwise approved in writing by the Licensor.

14. Surrender. Prior to the expiration or termination of the license, Licensee must remove its personal property and repair any damage caused by such removal. Licensee must leave the Licensed Space in substantially the same condition in which Licensee is required to maintain the Licensed Space, excepting only reasonable wear and tear.

15. Assignment. Licensee may not assign its rights under this license. Any assignment or attempted assignment of this license by Licensee will be null and void and of no power effect, and will constitute a default, entitling Licensor to all the rights and remedies granted herein.

16. Notices. Any and all notices permitted or required to be given in writing by either party to the other 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 Licensor: Minneapolis Public Schools
Special School District No. 1
1250 West Broadway Avenue
Minneapolis, MN 55411
Attn: Real Estate Office

To Licensee: Minneapolis Nature Preschool
314 Washburn Ave. N.
Minneapolis, MN 55405

17. Amendment, Modification or Waiver. No amendment, modification or wavier of any condition, provision or term of this license is valid or of any effect unless made in writing and signed by both parties. Any wavier by any party of any default of another party will not affect or impair any right arising from any subsequent default. No delay on the part of Licensor in exercising any right or power hereunder shall operate as a waiver of any such right or power, and no single waiver (or partial exercise) of any right or power shall preclude any other exercise thereof or of any other right or power.

18. Severable Provisions. Each provision of this agreement is intended to be severable. If provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this license.

19. Minnesota Law. This agreement will be construed and enforced in accordance with the laws of the State of Minnesota.

20. Termination. Either party may terminate this License with 45 days written notice to the other.

LICENSOR **LICENSEE**

SPECIAL SCHOOL DISTRICT NO. 1 Minneapolis Nature Preschool

By: _____ By: Alyson Quinn

Karen DeVet Alyson K. Quinn

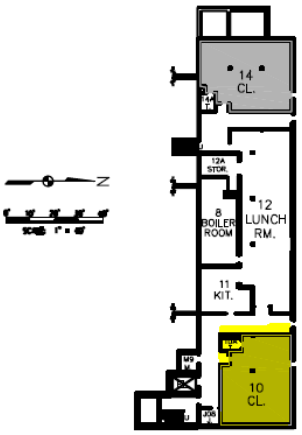
Chief Operations Officer Director, Minneapolis Nature Preschool

Date: _____ Date: 8/2/2021

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BRYN MAWR SCHOOL

DATE: 11/2004



GROUND FLOOR PLAN

BRYN – A – 001

SCALE: ONE INCH = 30 FEET SHEET: 1 of 1

FLOOR PLANS

MINNEAPOLIS PUBLIC SCHOOLS

SPECIAL SCHOOL DISTRICT NO.1 MINNEAPOLIS, MN. 55413 DATE: 3//93

Bryn Mawr School

Exhibit B

Licensed Space, Use Schedule, and Fees

	School Year (Sep-May)	Summer Program (Jun-Aug)
License Fees	$985/per month	$125/per week – to be paid in month of 3 week program
Room 10 – includes restroom	8:00am – 4:00pm Monday – Friday	8:30am-12:30pm 4 weeks
Holidays and breaks	Closed during non-school days.	Open during summer school days only
Playground	N/A	N/A
Lunchroom	N/A	N/A
Evening use	Setup dates and times through Licensor permit process for evening use of school	Not required
Storage	In Room 10 Only	Approved to leave items in storage through summer months
Parking	Use of lot for staff and child drop-off/pick-up	Use of lot for staff and child drop-off/pick-up
Janitorial Service	Bryn Mawr Responsibility	Bryn Mawr Responsibility for the four weeks TBD
Internet	Access provided by Licensor	Access provided by Licensor

SPECIAL SCHOOL DISTRICT NO. 1
Board of Education

August 10, 2021

Resolution Establishing Juneteenth as a District Holiday

WHEREAS: the observation of Juneteenth Day of Independence marks a significant historical moment as a commemoration of when formerly enslaved Black Americans in Texas received word that the Emancipation Proclamation has been signed two years prior; and

WHEREAS: recognition of the Juneteenth holiday provides an opportunity for celebration and reflection, including for both our community and for MPS employees; and

WHEREAS: the City of Minneapolis, Hennepin County, and the United States governments have declared Juneteenth as a holiday.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Special School District No. 1, does hereby designate Juneteenth (June 19) as a district holiday for purposes of district operations and for employees otherwise scheduled to work on the day of observation; and

FURTHER, BE IT RESOLVED that observation of the Juneteenth holiday shall follow the standard district procedure when June 19 falls on a weekend; and

FINALLY, BE IT RESOLVED that the Superintendent of Schools is authorized to implement this resolution, including any revisions to Human Resources and Operations regulations, practices and/or collective bargaining agreements needed to support the establishment of this holiday.

Signed by:

_____ _____

Kim Ellison
Board of Education Chair

Date

_____ _____

Josh Pauly
Board of Education Clerk

Date

2021-0041

SPECIAL SCHOOL DISTRICT NO. 1
Board of Education

August 10, 2021

Resolution approving the school year 2021-2022 e-learning day plan

Be it resolved that the Board of Directors of Special School District No. 1 hereby approves the proposed e-learning day plan labeled as 2021-0040A, in accordance with Minnesota Statute 120A.414.

Signed by:

_____ _____

Kim Ellison
Board of Education Chair

Date

_____ _____

Josh Pauly
Board of Education Clerk

Date

2021-0040

Minneapolis Public Schools E-Learning Plan

We value every one of our students and are striving to ensure each student continues their learning while a school building(s) is closed. Our focus for the E-Learning Plan is to outline the conditions for successful learning on inclement weather days.

General Overview	The 2017 Legislature has amended the Length of the School Year; Hours of Instruction (Minn. Stat. § 120A.41) to include the option of a school utilizing e-learning days: • Due to inclement weather • Up to five days in one school year • Counted as an instructional day and included as hours of instruction All schools are required to have at least 165 school days. Grades K through 5th also need a total of 935 hours of instruction per school year. Grades 6 through 12 need 1020 hours of service. In Minneapolis Public Schools, • Current Student instructional days: 171 • By Semester: First=85 days, Second=86 days • By Quarter: First=40 days, Second=45 days, Third=42 days, Fourth=44 days • For grades K-5 : 171 days of instruction = 1,111.5 hours of learning (6.5 hours/daily) • For grades 6-12: 171 days of instruction = 1,191 hours of learning (7.0 hours/daily) There can be up to five e-learning days in one school year. MPS E-Learning Plan ensures students have access to appropriate educational materials and receive daily interaction with their licensed teacher(s). This plan includes accommodations for students without Internet access at home and for digital device access for families without the technology or an insufficient amount of technology for the number of children in the household. Addressing the challenges of learning outside of the school buildings is our highest priority. This document outlines the actions that the district continues to take to serve our students and families and will continue to be updated as necessary. • Synchronous learning is defined as when a teacher is online and available to students either through direct instruction or support of an assignment, activity, or small group during a designated time. Synchronous does not mean screens must be on; however teachers are available online during that designated class time to support students.

	• Asynchronous learning, or anytime learning, is defined as lessons that have been pre-recorded by the teacher or website/online videos that can be viewed at any time.

	The time students spend completing lessons remotely is not going to be the same as the time spent at school. MPS will communicate this general message to all families. Each school will communicate with families about the expectation of student contact hours with their teacher.
	• The E-Learning schedule is different from the in-person school day.
	• Teachers will be available to families online during the E-Learning Day. The time of availability and a link to access the teacher will be posted in Seesaw/Google Classroom.
	• MPS Online platforms include:
	  ○ Grades PK-5 will use SeeSaw or Google Classroom, as decided by the school.
	  ○ Grades 6-12 will use Google Classroom.
	  ○ Lessons need to be posted on SeeSaw or Google Classroom
	  ○ Literacy and Math online tools-: Lexia Core5 , Lexia PowerUp, and Dreambox
	• Contact the technology help desk if you are having trouble with an app and/or device 612.668.0088.

Site Expectations	• PK-12, all students will have a schedule that includes both **synchronous** and **asynchronous** learning
	• Site administrators will determine and communicate to families and staff the following:
	  ○ The start time of the E-Learning Day
	  ○ Flexible end time of the E-Learning Day
	  ○ The times staff are available to families and students
	  ○ E-Learning Day activities are for enrichment, review, and/or extension of in-person learning.
	  ○ The teaching of Digital Citizenship is scheduled during the first six weeks of school (can be taught by Media Specialists, classroom teacher, school social worker, etc.)
	• E-Learning schedules will be displayed on each school website for all staff, students, and families.

Teacher Expectations	• Post lessons by the beginning of the student learning day • Be available to respond to student needs via on-line platform, by using Google Meets phone option through the district provided device, and/or email

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- Communicate on-line hours to students via Seesaw/Google Classroom.
- Hold a synchronous Morning Meeting or Advisory at the beginning of the student contact day for sites that have advisory already established
- Post SEL and academic choice learning opportunities

</td></tr>
<tr><td>Attendance</td><td>

Student attendance is a responsibility shared by staff, students, and families in Minneapolis Public School. During E-Learning—when students are not in their school classrooms—we will continue to adhere to MPS **Policy 5100**, which requires schools to record student attendance daily.

Reporting student absences from E-Learning

Families who need to report a student/child illness or any other reason their student cannot participate in E-Learning should call their school to report the absence. Please be prepared to leave the following information on voicemail:

- Student Name
- Grade
- Reason for absence
- Date(s) of absence
- Phone number and name of person calling

Tracking Student Attendance

Teachers will record student attendance in Gradebook by the end of each school day. Teachers will monitor attendance through students' participation in E-Learning activities such as SeeSaw, Google Classroom, or other building-identified sources such as phone, text, or email. Students participating in asynchronous learning activities will have their attendance updated after students share their reflection on the E-Learning day. Teachers have five days post instruction day to update attendance records in Gradebook.

