

# CONTRACT AGREEMENT

**PARTIES:** THIS AGREEMENT (the "Agreement") is made and entered into between **GeoSurfaces, Inc.**, herein "GeoSurfaces," a corporation, with its principal business office located at 7080 St. Gabriel Avenue – Ste A, St. Gabriel, LA, 70776; and the undersigned Purchaser ("Purchaser"), **New Buffalo Area Schools** located at **1112 East Clay St., New Buffalo, MI 49117**. GeoSurfaces and Purchaser are sometimes herein jointly referred to as the "Parties." The effective date of this Agreement and all other Contract Documents will be the date upon which this Agreement is executed by the last party signing as noted in the signature section of this Agreement.

**PURPOSE:** Purchaser and GeoSurfaces hereby enter into this Agreement and all other Contract Documents to authorize and provide terms for GeoSurfaces, or its authorized construction groups and subcontractors, to furnish all labor and materials necessary for the multiplex athletic facility improvements on campus of New Buffalo High School located at 1112 East Clay Street, New Buffalo, MI 49117 (the "Project"). The scope of work includes GeoSurfaces' base proposal approved by the Purchaser, resulting in a total contract price of **One million three hundred thirty-nine thousand two hundred fifty-eight dollars (\$1,339,258.00)**, as outlined in the GeoSurfaces Proposal dated **Tuesday, March 24, 2026**, which is incorporated herein by reference as **Exhibit A**.

This Project is being procured through the Sourcwell Cooperative Purchasing Program pursuant to Contract No. 031622-HLC. The Parties acknowledge and agree that such procurement satisfies applicable competitive bidding requirements and public contracting law. The Parties acknowledge that this procurement is made pursuant to Michigan's intergovernmental cooperative purchasing authority, including but not limited to MCL 124.5 and applicable school procurement statutes, and satisfies all competitive bidding requirements. Purchaser acknowledges that procurement through the Sourcwell Cooperative Purchasing Program satisfies all competitive bidding requirements under Michigan law and waives any requirement for separate competitive bidding.

## EXCLUSIONS AND CLARIFICATIONS:

Purchaser acknowledges that **Exhibit A** (the Proposal) includes binding exclusions and clarifications. For avoidance of doubt, the Parties confirm that the following:

- Work is limited to turf replacement and track resurfacing only; existing base, asphalt drainage, and subsurface conditions are assumed suitable. Any deficiencies shall be addressed via Change Order.
- Unmarked or unknown utilities are the responsibility of the Owner.
- Pricing is based on non-prevailing wage rates; no union or prevailing wage requirements are included.
- Pricing is contingent upon timely material procurement;

All other exclusions and clarifications in **Exhibit A** remain in effect.

## **NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

1. The term "CONTRACT DOCUMENTS" refers to this Agreement, and the GeoSurfaces Proposal, which is expressly incorporated herein by reference as **Exhibit A**, and shall be construed and interpreted together as the governing Contract Documents.

Purchaser hereby grants GeoSurfaces a temporary license to enter onto the property at New Buffalo High School for all reasonable purposes to permit GeoSurfaces to complete the Project described in the Contract Documents herein. This license shall terminate automatically upon the completion and delivery of the Project (and Purchaser's acceptance of the same). GeoSurfaces shall maintain workers' compensation insurance in compliance with all applicable laws and regulations. Further, GeoSurfaces, at its sole cost and expense, shall maintain general liability insurance, in an amount not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in aggregate coverage. GeoSurfaces' insurance policies shall name the New Buffalo Area Schools as an additional insured party, and GeoSurfaces shall furnish acceptable certificates of liability insurance to the New Buffalo Area Schools before commencing work under this Agreement. GeoSurfaces agrees to hold harmless and indemnify the Purchaser from any and all claims, demands, damages, losses, or causes of action ("Claims"), including reasonable attorney fees and costs, arising out of or relating to the Project or the Contract Documents, involving any Claims for bodily injury, property damage, theft, death, or other loss attributable to GeoSurfaces' negligence, recklessness, or intentional conduct.

2. GEOSURFACES SHALL FURNISH all materials, labor, and supervision necessary for the construction and installation of the Project contemplated by this Agreement (along with the other Contract Documents) in a proper, efficient, and workmanlike manner. GeoSurfaces shall make all reasonable efforts to perform work and materials on the Project in a timely and diligent manner within the delays and deadlines provided in this Agreement and the other Contract Documents.