With in person learning, teachers have a set time to take attendance in order for attendance robo-calls to be made. This set time to take attendance varies by site. Elementary schools that don't use School Messenger may not have a set time that attendance needs to be entered, other than by the end of the day. Middle and high schools using robo-calls need to have attendance entered by the end of the school day. It is best practice to enter attendance each period, but teacher attendance taking adherence is not monitored by leaders at all schools. With E-Learning robo-calls would either have to be turned off or attendance documented by the time required by each site. Otherwise, during E-Learning documentation by the end of the day

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	is acceptable, especially if there is asynchronous learning.
Grading	E-Learning is different from in-person learning. It is recommended that teachers and schools allow students to show their learning in various ways and be able to present/reflect on their learning/work once back in their classroom. No student should be penalized based on the inability to turn in work at a designated time during the E-Learning day.
Pre-Kindergarten	We know young learners do best when engaged in real-life, hands-on experiences and play. At MPS, young learners take part in activities that promote creative play, real-life exploration, physical activity, language development, and social interactions that are important for child development. Preschool students and their caregivers have the opportunity to participate in lessons throughout the week in a variety of ways. All teacher plans include daily activities in the following areas: Literacy and Language, Math, Science, Art, Physical Large and Fine Motor Activities, and Social and Emotional Learning. If families choose to use technology, students will use their families' devices or district issued iPads to engage and interact with students with licensed teachers through developmentally- and culturally-appropriate content. Teachers will post lessons via SeeSaw or email at the beginning of the student contact day. Early Childhood Special Education teachers are providing individualized instruction appropriate for each student as outlined in their Individualized E-Learning Plan (see below for more information under Special Education Services). Ways caregivers can support during an E-Learning day(s): ● Support student(s) in connecting with teacher(s) to become familiar with the learning tools your student will be using. ● Support student's learning and engagement with activities. ● Contact teachers with questions or to get support for student(s).
Elementary Schedule (access to Internet and technology)	● Live (synchronous) morning meeting ● Asynchronous interactive SEL and academic choice learning opportunities via choice boards ● Set times, one hour in the morning and one hour in the afternoon for families and/or students to engage with the teacher via Google Meets (for classroom and specialist teachers). ● E-Learning Day activities are for enrichment, review, and/or extension of in-person learning.

Elementary Schedule (without Internet and digital device access)	• Asynchronous SEL and academic learning activities will be shared with families in paper form on a quarterly basis in the event of an elearning day. A school messenger via robo-call will be sent to all families with a list of SEL and academic learning activities for students who may not have access to the digital or paper learning activities. • Set times, one hour in the morning and one hour in the afternoon for families and/or students to engage with the teacher via email and/or phone (for classroom and specialist teachers). • E-Learning Day activities are for enrichment, review, and/or extension of in-person learning and available in print and digital formats
Middle and High School Schedule (access to Internet and technology)	• Live (synchronous) Advisory (for sites who have Advisory) • Asynchronous SEL and academic learning opportunities • Set times, two hours for English and Social Studies and two hours for Math and Science to assist and support student learning via Google Meets. • Set times, two hours for electives and student support teachers to be available to assist and support student learning via Google Meets. • Communicated to students via Student Portal.
Middle and High School Schedule (without Internet and digital device access)	• Asynchronous SEL and academic work on current and previous assignments for each course (see Student Portal) • E-Learning Day activities are for enrichment, review, and/or extension of in-person learning.
Considerations for Special Populations	<u>African American Students; Kings and Queens Program</u> The Office of Black Student Achievement will support Kings and Queens through the instructors and classes, along with their families, in E-learning when school is not in session. For more information, please contact Director Michael Walker at michael.walker@mpls.k12.mn.us or Blackstudents@mpls.k12.mn.us <u>American Indian Students</u> American Indian Education Department will support students within all grade levels, along with their families, in E-learning when school is not in session. For more information and specifics, please contact Director Jennifer Simon at jennifer.simon@mpls.k12.mn.us or the general department email at indianed@mpls.k12.mn.us. <u>Students Experiencing Homelessness</u> School social workers are the main point of contact for families experiencing homelessness. Parents/youth should contact their

	school social worker for information about resources and support. If you are unable to reach your social worker or have further questions, please contact the district liaison, Charlotte Kinzley. charlotte.kinzley@mpls.k12.mn.us or 612-668-5480 Vulnerable Students School Psychologists, school counselors, and social workers (licensed support staff) will reach out to students and families to provide support services as needed to help students be engaged in E-Learning. Services and supports will vary depending on individual student needs. These support staff will also be available to consult with teachers about student needs. MPS Early Childhood Family Education, MPS High 5, PICA Head Start, and Private preschools collaborating with MPS ECSE staff to provide E-Learning to children/students. MPS has many partners who are committed to our students. We have several partners who have reached out to MPS schools and departments and are working closely with them to provide us with ongoing integrated learning opportunities for all MPS students.
English Learner	All students who receive English learner services will continue to engage in direct instruction from their EL teacher. EL teachers will provide instruction in both synchronous and asynchronous formats to support language development goals and student engagement. EL instruction consists of one conference plus a sequence of lessons aimed to support students developing English. EL teachers will conference with their students and/or families one to two times per week to set goals, support learning, and provide feedback. In addition to direct EL instruction, support will happen through family advocacy and collaboration/co-teaching with classroom/content teachers. Focus of teacher collaboration will be to ensure continued practice in the four modalities of language, clear scaffolding and differentiation within core instruction, as well as consistent teacher office hours for students and families to access for further support. As directed by the state, newly enrolled students who identify as speaking a language other than English will be contacted by the Student Placement Office and asked if they would like to receive EL service and support temporarily during E-Learning. When face to face learning resumes, those students will be screened with the state required assessments to determine EL eligibility. Schools, in partnership with the district, are the main point of contact for families. Schools have guidance to use their multilingual resources (language line) and staff while communicating with families and students.

Special Education and 504 Services	**For students with an IEP:** eLearning instruction will include direct specialized instruction, related services, modifications and accommodations as outlined in the students' IFSPs/IEPs. Case Managers and Special Education Assistants (SEA's) will make attempts to connect with students via web or phone to support the facilitation of instruction as outlined in the Student's IEP. For most students, their General Education teacher will provide instructional support for Learning and students will engage in the assigned instructions (choice board, seesaw or google classroom activities) with modifications and accommodations provided in collaboration with the Case Manager and SEAs per their IEP. For students who receive pull out, highly specialized instruction, eLearning could be provided through: - Continued groups as schedules and technology allows, or - Modified choice boards provided in paper or in seesaw/google classroom that reflect the student's instructional day. Adaptive equipment and assistive technology will be provided if possible. Case managers will provide instruction through technology, paper, pencil or work boxes to meet the needs of each individual student. Special Education and Indian Education will work in collaboration with schools and teams in connecting with families and students to provide services during eLearning. For children ages birth to three with an IFSP: - Your child's primary service provider will contact you and services will be provided in accordance with the IFSP as closely as possible. **For students with 504 plans:** Your student's 504 case manager will collaborate with teachers and relevant support staff to plan for implementation of accommodations and services during Distance Learning. 504 case managers and the district's 504 coordinator are available to consult on how best to accommodate your child at home during Distance Learning. 504 Teams can meet through video, phone or email to conduct evaluation meetings or 504 Plan meetings.
	Social Emotional Learning (SEL) is a priority for MPS and is considered a universal support for student and staff well-being.

Social Emotional Learning	"Social and Emotional Learning is the process through which children and adults acquire and apply the knowledge, attitudes, and skills necessary to understand and manage emotions, set and achieve positive goals, feel and show empathy for others, establish and maintain positive relationships, and make responsible decisions." CASEL, 2016 MPS has assembled the following resources for our families and students.
Mental Health Supports	Minneapolis Public Schools has school-based mental health services for students when school is in session. We continue to think about how we can support our educational community during E-Learning Days. Each school will communicate availability of the school-based supports. <u>Students who receive school based mental health services</u> If your student receives school based mental health services when school is in session, these services are still available when school is closed. Your health care provider should have already reached out to you or you can call your school social worker to get reconnected. School based clinics in the high schools may still be providing their services and can also provide mental health services for students. <u>Hennepin County support lines</u> If someone in your family is experiencing a mental health crisis, please call the Hennepin County Crisis teams: • COPE Team works with ages 18+: 612.596.1223 • Child Crisis Team works with ages 17 and under: 612.348.2233 • Hennepin County services are available 24 hours a day, 7 days a week, 365 days a year for anyone in crisis in Hennepin County. <u>National substance use prevention and support</u> The Partnership for Drug-free Kids provides a range of text-based and online support on how to respond to substance use and addiction, from prevention to recovery. Find out more here. https://health.mpls.k12.mn.us/mentalhealth_hotline.html MPS has partnerships with more than 13 different mental health agencies to provide mental health therapeutic support for students and families via tele-health and phone calls. The MPS Mental Health Support Line as well as the licensed student support staff (school Psychologists, school counselors, and social workers) can connect families with resources in the community. School Psychologists, school counselors, and social workers (licensed support staff) are available to students and families to

	provide support services as needed to help students be engaged in E-Learning. Services and supports will vary depending on individual student needs. These support staff will also be available to consult with teachers about student's mental needs. If parents/guardians are concerned about the student's mental health, they can talk to the licensed support staff from their school and the Student Support Team will discuss the needs of the student and develop a support plan for the student, which could include connecting the family with a mental health provider either a school mental health provider if those services are at their school or a mental health provider in the community. For assistance with health insurance related questions, please contact Thaddeus.Lesiak@mpls.k12.mn.us with our Family Resource Center. School Mental Health (SMH) providers are connecting with families to discuss different options for accessing telehealth. If SMH providers have any difficulty connecting with families, they can connect with the licensed student support staff (school psychologists, school counselors, and social workers) to help explore different ways to connect with the family to ensure the access to ongoing support.
Internet Safety and Digital Citizenship	The district has established a digital safety help line. See Student Device Guidelines. All students are receiving instruction on digital citizenship. • All MPS policies related to bullying, cyberbullying, harassment, and the use of drugs, alcohol, or smoking apply to students and staff in this online setting. • MPS will be monitoring chats and postings for inappropriate content and will be following up when needed. • **speakup@mpsedu.org** • Call or text **(612) 416-1162**
Minneapolis Kids	During a short-term closure, families will be notified in advance in regards to Minneapolis Kids Childcare.
Youth and Adult Enrichment	In the event that classes in progress are cancelled, coordinators of youth and adult enrichment programs will contact participants/families by email and phone. For any enrichment classes offered for a fee whose instructors are not able to continue the class online or reschedule, participants will be given the option of receiving a prorated refund for the cancelled class session(s).

	For youth after school enrichment programs, alternate options will be made available through Google Meet, activity kits, pre-recorded videos, and socially distanced outdoors, with classes led by the mix of permanent and temporary staff who also provide classes in person. For adult enrichment, alternate options will be made available through Zoom, pre-recorded videos, and socially distanced outdoors, with classes led by the temporary staff who also provide classes in person.
Adult Basic Education	MPS Adult Basic Education's online format is through Schoology. Contact: mpsabe@mpls.k12.mn.us and at 612-668-3800.

MINNEAPOLIS PUBLIC SCHOOLS
RESOLUTION 2021-0035

RESOLUTION REPEALING POLICY 1040 AND ADOPTING POLICIES 3504, 4200, AND 5690

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: **REPEAL** "Policy 1040: Student And Staff Data Protection" of the Minneapolis Public Schools Policies & Regulations is hereby *repealed* as follows:

REPEAL

~~Policy 1040: Student And Staff Data Protection~~ *(Repealed)*

1. **PURPOSE**
   The Board of Directors recognizes students and their families as well as employees of the District have a right to privacy in the records collected, created, maintained and disseminated by the District. The Board also recognizes that the public has a need and a right to know relevant information about the operation of schools in the District within the limits expressed in the Minnesota Government Data Practices Act and the Family Educational Rights and Privacy Act (FERPA). The purpose of this policy is to adopt measures regarding the protection of privacy of students, their families and District employees pursuant to the requirements of federal and state laws governing individual privacy, openness in government and orderly and efficient operation of the district.
2. **GENERAL STATEMENT OF POLICY**
   a. The Board of Directors shall appoint a Responsible Authority and a Compliance Official for the District. The Responsible Authority and the Compliance Official may be the same person.
   b. The Superintendent shall adopt and implement procedures for access to records by the public, by district employees who have a need for access, by parents and by the data subject. Procedures to gain access to data and the rights of data subject must be made available to the public.
3. **DIRECTORY INFORMATION**
   a. Right to Privacy. Directory Information is available on the following bases unless the parent or person acting as parent, or a student who is over the age of 18 has requested that the information not be available to the public.
   b. General Public Access. The following information is designated as Directory Information regarding any student or employee to any member of the public

not identified in paragraph 4C.

i. Name, height and weight of individual members of athletic teams;
ii. Name of recipient and name of award or scholarship received, and
iii. Names of participants in officially recognized school activities.

c. Government Agencies. In addition to the information available to the general public, the following information is designated as Directory Information regarding any student or the student's identified parent or person acting as the parent to the student to any properly identified member of a governmental agency:

i. Name
ii. Home Address(es)
iii. Telephone Number(s)
iv. School of enrollment
v. Photograph, audio or video image
vi. Electronic mail address
vii. Date of Birth
viii. Dates of attendance
ix. Grade level

4. **RESPONSIBILITY**

a. The Superintendent is authorized to promulgate regulations for the implementation of this policy.
b. The Superintendent shall propose an appropriate employee to act as the Responsible Authority and the Compliance Official for the District to the Board of Directors.
c. It is the responsibility of all employees to abide by the requirements of this policy.

~~**Original Adoption:**~~
~~11/10/2002~~

~~**Revision Dates:**~~
~~08/14/2007, 08/28/2012~~

~~**Legal References:**~~

- 20 USC 1232g (Family Educational Rights and Privacy Act [FERPA]
- 34 CFR Part 99 (Family Educational Rights and Privacy Act [FERPA] Regulations)
- Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
- Minn. Rules Chapter 1205 (Data Practices)

SECTION 2: **ADOPTION** "Policy 3504: Public Data Requests" of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

ADOPTION

Policy 3504: Public Data Requests*(Added)*

1. **PURPOSE**
   The school district recognizes its responsibility relative to the collection, maintenance, and dissemination of public data as provided in state statutes.
2. **GENERAL STATEMENT OF POLICY**
   The school district will comply with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13 (MGDPA), and Minn. Rules Parts 1205.0100-1205.2000 in responding to requests for public data.
3. **DEFINITIONS**
   a. "*Government data*" means all recorded information that the school district has, including paper, email, flash drives, CDs, DVDs, photographs, etc.
   b. "*Inspection*" means the visual inspection of paper and similar types of government data. Inspection does not include printing copies by the school district, unless printing a copy is the only method to provide for inspection of the data. For data stored in electronic form and made available in electronic form on a remote access basis to the public by the school district, inspection includes remote access to the data by the public and the ability to print copies of or download the data on the public's own computer equipment.
   c. "*Public data*" means all government data collected, created, received, maintained, or disseminated by the school district, unless classified by statute, temporary classification pursuant to statute, or federal law, as nonpublic or protected nonpublic; or, with respect to data on individuals, as private or confidential.
   d. "*Responsible authority*" means the individual designated by the school board as the individual responsible for the collection, use, and dissemination of any set of data on individuals, government data, or summary data, unless otherwise provided by state law. Until an individual is designated by the school board, the responsible authority is the superintendent.
   e. "*Data practices compliance official*" is the designated employee by the responsible authority to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.
   f. "*Summary data*" means statistical records and reports derived from data on individuals but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify an individual is ascertainable.
4. **REQUESTS FOR PUBLIC DATA**
   a. All requests for public data must be made in writing directed to the responsible authority or through a designated form or application.
      i. A request for public data must include the following information:
         (1) Date the request is made;
         (2) A clear description of the data requested;

(3) Identification of the form in which the data is to be provided (e.g., inspection, copying, both inspection and copying, etc.); and

(4) Method to contact the requestor (such as phone number, address, or email address).

ii. A requestor is not required to explain the reason for the data request.

iii. The identity of the requestor is public, if provided, but cannot be required by the government entity.

iv. The responsible authority or designee may seek clarification from the requestor if the request is not clear before providing a response to the data request.

b. The responsible authority will respond to a data request at reasonable times and places as follows:

i. The responsible authority will notify the requestor in writing as follows:

(1) The requested data does not exist; or

(2) The requested data does exist but either all or a portion of the data is not accessible to the requestor; or

(A) If the responsible authority determines that the requested data is classified so that access to the requestor is denied, the responsible authority will inform the requestor of the determination in writing, as soon thereafter as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based.

(B) Upon the request of a requestor who is denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.

(3) The requested data does exist and provide arrangements for inspection of the data, identify when the data will be available for pick-up, or indicate that the data will be sent by mail. If the requestor does not appear at the time and place for inspection of the data or the data is not picked up within ten (10) business days after the requestor is notified, the school district will conclude that the data is no longer wanted and will consider the request closed.

ii. The school district's response time may be affected by the size and complexity of the particular request, including necessary redactions of the data, and also by the number of requests made within a particular period of time.

iii. The school district will provide an explanation of technical

terminology, abbreviations, or acronyms contained in the responsive data on request.

iv. The school district is not required by the MGDPA to create or collect new data in response to a data request, or to provide responsive data in a specific form or arrangement if the school district does not keep the data in that form or arrangement.

v. The school district is not required to respond to questions that are not about a particular data request or requests for data in general.

5. **REQUEST FOR SUMMARY DATA**

a. A request for the preparation of summary data shall be made in writing directed to the responsible authority.

i. A request for the preparation of summary data must include the following information:

(1) Date the request is made;

(2) A clear description of the data requested;

(3) Identify the form in which the data is to be provided (e.g., inspection, copying, both inspection and copying, etc.); and

(4) Method to contact requestor (phone number, address, or email address).

b. The responsible authority or designee will respond within ten (10) business days of the receipt of a request to prepare summary data and inform the requestor of the following:

i. The estimated costs of preparing the summary data, if any; and

ii. The summary data requested; or

iii. A written statement describing a time schedule for preparing the requested summary data, including reasons for any time delays; or

iv. A written statement describing the reasons why the responsible authority has determined that the requestor's access would compromise the private or confidential data

c. The school district may require the requestor to pre-pay all or a portion of the cost of creating the summary data before the school district begins to prepare the summary data.

6. **COSTS**

a. Public Data

i. The school district will charge for copies provided as follows:

(1) 100 or fewer pages of black and white, letter or legal sized paper copies will be charged at 25 cents for a one-sided copy or 50 cents for a two-sided copy.

(2) More than 100 pages or copies on other materials are charged based upon the actual cost of searching for and retrieving the data and making the copies or electronically sending the data, unless the cost is specifically set by statute or rule.

(A) The actual cost of making copies includes employee time, the cost of the materials onto which the data is copied (paper, CD, DVD, etc.), and mailing costs (if

any).

(B) Also, if the school district does not have the capacity to make the copies, e.g., photographs, the actual cost paid by the school district to an outside vendor will be charged

ii. All charges must be paid for in cash in advance of receiving the copies.

b. Summary Data

i. Any costs incurred in the preparation of summary data shall be paid by the requestor prior to preparing or supplying the summary data.

ii. The school district may assess costs associated with the preparation of summary data as follows:

(1) The cost of materials, including paper, the cost of the labor required to prepare the copies, any schedule of standard copying charges established by the school district, any special costs necessary to produce such copies from a machine-based record-keeping system, including computers and microfilm systems;

(2) The school district may consider the reasonable value of the summary data prepared and, where appropriate, reduce the costs assessed to the requestor.

SECTION 3: **ADOPTION** "Policy 4200: Personnel Data" of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

A D O P T I O N

Policy 4200: Personnel Data*(Added)*

1. **PURPOSE**
   The purpose of this policy is to provide guidance to school district employees as to the data the school district collects and maintains regarding its personnel.
2. **GENERAL STATEMENT OF POLICY**
   a. All data on individuals collected, created, received, maintained or disseminated by the school district, which is classified by statute or federal law as public, shall be accessible to the public pursuant to the procedures established by the school district.
   b. All other data on individuals is private or confidential
3. **DEFINITIONS**
   a. "*Public*" means that the data is available to anyone who requests it.
   b. "*Private*" means the data is available to the subject of the data and to school district staff who need it to conduct the business of the school district.

c. "*Confidential*" means the data is not available to the subject.

d. "*Parking space leasing data*" means the following government data on an application for, or lease of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment, location of parking space, and work telephone number.

e. "*Personnel data*" means government data on individuals maintained because they are or were employees of the school district, applicants for employment, or volunteers or independent contractors for the school district, or members of or applicants for an advisory board or commission. Personnel data include data submitted to the school district by an employee as part of an organized self-evaluation effort by the school district to request suggestions from all employees on ways to cut costs, make the school district more efficient, or to improve school district operations. An employee who is identified in a suggestion shall have access to all data in the suggestion except the identity of the employee making the suggestion.

f. "*Finalist*" means an individual who is selected to be interviewed by the appointing authority prior to selection.

g. "*Protected health information*" means individually identifiable health information transmitted in electronic form by a school district acting as a health care provider. "Protected health information" excludes health information in education records covered by the federal Family Educational Rights and Privacy Act and employment records held by a school district in its role as employer.

h. "*Public officials*" means business managers; human resource directors; athletic directors whose duties include at least 50 percent of their time spent in administration, personnel, supervision, and evaluation; chief financial officers; directors; and individuals defined as superintendents and principals.