GeoSurfaces and Purchaser shall maintain on the Project site from the effective date until completion of the Project, competent supervisors, who shall be the knowledgeable and authorized representatives of GeoSurfaces and Purchaser respectively; and the identity of those supervisors shall at all times during the Project be made known to the other Party. Directions and communications to the Purchaser's supervisor from GeoSurfaces or any third party in connection with the Project shall be treated as notice received by the Purchaser for all purposes. The Purchaser shall maintain on the Project site during the progress of the Project a competent representative authorized to act and make decisions on behalf of the Purchaser, including with the authority to execute binding Change Orders if applicable.

### 3. PAYMENT SCHEDULE:

This Payment Schedule is incorporated into and made part of the Agreement between New Buffalo Area Schools (Owner) and GeoSurfaces, Inc. (Contractor) for the New Buffalo High School Multiplex Athletic Facility Improvements Project.

#### 3.1 Payment for Work

- The Owner shall pay the Contractor the agreed upon Contract Sum as set forth in this document and outlined in "Exhibit A."
- The Owner shall compensate the Contractor, on monthly basis and upon submission of invoices, for all Work performed prior to the execution of this Amendment.
- Invoices shall be submitted on the 20th day of each month. If the 20th falls on a weekend or legal holiday, invoices shall instead be submitted on the immediately preceding Friday.
- Net 30 Pay Terms
- Retainage shall be withheld at a rate of five percent (5%) of each progress payment and shall be released in accordance with the Contract Documents upon substantial completion and final acceptance of the Work.
- Amounts unpaid beyond thirty (30) days shall accrue interest at the rate of 1.5% per month (18% per annum), or if not enforceable, at the maximum rate permitted by law.
- The Contract Sum includes applicable Michigan sales and use taxes based on current laws and regulations.

#### 3.2 Application for Payment

The Application for Payment shall include:

- Work completed—Value of labor and materials incorporated into the Work through the end of the billing period.
- Stored Materials—Contractor shall be entitled to payment for materials and equipment delivered and properly stored, either on-site or, with owner approval, off-site. Payment shall be made upon submission of documentation evidencing Contractor's title and insurance coverage. Payment for stored materials shall not be contingent upon installation and shall be credited toward the Contract Sum.
- Approved Adjustments—Any approved Change Orders or authorized adjustments to the Contract Sum.

#### 3.3 Final Payment

Final payment shall be made when:

- Contractor has fully completed the Work in accordance with this Agreement;
- Contractor has submitted all required close-out documentation, including warranties; and
- Owner has accepted the Work as complete.

Owner shall make final payment of the remaining Contract Sum, less any amounts properly withheld, within fifteen (15) calendar days after acceptance of the Work and receipt of close-out documentation.

#### Payment Terms & Methods:

Accepted payment methods include:

- Check—Payments should be sent via FedEx or UPS, with a tracking number provided upon request. GeoSurfaces, Inc. can supply a shipping label if needed.
  - **Note: Payments sent via the United Postal Service (USPS) will not be accepted due to delays and limited tracking.**
- ACH Transfer (Electronic Payment) —Bank details will be provided upon request.
- Wire Transfer— Available upon request. Processing times may vary.

Owner Responsibilities:

- The Owner must select a preferred payment method prior to project completion to ensure timely payment. If no selection is made, payment shall default to check via FedEx/UPS as described above.
- All invoices and payment-related correspondence shall be sent to the designated accounts payable contact at [**Owner's specified billing address or email**] accountspayable@nbas.org.  
The Owner is responsible for providing accurate billing details before project completion.
- Payments shall be deemed received when cleared funds are available to Contractor and shall be made in accordance with the timing requirements of this Agreement.
- For any questions regarding invoicing, payment processing, or alternative payment arrangements, please contact our Accounting Department at [**b.fortner@geosurfaces.com**].