4. **PUBLIC PERSONNEL DATA**

a. The following information on employees, including volunteers and independent contractors, is public:

i. name;

ii. employee identification number, which may not be the employee's social security number;

iii. actual gross salary;

iv. salary range;

v. terms and conditions of employment relationship;

vi. contract fees;

vii. actual gross pension;

viii. the value and nature of employer-paid fringe benefits;

ix. the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

x. job title;

xi. bargaining unit;

xii. job description;

xiii. education and training background;

xiv. previous work experience;
xv. date of first and last employment;
xvi. the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;
xvii. the final disposition of any disciplinary action, as defined in Minn. Stat. § 13.43, Subd. 2(b), together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the school district;
xviii. the complete terms of any agreement settling any dispute arising out of the employment relationship, including superintendent buyout agreements, except that the agreement must include specific reasons for the agreement if it involves the payment of more than $10,000 of public money, and such agreement may not have the purpose or effect of limiting access to or disclosure of personnel data or limiting the discussion of information or opinions related to personnel data;
xix. work location;
xx. work telephone number;
xxi. badge number;
xxii. work-related continuing education;
xxiii. honors and awards received; and
xxiv. payroll time sheets or other comparable data that are used only to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data.

b. The following information on applicants for employment is public:
   i. veteran status;
   ii. relevant test scores;
   iii. rank on eligible list;
   iv. job history;
   v. education and training; and
   vi. work availability.

c. Names of applicants are private data except when certified as eligible for appointment to a vacancy or when they become finalists for an employment position.

d. Applicants for appointment to a public body.
   i. Data about applicants for appointment to a public body are private data on individuals except that the following are public:
      (1) name;
      (2) city of residence, except when the appointment has a residency requirement that requires the entire address to be public;
      (3)

education and training;

(4) employment history;

(5) volunteer work;

(6) awards and honors;

(7) prior government service;

(8) any data required to be provided or that are voluntarily provided in an application for appointment to a multimember agency pursuant to Minn. Stat. § 15.0597; and

(9) veteran status.

ii. Once an individual is appointed to a public body, the following additional items of data are public:

(1) residential address;

(2) either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee;

(3) first and last dates of service on the public body;

(4) the existence and status of any complaints or charges against an appointee; and

(5) upon completion of an investigation of a complaint or charge against an appointee, the final investigative report is public, unless access to the data would jeopardize an active investigation.

iii. Notwithstanding paragraph 2., any electronic mail address or telephone number provided by a public body for use by an appointee shall be public. An appointee may use an electronic mail address or telephone number provided by the public body as the designated electronic mail address or telephone number at which the appointee can be reached.

e. Regardless of whether there has been a final disposition as defined in Minn. Stat. § 13.43, Subd. 2(b), upon completion of an investigation of a complaint or charge against a public official, as defined in Minn. Stat. § 13.43, Subd. 2(e), or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources.

f. Data relating to a complaint or charge against a public official is public only if: (1) the complaint or charge results in disciplinary action or the employee resigns or is terminated from employment while the complaint or charge is pending; or (2) potential legal claims arising out of the conduct that is the subject of the complaint or charge are released as part of a settlement agreement. Data that is classified as private under another law is not made public by this provision.

5. **PRIVATE PERSONNEL DATA**

a. All other personnel data are private and will only be shared with school

district staff whose work requires such access. Private data will not be otherwise released unless authorized by law or by the employee's informed written consent.

b. Data pertaining to an employee's dependents are private data on individuals.

c. Data created, collected or maintained by the school district to administer employee assistance programs are private.

d. Parking space leasing data are private.

e. An individual's checking account number is private when submitted to a government entity.

f. Personnel data may be disseminated to labor organizations to the extent the school district determines it is necessary for the labor organization to conduct its business or when ordered or authorized by the Commissioner of the Bureau of Mediation Services.

g. The school district may display a photograph of a current or former employee to prospective witnesses as part of the school district's investigation of any complaint or charge against the employee.

h. The school district may, if the responsible authority or designee reasonably determines that the release of personnel data is necessary to protect an employee from harm to self or to protect another person who may be harmed by the employee, release data that are relevant to the concerns for safety to:

    i. the person who may be harmed and to the attorney representing the person when the data are relevant to obtaining a restraining order;

    ii. a pre-petition screening team conducting an investigation of the employee under Minn. Stat. § 253B.07, Subd. 1; or

    iii. a court, law enforcement agency, or prosecuting authority.

i. Private personnel data or confidential investigative data on employees may be disseminated to a law enforcement agency for the purpose of reporting a crime or alleged crime committed by an employee, or for the purpose of assisting law enforcement in the investigation of such a crime or alleged crime.

j. A complainant has access to a statement provided by the complainant to the school district in connection with a complaint or charge against an employee.

k. To the extent as allowed by federal law, when allegations of sexual or other types of harassment are made against an employee, the employee shall not have access to data that would identify the complainant or other witnesses if the school district determines that the employee's access to that data would:

    i. threaten the personal safety of the complainant or a witness; or

    ii. subject the complainant or witness to harassment.

    If a disciplinary proceeding is initiated against the employee, data on the complainant or witness shall be available to the employee as may be necessary for the employee to prepare for the proceeding.

l. The school district shall make any report to the Minnesota Professional Educator Licensing and Standards Board or the state board of education as required by Minn. Stat. § 122A.20, Subd. 2, and shall, upon written request from the licensing board having jurisdiction over a teacher's license, provide

the licensing board with information about the teacher from the school district's files, any termination or disciplinary proceeding, and settlement or compromise, or any investigative file in accordance with Minn. Stat. § 122A.20, Subd. 2.

m. Private personnel data shall be disclosed to the department of economic security for the purpose of administration of the unemployment insurance program under Minn. Stat. Ch. 268.

n. When a report of alleged maltreatment of a student in a school is made to the Commissioner of Education, data that are relevant and collected by the school about the person alleged to have committed maltreatment must be provided to the Commissioner on request for purposes of an assessment or investigation of the maltreatment report. Additionally, personnel data may be released for purposes of informing a parent, legal guardian, or custodian of a child that an incident has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

o. The school district shall release to a requesting school district or charter school private personnel data on a current or former employee related to acts of violence toward or sexual contact with a student, if an investigation conducted by or on behalf of the school district or law enforcement affirmed the allegations in writing prior to release and the investigation resulted in the resignation of the subject of the data; or the employee resigned while a complaint or charge involving the allegations was pending, the allegations involved acts of sexual contact with a student, and the employer informed the employee in writing, before the employee resigned, that if the employee resigns while the complaint or charge is still pending, the employer must release private personnel data about the employee's alleged sexual contact with a student to a school district or charter school requesting the data after the employee applies for employment with that school district or charter school and the data remain classified as provided in Minn. Stat. Ch. 13. Data that are released under this paragraph must not include data on the student.

p. The identity of an employee making a suggestion as part of an organized self-evaluation effort by the school district to cut costs, make the school district more efficient, or to improve school district operations is private.

q. Health information on employees is private unless otherwise provided by law. To the extent that the school district transmits protected health information, the school district will comply with all privacy requirements.

r. Personal home contact information for employees may be used by the school district and shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation for the school district or government entity.

s. The personal telephone number, home address, and electronic mail address of a current or former employee of a contractor or subcontractor maintained as a result of a contractual relationship between the school district and a contractor

or subcontractor entered on or after August 1, 2012, are private data. These data must be shared with another government entity to perform a function authorized by law. The data also must be disclosed to a government entity or any person for prevailing wage purposes.

t. When a teacher is discharged immediately because the teacher's license has been revoked due to a conviction for child abuse or sexual abuse or when the Commissioner of the Minnesota Department of Education (MDE) makes a final determination of child maltreatment involving a teacher, the school principal or other person having administrative control of the school must include in the teacher's employment record the information contained in the record of the disciplinary action or the final maltreatment determination, consistent with the definition of public data under Minn. Stat. § 13.41, Subd. 5, and must provide the Minnesota Professional Educator Licensing and Standards Board and the licensing division at MDE with the necessary and relevant information to enable the Minnesota Professional Educator Licensing and Standards Board and MDE's licensing division to fulfill their statutory and administrative duties related to issuing, renewing, suspending, or revoking a teacher's license. In addition to the background check required under Minn. Stat. § 123B.03, a school board or other school hiring authority must contact the Minnesota Professional Educator Licensing and Standards Board and MDE to determine whether the teacher's license has been suspended or revoked, consistent with the discharge and final maltreatment determinations. Unless restricted by federal or state data practices law or by the terms of a collective bargaining agreement, the responsible authority for a school district must disseminate to another school district private personnel data on a current or former teacher (employee or contractor) of the district, including the results of background investigations, if the requesting school district seeks the information because the subject of the data has applied for employment with the requesting school district.

6. **MULTIPLE CLASSIFICATIONS**
   If data on individuals are classified as both private and confidential by Minn. Stat. Ch. 13, or any other state or federal law, the data are private.
7. **CHANGE IN CLASSIFICATIONS**
   The school district shall change the classification of data in its possession if it is required to do so to comply with other judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving agency.
8. **RESPONSIBLE AUTHORITY**
   Contact for the authority responsible for personnel data can be found at: https://board.mpls.k12.mn.us/publicdatarequests.

Legal References:
Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 13.02 (Definitions)
Minn. Stat. § 13.37 (General Nonpublic Data)
Minn. Stat. § 13.39 (Civil Investigation Data)
Minn. Stat. § 13.43 (Personnel Data)
Minn. Stat. § 13.601, Subd. 3 (Elected and Appointed Officials)
Minn. Stat. § 122A.20, Subd. 2 (Mandatory Reporting)
Minn. Stat. § 122A.40, Subds. 13 and 16 (Employment; Contracts; Termination)
Minn. Stat. § 626.556, Subd. 7 (Reporting of Maltreatment of Minors)
P.L. 104-191 (HIPAA)
45 C.F.R. Parts 160 and 164 (HIPAA Regulations)

SECTION 4: **ADOPTION** "Policy 5690: Student Data" of the Minneapolis Public Schools Policies & Regulations is hereby *added* as follows:

A D O P T I O N

Policy 5690: Student Data*(Added)*

1. **PURPOSE**
   The school district recognizes its responsibility in regard to the collection, maintenance, and dissemination of pupil records and the protection of the privacy rights of students as provided in federal law and state statutes.
2. **GENERAL STATEMENT OF POLICY**
   The following procedures and policies regarding the protection and privacy of parents and students are adopted by the school district, pursuant to the requirements of 20 U.S.C. § 1232g, et seq., (Family Educational Rights and Privacy Act (FERPA)) 34 C.F.R. Part 99 and consistent with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and Minn. Rules Parts 1205.0100-1205.2000.
3. **DEFINITIONS**
   a. "*Authorized representative*" means any entity or individual designated by the school district, state, or an agency headed by an official of the Comptroller of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or state and local educational authorities to conduct, with respect to federal or state supported education programs, any audit or evaluation or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.
   b. "*Biometric record*," as referred to in "*Personally Identifiable*," means a record of one or more measurable biological or behavioral characteristics that can be used for authorized recognition of an individual (e.g., fingerprints, retina and iris patterns, voice prints, DNA sequence, facial characteristics, and handwriting).

c. "*Dates of attendance*," as referred to in "*Directory Information*," means the period of time during which a student attends or attended a school or schools in the school district, including attendance in person or by paper correspondence, satellite, internet or other electronic communication technologies for students who are not in the classroom, and including the period during which a student is working under a work-study program. The term does not include specific daily records of a student's attendance at a school or schools in the school district.

d. "*Directory information*" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed.

    i. *General Public Access.* The following information is designated as directory information to any member of the public not identified in section 3.d.ii:

        (1) Name, height and weight of individual members of athletic teams;
        (2) Name of recipient and name of award or scholarship received, and
        (3) Names of participants in officially recognized school activities.

    ii. *Government Agency Access.* In addition to the information available to the general public, the following information is designated as directory information regarding any student or the student's identified parent or person acting as the parent to the student to any properly identified member of a governmental agency:

        (1) Name
        (2) Home Address(es)
        (3) Telephone Number(s)
        (4) School of enrollment
        (5) Photograph, audio or video image
        (6) Electronic mail address
        (7) Date of Birth
        (8) Dates of attendance
        (9) Grade level

    iii. Directory information does not include:

        (1) a student's social security number;
        (2) a student's identification number (ID), user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems if the identifier may be used to access education records without use of one or more factors that authenticate the student's identity such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user;
        (3) a student ID or other unique personal identifier that is

displayed on a student ID badge if the identifier can be used to gain access to educational records when used in conjunction with one or more factors that authenticate the student's identity, such as a PIN, password, or other factor known or possessed only by the student;

(4) personally identifiable data which references religion, race, color, social position, or nationality; or

(5) data collected from nonpublic school students, other than those who receive shared time educational services, unless written consent is given by the student's parent or guardian.

e. "*Education Records*"

i. What constitutes "education records." Education records means those records which: (1) are directly related to a student; and (2) are maintained by the school district or by a party acting for the school district.

ii. What does not constitute an education record. The term, "education records," does not include:

(1) Records of instructional personnel which:

(A) are in the sole possession of the maker of the record; and

(B) are not accessible or revealed to any other individual except a substitute teacher; and

(C) are destroyed at the end of the school year.

(2) Records relating to an individual, including a student, who is employed by the school district which:

(A) are made and maintained in the normal course of business;

(B) relate exclusively to the individual in that individual's capacity as an employee; and

(C) are not available for use for any other purpose.

(3) Records relating to an eligible student, or a student attending an institution of post-secondary education, which are:

(A) made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity or assisting in that capacity;

(B) made, maintained, or used only in connection with the provision of treatment to the student; and

(C) disclosed only to individuals providing the treatment; provided that the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are a part of the

program of instruction within the school district.

(4) Records that only contain information about an individual after he or she is no longer a student at the school district and that are not directly related to the individual's attendance as a student.

f. "*Eligible student*" means a student who has attained eighteen (18) years of age or is attending an institution of post-secondary education.

g. "*Juvenile justice system*" includes criminal justice agencies and the judiciary when involved in juvenile justice activities.

h. "*Legitimate educational interest*" includes interest directly related to classroom instruction, teaching, student achievement and progress, discipline of a student, student health and welfare, and the ability to respond to a request for education data. It includes a person's need to know in order to:

i. Perform an administrative task required in the school or employee's contract or position description approved by the school board;

ii. Perform a supervisory or instructional task directly related to the student's education; or

iii. Perform a service or benefit for the student or the student's family such as health care, counseling, student job placement, or student financial aid.

iv. Perform a task directly related to responding to a request for data.

i. "*Parent*" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent of the student in the absence of a parent or guardian. The school district may presume the parent has the authority to exercise the rights provided herein, unless it has been provided with evidence that there is a state law or court order governing such matters as marriage dissolution, separation or child custody, or a legally binding instrument which provides to the contrary.

j. "*Personally identifiable*" means that the data or information includes, but is not limited to: (a) a student's name; (b) the name of the student's parent or other family member; (c) the address of the student or student's family; (d) a personal identifier such as the student's social security number or student number or biometric record; (e) other direct identifiers, such as the student's date of birth, place of birth, and mother's maiden name; (f) other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or (g) information requested by a person who the school district reasonably believes knows the identity of the student to whom the education record relates.

k. "*Record*" means any information or data recorded in any way including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

l. "*Responsible authority*" means the individual designated by the School Board.

m. "*Student*" includes any individual who is or has been in attendance, enrolled, or registered at the school district and regarding whom the school district maintains education records. Student also includes applicants for enrollment or registration at the school district and individuals who receive shared time educational services from the school district.

n. "*School official*" includes: (a) a person duly elected to the school board; (b) a person employed by the school board in an administrative, supervisory, instructional, or other professional position; (c) a person employed by the school board as a temporary substitute in a professional position for the period of his or her performance as a substitute; and (d) a person employed by, or under contract to, the school board to perform a special task such as a secretary, a clerk, a public information officer or data practices compliance official, an attorney, or an auditor for the period of his or her performance as an employee or contractor.

o. "*Summary data*" means statistical records and reports derived from data on individuals but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify the individual is ascertainable.

p. All other terms and phrases shall be defined in accordance with applicable state and federal law or ordinary customary usage.

4. **GENERAL CLASSIFICATION**

a. State law provides that all data collected, created, received, or maintained by a school district are public unless classified by state or federal law as not public or private or confidential. State law classifies all data on individuals maintained by a school district which relates to a student as private data on individuals. This data may not be disclosed to parties other than the parent or eligible student without consent, except pursuant to a valid court order, certain state statutes authorizing access, and the provisions of FERPA and the regulations promulgated thereunder.

5. **STATEMENT OF RIGHTS**

a. *Rights of Parents and Eligible Students*

Parents and eligible students have the following rights under this policy:

i. The right to inspect and review the student's education records;

ii. The right to request the amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;

iii. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that such consent is not required for disclosure pursuant to this policy, state or federal law, or the regulations promulgated thereunder;

iv. The right to refuse release of names, addresses, and home telephone numbers of students in grades 11 and 12 to military recruiting officers and post-secondary educational institutions;

v. The right to file a complaint with the U.S. Department of Education

concerning alleged failures by the school district to comply with the federal law and the regulations promulgated thereunder;

vi. The right to be informed about rights under the federal law; and

vii. The right to obtain a copy of this policy at the location set forth in Section 21 of this policy.

b. *Eligible Students*

All rights and protections given parents under this policy transfer to the student when he or she reaches eighteen (18) years of age or enrolls in an institution of post-secondary education. The student then becomes an "eligible student." However, the parents of an eligible student who is also a "dependent student" are entitled to gain access to the education records of such student without first obtaining the consent of the student. In addition, parents of an eligible student may be given access to education records in connection with a health or safety emergency if the disclosure meets the conditions of any provision set forth in 34 C.F.R. § 99.31(a).

c. *Students with Disabilities*

The school district shall also follow 34 C.F.R. §§ 300.610-300.617 with regard to the confidentiality of information related to students with a disability.

6. **DISCLOSURE OF EDUCATION RECORDS**

a. *Consent Required for Disclosure*

i. The school district shall obtain a signed and dated written informed consent of the parent of a student or the eligible student before disclosing personally identifiable information from the education records of the student, except as provided herein.

ii. The written consent required by this subdivision must be signed and dated by the parent of the student or the eligible student giving the consent and shall include:

(1) a specification of the records to be disclosed;

(2) the purpose or purposes of the disclosure;

(3) the party or class of parties to whom the disclosure may be made;

(4) the consequences of giving informed consent; and

(5) if appropriate, a termination date for the consent.

iii. When a disclosure is made under this subdivision:

(1) if the parent or eligible student so requests, the school district shall provide him or her with a copy of the records disclosed; and

(2) if the parent of a student who is not an eligible student so requests, the school district shall provide the student with a copy of the records disclosed.

iv. A signed and dated written consent may include a record and signature in electronic form that:

(1) identifies and authenticates a particular person as the source of the electronic consent; and

(2) indicates such person's approval of the information contained in the electronic consent.

v. If the responsible authority seeks an individual's informed consent to the release of private data to an insurer or the authorized representative of an insurer, informed consent shall not be deemed to have been given unless the statement is:

(1) in plain language;

(2) dated;

(3) specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;

(4) specific as to the nature of the information the subject is authorizing to be disclosed;

(5) specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;

(6) specific as to the purpose or purposes for which the information may be used by any of the parties named in Clause e. above, both at the time of the disclosure and at any time in the future; and

(7) specific as to its expiration date which should be within a reasonable time, not to exceed one year except in the case of authorizations given in connection with applications for: (i) life insurance or noncancellable or guaranteed renewable health insurance and identified as such, two years after the date of the policy, or (ii) medical assistance under Minn. Stat. Ch. 256B or Minnesota Care under Minn. Stat. Ch. 256L, which shall be ongoing during all terms of eligibility, for individualized education program health-related services provided by a school district that are subject to third party reimbursement.

vi. *Eligible Student Consent*

Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent of the student shall thereafter only be accorded to and required of the eligible student, except as provided in section 5 of this policy.

b. *Prior Consent for Disclosure Not Required*

The school district may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student unless otherwise provided herein, if the disclosure is:

i. To other school officials, including teachers, within the school district whom the school district determines have a legitimate educational interest in such records;

ii. To a contractor, consultant, volunteer, or other party to whom the school district has outsourced institutional services or functions provided that the outside party:
    (1) performs an institutional service or function for which the school district would otherwise use employees;
    (2) is under the direct control of the school district with respect to the use and maintenance of education records; and
    (3) will not disclose the information to any other party without the prior consent of the parent or eligible student and uses the information only for the purposes for which the disclosure was made.

iii. To officials of other schools, school districts, or post-secondary educational institutions in which the student seeks or intends to enroll, or is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer. The records shall include information about disciplinary action taken as a result of any incident in which the student possessed or used a dangerous weapon, and with proper annual notice (see Section 19), suspension and expulsion information pursuant to section 7917 of the federal Every Student Succeeds Act and, if applicable, data regarding a student's history of violent behavior. The records also shall include a copy of any probable cause notice or any disposition or court order under Minn. Stat. § 260B.171, unless the data are required to be destroyed under Minn. Stat. § 120A.22, Subd. 7(c) or § 121A.75. On request, the school district will provide the parent or eligible student with a copy of the education records which have been transferred and provide an opportunity for a hearing to challenge the content of those records in accordance with Section 15 of this policy;

iv. To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or the Commissioner of the State Department of Education or his or her representative, subject to the conditions relative to such disclosure provided under federal law;

v. In connection with financial aid for which a student has applied or has received, if the information is necessary for such purposes as to:
    (1) To state and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to state statute adopted:
        (A) determine eligibility for the aid;
        (B) determine the amount of the aid;
        (C) determine conditions for the aid; or
        (D) enforce the terms and conditions of the aid.

"Financial aid" for purposes of this provision means a payment of funds provided to an individual or a payment in kind of tangible or intangible property to the individual that is conditioned on the individual's attendance at an educational agency or institution;

vi. To state and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to state statute adopted:

(1) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released; or

(2) after November 19, 1974, if the reporting or disclosure allowed by state statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released, provided the officials and authorities to whom the records are disclosed certify in writing to the school district that the data will not be disclosed to any other party, except as provided by state law, without the prior written consent of the parent of the student. At a minimum, the school district shall disclose the following information to the juvenile justice system under this paragraph: a student's full name, home address, telephone number, and date of birth; a student's school schedule, attendance record, and photographs, if any; and parents' names, home addresses, and telephone numbers.

vii. To organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction; provided that the studies are conducted in a manner which does not permit the personal identification of parents or students by individuals other than representatives of the organization who have a legitimate interest in the information, the information is destroyed when no longer needed for the purposes for which the study was conducted, and the school district enters into a written agreement with the organization that: (a) specifies the purpose, scope, and duration of the study or studies and the information to be disclosed; (b) requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement; (c) requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and (d)

requires the organization to destroy all personally identifiable information when information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed. For purposes of this provision, the term, "organizations," includes, but is not limited to, federal, state, and local agencies and independent organizations. In the event the Department of Education determines that a third party outside of the school district to whom information is disclosed violates this provision, the school district may not allow that third party access to personally identifiable information from education records for at least five (5) years;

viii. To accrediting organizations in order to carry out their accrediting functions;

ix. To parents of a student eighteen (18) years of age or older if the student is a dependent of the parents for income tax purposes;

x. To comply with a judicial order or lawfully issued subpoena, provided, however, that the school district makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance therewith so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with a federal grand jury subpoena, or any other subpoena issued for law enforcement purposes, and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, or the disclosure is in compliance with an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. § 2332b(g)(5)(B), an act of domestic or international terrorism as defined in 18 U.S.C. § 2331, or a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of the proceeding. If the school district initiates legal action against a parent or student, it may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the school district to proceed with the legal action as plaintiff. Also, if a parent or eligible student initiates a legal action against the school district, the school district may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the school district to defend itself;

xi. To appropriate parties, including parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health, including the mental health, or safety of the student or other individuals. The decision is to be based upon information available at the time the threat occurs that indicates that

there is an articulable and significant threat to the health or safety of a student or other individuals. In making a determination whether to disclose information under this section, the school district may take into account the totality of the circumstances pertaining to a threat and may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other students. A record of this disclosure must be maintained pursuant to Section 13.E. of this policy. In addition, an educational agency or institution may include in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. This information may be disclosed to teachers and school officials within the school district and/or teachers and school officials in other schools who have legitimate educational interests in the behavior of the student;

xii. To the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;

xiii. Information the school district has designated as "directory information" pursuant to Section 7 of this policy;

xiv. To military recruiting officers and post-secondary educational institutions pursuant to Section 11 of this policy;

xv. To the parent of a student who is not an eligible student or to the student himself or herself;

xvi. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;

xvii. To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;

xviii. To the juvenile justice system, on written request that certifies that the information will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student:

(1) the following information about a student must be disclosed: a student's full name, home address, telephone number, date of birth; a student's school schedule, daily attendance record, and photographs, if any; and any parents' names, home addresses, and telephone numbers;

(2)

the existence of the following information about a student, not the actual data or other information contained in the student's education record, may be disclosed provided that a request for access must be submitted on the statutory form and it must contain an explanation of why access to the information is necessary to serve the student: (1) use of a controlled substance, alcohol, or tobacco; (2) assaultive or threatening conduct that could result in dismissal from school under the Pupil Fair Dismissal Act; (3) possession or use of weapons or look-alike weapons; (4) theft; or (5) vandalism or other damage to property. Prior to releasing this information, the principal or chief administrative officer of a school who receives such a request must, to the extent permitted by federal law, notify the student's parent or guardian by certified mail of the request to disclose information. If the student's parent or guardian notifies the school official of an objection to the disclosure within ten (10) days of receiving certified notice, the school official must not disclose the information and instead must inform the requesting member of the juvenile justice system of the objection. If no objection from the parent or guardian is received within fourteen (14) days, the school official must respond to the request for information.

The written requests of the juvenile justice system member(s), as well as a record of any release, must be maintained in the student's file.

xix. To the principal where the student attends and to any counselor directly supervising or reporting on the behavior or progress of the student if it is information from a disposition order received by a superintendent under Minn. Stat. § 260B.171, Subd. 3. The principal must notify the counselor immediately and must place the disposition order in the student's permanent education record. The principal also must notify immediately any teacher or administrator who directly supervises or reports on the behavior or progress of the student whom the principal believes needs the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other school district employees, substitutes, and volunteers who are in direct contact with the student if the principal determines that these individual need the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. Such notices from the principal must identify the student, outline the offense, and describe any conditions of probation about which the school must

provide information if this information is provided in the disposition order. Disposition order information received is private educational data received for the limited purpose of serving the educational needs of the student and protecting students and staff. The information may not be further disseminated by the counselor, teacher, administrator, staff member, substitute, or volunteer except as necessary to serve the student, to protect students and staff, or as otherwise required by law, and only to the student or the student's parent or guardian;

xx. To the principal where the student attends if it is information from a peace officer's record of children received by a superintendent under Minn. Stat. § 260B.171, Subd. 5. The principal must place the information in the student's education record. The principal also must notify immediately any teacher, counselor, or administrator directly supervising the student whom the principal believes needs the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other district employees, substitutes, and volunteers who are in direct contact with the student if the principal determines that these individuals need the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. Such notices from the principal must identify the student and describe the alleged offense if this information is provided in the peace officer's notice. Peace officer's record information received is private educational data received for the limited purpose of serving the educational needs of the student and protecting students and staff. The information must not be further disseminated by the counselor, teacher administrator, staff member, substitute, or volunteer except to communicate with the student or the student's parent or guardian as necessary to serve the student, to protect students and staff, or as otherwise required by law.

The principal must delete the peace officer's record from the student's education record, destroy the data, and make reasonable efforts to notify any teacher, counselor, staff member, administrator, substitute, or volunteer who received information from the peace officer's record if the county attorney determines not to proceed with a petition or directs the student into a diversion or mediation program or if a juvenile court makes a decision on a petition and the county attorney or juvenile court notifies the superintendent of such action; or

xxi. To the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of state and

local educational and other agencies and institutions receiving funding or providing benefits of one or more programs authorized under the National School Lunch Act or the Child Nutrition Act of 1966 for which the results will be reported in an aggregate form that does not identify any individual, on the conditions that: (a) any data collected shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary; and (b) any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements.

xxii. To an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in 25 U.S.C. § 5304), who has the right to access a student's case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student's education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State or tribal laws applicable to protecting the confidentiality of a student's education records.

c. *Nonpublic School Students*
The school district may disclose personally identifiable information from the education records of a nonpublic school student, other than a student who receives shared time educational services, without the written consent of the parent of the student or the eligible student unless otherwise provided herein, if the disclosure is:

i. Pursuant to a valid court order;
ii. Pursuant to a statute specifically authorizing access to the private data; or
iii. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiological investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted.

7. **RELEASE OF DIRECTORY INFORMATION**

a. *Classification*
Directory information is public except as provided herein.

b. *Former Students*
Unless a former student validly opted out of the release of directory

information while the student was in attendance and has not rescinded the opt out request at any time, the school district may disclose directory information from the education records generated by it regarding the former student without meeting the requirements of Paragraph C. of this section. In addition, under an explicit exclusion from the definition of an "education record," the school district may release records that only contain information about an individual obtained after he or she is no longer a student at the school district and that are not directly related to the individual's attendance as a student (e.g., a student's activities as an alumnus of the school district).

c. *Present Students and Parents*

The school district may disclose directory information from the education records of a student and information regarding parents without prior written consent of the parent of the student or eligible student, except as provided herein. Prior to such disclosure the school district shall:

i. Annually give public notice by any means that are reasonably likely to inform the parents and eligible students of:

(1) the types of personally identifiable information regarding students and/or parents that the school district has designated as directory information;

(2) the parent's or eligible student's right to refuse to let the school district designate any or all of those types of information about the student and/or the parent as directory information; and

(3) the period of time in which a parent or eligible student has to notify the school district in writing that he or she does not want any or all of those types of information about the student and/or the parent designated as directory information.

ii. Allow a reasonable period of time after such notice has been given for a parent or eligible student to inform the school district in writing that any or all of the information so designated should not be disclosed without the parent's or eligible student's prior written consent, except as provided in Section 6 of this policy.

iii. A parent or eligible student may not opt out of the directory information disclosures to:

(1) prevent the school district from disclosing or requiring the student to disclose the student's name, ID, or school district e-mail address in a class in which the student is enrolled; or

(2) prevent the school district from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information and that has been properly designated by the school district as directory information.

iv. The school district shall not disclose or confirm directory information without meeting the written consent requirements contained in Section

6.A. of this policy if a student's social security number or other non-directory information is used alone or in combination with other data elements to identify or help identify the student or the student's records.

d. *Procedure for Obtaining Nondisclosure of Directory Information*
The parent's or eligible student's written notice shall be directed to the responsible authority and shall include the following:
   i. Name of the student and/or parent, as appropriate;
   ii. Home address;
   iii. School presently attended by student;
   iv. Parent's legal relationship to student, if applicable; and
   v. Specific categories of directory information to be made not public without the parent's or eligible student's prior written consent, which shall only be applicable for that school year.

e. *Duration*
The designation of any information as directory information about a student or parents will remain in effect for the remainder of the school year unless the parent or eligible student provides the written notifications provided herein.

8. **DISCLOSURE OF PRIVATE RECORDS**

a. *Private Records*
For the purposes herein, education records are records which are classified as private data on individuals by state law and which are accessible only to the student who is the subject of the data and the student's parent if the student is not an eligible student. The school district may not disclose private records or their contents except as summary data, or except as provided in Section 6 of this policy, without the prior written consent of the parent or the eligible student. The school district will use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other party to whom personally identifiable information from education records is disclosed.

b. *Private Records Not Accessible to Parent*
In certain cases state law intends, and clearly provides, that certain information contained in the education records of the school district pertaining to a student be accessible to the student alone, and to the parent only under special circumstances, if at all.
   i. The responsible authority may deny access to private data by a parent when a minor student who is the subject of that data requests that the responsible authority deny such access. The minor student's request must be submitted in writing setting forth the reasons for denying access to the parent and must be signed by the minor. Upon receipt of such request the responsible authority shall determine if honoring the request to deny the parent access would be in the best interest of the minor data subject. In making this determination the responsible authority shall consider the following factors:
      (1) whether the minor is of sufficient age and maturity to be able

to explain the reasons for and understand the consequences of the request to deny access;

(2) whether the personal situation of the minor is such that denying parental access may protect the minor data subject from physical or emotional harm;

(3) whether there are grounds for believing that the minor data subject's reasons for precluding parental access are reasonably accurate;

(4) whether the data in question is of such a nature that disclosure of it to the parent may lead to physical or emotional harm to the minor data subject; and

(5) whether the data concerns medical, dental or other health services provided pursuant to Minn. Stat. §§ 144.341-144.347, in which case the data may be released only if the failure to inform the parent would seriously jeopardize the health of the minor.

c. *Private Records Not Accessible to Student*

Students shall not be entitled to access to private data concerning financial records and statements of the student's parent or any information contained therein.

9. **DISCLOSURE OF CONFIDENTIAL RECORDS**

a. *Confidential Records*

Confidential records are those records and data contained therein which are made not public by state or federal law, and which are inaccessible to the student and the student's parents or to an eligible student.

b. *Reports Under the Maltreatment of Minors Reporting Act*

Pursuant to Minn. Stat. § 626.556, written copies of reports pertaining to a neglected and/or physically and/or sexually abused child shall be accessible only to the appropriate welfare and law enforcement agencies. In respect to other parties, such data shall be confidential and will not be made available to the parent or the subject individual by the school district. The subject individual, however, may obtain a copy of the report from either the local welfare agency, county sheriff, or the local police department subject to the provisions of Minn. Stat. § 626.556, Subd. 11.

Regardless of whether a written report is made under Minn. Stat. § 626.556, Subd. 7, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

c. *Investigative Data*

Data collected by the school district as part of an active investigation undertaken for the purpose of the commencement or defense of pending civil

legal action, or which are retained in anticipation of a pending civil legal action are classified as protected nonpublic data in the case of data not on individuals, and confidential data in the case of data on individuals.

i. The school district may make any data classified as protected non-public or confidential pursuant to this subdivision accessible to any person, agency, or the public if the school district determines that such access will aid the law enforcement process, promote public health or safety, or dispel widespread rumor or unrest.

ii. A complainant has access to a statement he or she provided to the school district.

iii. Parents or eligible students may have access to investigative data of which the student is the subject, but only to the extent the data is not inextricably intertwined with data about other school district students, school district employees, and/or attorney data as defined in Minn. Stat. § 13.393.

iv. Once a civil investigation becomes inactive, civil investigative data becomes public unless the release of the data would jeopardize another pending civil legal action, except for those portions of such data that are classified as not public data under state or federal law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. For purposes of this provision, a civil investigation becomes inactive upon the occurrence of any of the following events:

(1) a decision by the school district, or by the chief attorney for the school district, not to pursue the civil legal action. However, such investigation may subsequently become active if the school district or its attorney decides to renew the civil legal action;

(2) the expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil legal action; or

(3) the exhaustion or expiration of rights of appeal by either party to the civil legal action.

v. A "pending civil legal action" for purposes of this subdivision is defined as including, but not limited to, judicial, administrative, or arbitration proceedings.

d. *Chemical Abuse Records*

To the extent the school district maintains records of the identity, diagnosis, prognosis, or treatment of any student which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, such records are classified as confidential and shall be disclosed only for the purposes and under the circumstances expressly authorized by law.

10. **DISCLOSURE OF SCHOOL RECORDS PRIOR TO EXCLUSION OR EXPULSION HEARING**

At a reasonable time prior to any exclusion or expulsion hearing, the student and the student's parent or guardian or representative shall be given access to all school district records pertaining to the student, including any tests or reports upon which the action proposed by the school district may be based, pursuant to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. § 121A.40, et seq.

11. **DISCLOSURE OF DATA TO MILITARY RECRUITING OFFICERS AND POST-SECONDARY EDUCATIONAL INSTITUTIONS**

a. The school district will release the names, addresses, and home telephone numbers of students in grades 11 and 12 to military recruiting officers and post-secondary educational institutions within sixty (60) days after the date of the request unless a parent or eligible student has refused in writing to release this data pursuant to Paragraph C. below.

b. Data released to military recruiting officers under this provision:

   i. may be used only for the purpose of providing information to students about military service, state and federal veterans' education benefits, and other career and educational opportunities provided by the military; and

   ii. cannot be further disseminated to any other person except personnel of the recruiting services of the armed forces.

c. A parent or eligible student has the right to refuse the release of the name, address, or home telephone number to military recruiting officers and post-secondary educational institutions. To refuse the release of the above information to military recruiting officers and post-secondary educational institutions, a parent or eligible student must notify the responsible authority in writing by October 1 each year. The written request must include the following information:

   i. Name of student and parent, as appropriate;

   ii. Home address;

   iii. Student's grade level;

   iv. School presently attended by student;

   v. Parent's legal relationship to student, if applicable;

   vi. Specific category or categories of information which are not to be released to military recruiting officers and post-secondary educational institutions; and

   vii. Specific category or categories of information which are not to be released to the public, including military recruiting officers and post-secondary educational institutions.

d. Annually, the school district will provide public notice by any means that are reasonably likely to inform the parents and eligible students of their rights to refuse to release the names, addresses, and home phone numbers of students in grades 11 and 12 without prior consent.

e. A parent or eligible student's refusal to release the above information to

military recruiting officers and post-secondary educational institutions does not affect the school district's release of directory information to the rest of the public, which includes military recruiting officers and post-secondary educational institutions. In order to make any directory information about a student private, the procedures contained in Section 7 of this policy also must be followed. Accordingly, to the extent the school district has designated the name, address, phone number, and grade level of students as directory information, absent a request from a parent or eligible student not to release such data, this information will be public data and accessible to members of the public, including military recruiting officers and post-secondary educational institutions.

12. **LIMITS ON REDISCLOSURE**

a. *Redisclosure*

Consistent with the requirements herein, the school district may only disclose personally identifiable information from the education records of a student on the condition that the party to whom the information is to be disclosed will not disclose the information to any other party without the prior written consent of the parent of the student or the eligible student, except that the officers, employees, and agents of any party receiving personally identifiable information under this section may use the information, but only for the purposes for which the disclosure was made.

b. *Redisclosure Not Prohibited*

i. Subdivision A. of this section does not prevent the school district from disclosing personally identifiable information under Section 6 of this policy with the understanding that the party receiving the information may make further disclosures of the information on behalf of the school district provided:

(1) The disclosures meet the requirements of Section 6 of this policy; and

(2) The school district has complied with the record-keeping requirements of Section 13 of this policy.

ii. Subdivision A. of this section does not apply to disclosures made pursuant to court orders or lawfully issued subpoenas or litigation, to disclosures of directory information, to disclosures to a parent or student or to parents of dependent students, or to disclosures concerning sex offenders and other individuals required to register under 42 U.S.C. § 14071. However, the school district must provide the notification required in Section 12.D. of this policy if a redisclosure is made based upon a court order or lawfully issued subpoena.

c. *Classification of Disclosed Data*

The information disclosed shall retain the same classification in the hands of the party receiving it as it had in the hands of the school district.

d. *Notification*

The school district shall inform the party to whom a disclosure is made of the

requirements set forth in this section, except for disclosures made pursuant to court orders or lawfully issued subpoenas, disclosure of directory information under Section 7 of this policy, disclosures to a parent or student, or disclosures to parents of a dependent student. In the event that the Family Policy Compliance Office determines that a state or local educational authority, a federal agency headed by an official listed in 34 C.F.R. § 99.31(a)(3), or an authorized representative of a state or local educational authority or a federal agency headed by an official listed in § 99.31(a)(3), or a third party outside of the school district improperly rediscloses personally identifiable information from education records or fails to provide notification required under this section of this policy, the school district may not allow that third party access to personally identifiable information from education records for at least five (5) years.

13. **RESPONSIBLE AUTHORITY; RECORD SECURITY; AND RECORD KEEPING**

a. *Responsible Authority*
The responsible authority shall be responsible for the maintenance and security of student records.

b. *Record Security*
The principal of each school subject to the supervision and control of the responsible authority shall be the records manager of the school, and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records.

c. *Plan for Securing Student Records*
The building principal shall submit to the responsible authority a written plan for securing students records by September 1 of each school year. The written plan shall contain the following information:

i. A description of records maintained;
ii. Titles and addresses of person(s) responsible for the security of student records;
iii. Location of student records, by category, in the buildings;
iv. Means of securing student records; and
v. Procedures for access and disclosure.

d. *Review of Written Plan for Securing Student Records*
The responsible authority shall review the plans submitted pursuant to Paragraph C. of this section for compliance with the law, this policy and the various administrative policies of the school district. The responsible authority shall then promulgate a chart incorporating the provisions of Paragraph C. which shall be attached to and become a part of this policy.

e. *Record Keeping*

i. The principal shall, for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record with the education records of the student which indicates:

(1) the parties who have requested or received personally identifiable information from the education records of the student;
(2) the legitimate interests these parties had in requesting or obtaining the information; and
(3) the names of the state and local educational authorities and federal officials and agencies listed in Section 6.B.iv. of this policy that may make further disclosures of personally identifiable information from the student's education records without consent.

ii. In the event the school district discloses personally identifiable information from an education record of a student pursuant to Section 12.B. of this policy, the record of disclosure required under this section shall also include:
(1) the names of the additional parties to which the receiving party may disclose the information on behalf of the school district;
(2) the legitimate interests under Section 6 of this policy which each of the additional parties has in requesting or obtaining the information; and
(3) a copy of the record of further disclosures maintained by a state or local educational authority or federal official or agency listed in Section 6.B.iv. of this policy in accordance with 34 C.F.R. § 99.32 and to whom the school district disclosed information from an education record. The school district shall request a copy of the record of further disclosures from a state or local educational authority or federal official or agency to whom education records were disclosed upon a request from a parent or eligible student to review the record of requests for disclosure.

iii. Section 13.E.i. does not apply to requests by or disclosure to a parent of a student or an eligible student, disclosures pursuant to the written consent of a parent of a student or an eligible student, requests by or disclosures to other school officials under Section 6.B.i. of this policy, to requests for disclosures of directory information under Section 7 of this policy, or to a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or agency has ordered that the existence or the contents of the subpoena or the information provided in response to the subpoena not be disclosed or as directed by an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18. U.S.C. § 2332b(g)(5)(B) or an act of domestic or international terrorism.

iv. The record of requests of disclosures may be inspected by:
(1) the parent of the student or the eligible student;
(2) the school official or his or her assistants who are responsible for the custody of the records; and
(3) the parties authorized by law to audit the record-keeping procedures of the school district.

v. The school district shall record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception:
(1) the articulable and significant threat to the health or safety of a student or other individual that formed the basis for the disclosure; and
(2) the parties to whom the school district disclosed the information.

vi. The record of requests and disclosures shall be maintained with the education records of the student as long as the school district maintains the student's education records.

14. **RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS**

a. *Parent of a Student, an Eligible Student or the Parent of an Eligible Student Who is Also a Dependent Student*
The school district shall permit the parent of a student, an eligible student, or the parent of an eligible student who is also a dependent student who is or has been in attendance in the school district to inspect or review the education records of the student, except those records which are made confidential by state or federal law or as otherwise provided in Section 8 of this policy.

b. *Response to Request for Access*
The school district shall respond to any request pursuant to Subdivision A. of this section immediately, if possible, or within ten (10) days of the date of the request, excluding Saturdays, Sundays, and legal holidays.

c. *Right to Inspect and Review*
The right to inspect and review education records under Subdivision A. of this section includes:
i. The right to a response from the school district to reasonable requests for explanations and interpretations of records; and
ii. If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the education records, the school district shall provide the parent or eligible student with a copy of the records requested or make other arrangements for the parent or eligible student to inspect and review the requested records.
iii. Nothing in this policy shall be construed as limiting the frequency of inspection of the education records of a student with a disability by the student's parent or guardian or by the student upon the student reaching the age of majority.

d. *Form of Request*

Parents or eligible students shall submit to the school district a written request to inspect education records which identify as precisely as possible the record or records he or she wishes to inspect.

e. *Collection of Student Records*
If a student's education records are maintained in more than one location, the responsible authority may collect copies of the records or the records themselves from the various locations so they may be inspected at one site. However, if the parent or eligible student wishes to inspect these records where they are maintained, the school district shall attempt to accommodate those wishes. The parent or eligible student shall be notified of the time and place where the records may be inspected.

f. *Records Containing Information on More Than One Student*
If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information which pertains to that student.

g. *Authority to Inspect or Review*
The school district may presume that either parent of the student has authority to inspect or review the education records of a student unless the school district has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as marriage dissolution, separation, or custody which provides to the contrary.

h. *Fees for Copies of Records*
    i. The school district shall charge a reasonable fee for providing photocopies or printed copies of records unless printing a copy is the only method to provide for the inspection of data. In determining the amount of the reasonable fee, the school district shall consider the following:
        (1) the cost of materials, including paper, used to provide the copies;
        (2) the cost of the labor required to prepare the copies;
        (3) any schedule of standard copying charges established by the school district in its normal course of operations;
        (4) any special costs necessary to produce such copies from machine based record-keeping systems, including but not limited to computers and microfilm systems; and
        (5) mailing costs.
    ii. If 100 or fewer pages of black and white, letter or legal size paper copies are requested, actual costs shall not be used, and, instead, the charge shall be no more than 25 cents for each page copied.
    iii. The cost of providing copies shall be borne by the parent or eligible student.
    iv. The responsible authority, however, may not impose a fee for a copy of an education record made for a parent or eligible student if doing so

would effectively prevent or, in the case of a student with a disability, impair the parent or eligible student from exercising their right to inspect or review the student's education records.

15. **REQUEST TO AMEND RECORDS; PROCEDURES TO CHALLENGE DATA**

a. *Request to Amend Education Records*

The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate, misleading, or violates the privacy rights of the student may request that the school district amend those records.

i. The request shall be in writing, shall identify the item the requestor believes to be inaccurate, misleading, or in violation of the privacy or other rights of the student, shall state the reason for this belief, and shall specify the correction the requestor wishes the school district to make. The request shall be signed and dated by the requestor.

ii. The school district shall decide whether to amend the education records of the student in accordance with the request within thirty (30) days after receiving the request.

iii. If the school district decides to refuse to amend the education records of the student in accordance with the request, it shall inform the parent of the student or the eligible student of the refusal and advise the parent or eligible student of the right to a hearing under Subdivision B. of this section.

b. *Right to a Hearing*

If the school district refuses to amend the education records of a student, the school district, on request, shall provide an opportunity for a hearing in order to challenge the content of the student's education records to ensure that information in the education records of the student is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. A hearing shall be conducted in accordance with Subdivision C. of this section.

i. If, as a result of the hearing, the school district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the education records of the student accordingly and so inform the parent of the student or the eligible student in writing.

ii. If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the school district, or both.

iii. Any statement placed in the education records of the student under Subdivision B. of this section shall:

(1) be maintained by the school district as part of the education records of the student so long as the record or contested portion thereof is maintained by the school district; and

(2) if the education records of the student or the contested portion thereof is disclosed by the school district to any party, the explanation shall also be disclosed to that party.

c. *Conduct of Hearing*

i. The hearing shall be held within a reasonable period of time after the school district has received the request, and the parent of the student or the eligible student shall be given notice of the date, place, and time reasonably in advance of the hearing.

ii. The hearing may be conducted by any individual, including an official of the school district who does not have a direct interest in the outcome of the hearing. The school board attorney shall be in attendance to present the school board's position and advise the designated hearing officer on legal and evidentiary matters.

iii. The parent of the student or eligible student shall be afforded a full and fair opportunity for hearing to present evidence relative to the issues raised under Subdivisions A. and B. of this section and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.

iv. The school district shall make a decision in writing within a reasonable period of time after the conclusion of the hearing. The decision shall be based solely on evidence presented at the hearing and shall include a summary of evidence and reasons for the decision.

d. *Appeal*

The final decision of the designated hearing officer may be appealed in accordance with the applicable provisions of Minn. Stat. Ch. 14 relating to contested cases.

16. **PROBLEMS ACCESSING DATA**

a. The data practices compliance official is the designated employee to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.

b. Data practices compliance official means the individual designated by the responsible authority.

c. Any request by an individual with a disability for reasonable modifications of the school district's policies or procedures for purposes of accessing records shall be made to the data practices compliance official.

17. **COMPLAINTS FOR NONCOMPLIANCE WITH FERPA**

a. *Where to File Complaints*

Complaints regarding alleged violations of rights accorded parents and eligible students by FERPA, and the rules promulgated thereunder, shall be submitted in writing to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202.

b. *Content of Complaint*
A complaint filed pursuant to this section must contain specific allegations of fact giving reasonable cause to believe that a violation of FERPA and the rules promulgated thereunder has occurred.

18. **WAIVER**
A parent or eligible student may waive any of his or her rights provided herein pursuant to FERPA. A waiver shall not be valid unless in writing and signed by the parent or eligible student. The school district may not require such a waiver.

19. **ANNUAL NOTIFICATION OF RIGHTS**
a. *Contents of Notice*
The school district shall give parents of students currently in attendance and eligible students currently in attendance annual notice by such means as are reasonably likely to inform the parents and eligible students of the following:
i. That the parent or eligible student has a right to inspect and review the student's education records and the procedure for inspecting and reviewing education records;
ii. That the parent or eligible student has a right to seek amendment of the student's education records to ensure that those records are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights and the procedure for requesting amendment of records;
iii. That the parent or eligible student has a right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that federal and state law and the regulations promulgated thereunder authorize disclosure without consent;
iv. That the parent or eligible student has a right to file a complaint with the U.S. Department of Education regarding an alleged failure by the school district to comply with the requirements of FERPA and the rules promulgated thereunder;
v. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest for purposes of disclosing education records to other school officials whom the school district has determined to have legitimate educational interests; and
vi. That the school district forwards education records on request to a school in which a student seeks or intends to enroll or is already enrolled as long as the disclosure is for purposes related to the student's enrollment or transfer and that such records may include suspension and expulsion records pursuant to the federal Every Student Succeeds Act and, if applicable, a student's history of violent behavior.

b. *Notification to Parents of Students Having a Primary Home Language Other Than English*

The school district shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.

c. *Notification to Parents or Eligible Students Who are Disabled*
The school district shall provide for the need to effectively notify parents or eligible students identified as disabled.

20. **DESTRUCTION AND RETENTION OF RECORDS**
Destruction and retention of records by the school district shall be controlled by state and federal law.

21. **COPIES OF POLICY**
Copies of this policy may be obtained by parents and eligible students at the office of the superintendent.

Legal References:
Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. Ch. 14 (Administrative Procedures Act)
Minn. Stat. § 120A.22 (Compulsory Instruction)
Minn. Stat. § 121A.40-121A.56 (The Pupil Fair Dismissal Act)
Minn. Stat. § 121A.75 (Sharing Disposition Order and Peace Officer Records)
Minn. Stat. § 127A.852 (Military-Connected Youth Identifier)
Minn. Stat. § 144.341-144.347 (Consent of Minors for Health Services)
Minn. Stat. § 260B.171, Subds. 3 and 5 (Disposition Order and Peace Officer Records of Children)
Minn. Stat. § 363A.42 (Public Records; Accessibility)
Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)
Minn. Rules Parts 1205.0100-1205.2000 (Data Practices)
10 U.S.C. § 503(b) and (c) (Enlistments: Recruiting Campaigns; Compilation of Directory Information)
18 U.S.C. § 2331 (Definitions)
18 U.S.C. § 2332b (Acts of Terrorism Transcending National Boundaries)
20 U.S.C. § 1232g et seq. (Family Educational Rights and Privacy Act)
20 U.S.C. § 6301 et seq. (Every Student Succeeds Act)
20 U.S.C. § 7908 (Armed Forces Recruiting Information)
26 U.S.C. §§ 151 and 152 (Internal Revenue Code)
34 C.F.R. §§ 99.1-99.67 (Family Educational Rights and Privacy)
34 C.F.R. § 300.610-300.627 (Confidentiality of Information)
42 C.F.R. § 2.1 et seq. (Confidentiality of Drug Abuse Patient Records)
Gonzaga University v. Doe, 536 U.S. 273, 122 S.Ct. 2268, 153 L.Ed. 2d 309 (2002)

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

	AYE	**NAY**	**ABSENT**	**ABSTAIN**
Arneson	_____	_____	_____	_____
Ali	_____	_____	_____	_____
Caprini	_____	_____	_____	_____
Cerrillo	_____	_____	_____	_____
El-Amin	_____	_____	_____	_____
Ellison	_____	_____	_____	_____
Inz	_____	_____	_____	_____
Jourdain	_____	_____	_____	_____
Pauly	_____	_____	_____	_____

Presiding Officer

_____
Kim Ellison, Chair, Minneapolis Public Schools

Attest

_____
Josh Pauly, Clerk, Minneapolis Public Schools