4. Contract Sum and Payment Terms:

For the Work described in the Contract Documents, the Purchaser shall pay GeoSurfaces the total Contract Sum set forth in the attached (Exhibit A) known as the GeoSurfaces Proposal. The Contract Sum shall be paid in the manner and according to the schedule described in Section 3 (Payment Schedule). Any payment not received when due shall bear interest at the rate of one and half percent (1.5%) per month on the unpaid balance until paid in full. If any payment remains unpaid for more than thirty (30) days after its due date, GeoSurfaces may, at its sole discretion, suspend or terminate all Work on the Project without such suspension or termination being considered a breach of this Agreement.

Any Work agreed to between the Parties beyond the original scope of Work ("Extras") shall be authorized only by a written Change Order signed by both Parties. Unless otherwise mutually agreed in writing, payment for such Extras shall be due and payable before the Extra Work commences. Verbal authorizations shall not be binding.

5. ACCEPTANCE BY PURCHASER:

**Acceptance Process**

Acceptance of the Project shall occur only upon execution by Purchaser of a written Act of Acceptance of Substantial Completion, following a joint inspection by Purchaser and Contractor.

**Substantial Completion**

Substantial Completion shall mean that the Project, as designed and constructed by Contractor in accordance with Contractor's approved proposal, scope of work, and any Owner-approved modifications, is sufficiently complete so that the Owner should use the Project for its intended purpose, subject only to completion of minor punch list items that do not materially impair such use.

**Warranty Commencement**

The warranty period shall begin on the date of Purchaser's written Act of Acceptance of Substantial Completion, and not before. Beneficial use or occupancy by Purchaser prior to written Acceptance shall not, in itself, constitute Acceptance of the Work or the start of warranties.

**Governing Documents**

All design services and construction work are performed under Contractor's design-build scope. Purchaser acknowledges that Acceptance is governed by Contractor's approved proposal, scope of work, and any authorized modifications—not by third-party contract documents.

**Warranty Limitation**

There shall be no other warranty of any nature of kind by Contractor arising from the Project except as expressly stated in Contractor's written Warranty, signed by an authorized representative. Any other warranties which might otherwise be implied by law are hereby expressly waived and replaced in full by the written Warranty.

## 6. FINAL ACCEPTANCE:

### Conditions for Final Acceptance

Final Acceptance shall occur only when all of the following have been completed:

1. Contractor has completed all punch list items to the reasonable satisfaction of Purchaser;
2. Contractor has delivered all required close-out documentation, including warranties, as-built drawings, and operation and maintenance manuals based on Contractor's design; and
3. Purchaser has executed a written Act of Final Acceptance.

### Effect of Final Acceptance

Upon Final Acceptance, Contractor shall be released from further obligations under this Agreement, except for warranty obligations and any other obligations expressly stated in this Agreement to survive the Final Acceptance.

## 7. COMPLETION/WEATHER DAYS

### Definition of Good Weather Working Days

GeoSurfaces schedule, including time for completion of its Work under this Agreement, shall be based upon "*Good Weather Working Days*." For purpose of this Agreement, "*Good Weather Working Days*" is a day on which none of the following conditions exist:

1. Rainfall within the preceding 24 hours exceeds one-eighth (1/8) of an inch.
2. Snow, ice, or saturated ground conditions inhibit performance.
3. Ambient air temperature falls below thirty-five degrees (35°F).
4. Sustained winds exceed twenty (20) miles per hour; or
5. Fog, excessive humidity, or other atmospheric conditions create surface moisture preventing performance.

### Extensions of Contract Time

The Contract Time shall automatically be extended by one (1) calendar day for each day that does not qualify as a Good Weather Working Day, as well as for any other Owner-caused or excusable delays including late approvals, site access restrictions, or permitting delays). Such extensions shall not be considered delays or defaults by the Contractor.

### Completion Deadlines

- **Substantial Completion** of the Project shall occur no later than August 7, 2026, subject to extension of non-Good Weather Working Days and other excusable delays as provided herein.
- **Final Acceptance** shall occur in accordance with Section 6 (Final Acceptance).

## 8. Delays and Limitation of Liability

Except to the extent caused by GeoSurfaces' willful misconduct, GeoSurfaces shall not be responsible for any indirect, or consequential damages, including but not limited to loss of use or revenue, arising from delays in completion of the Project. This limitation applies regardless of cause of delay, whether attributable to GeoSurfaces, the Purchaser, the Purchaser's agents, acts of God, shortages or delays, abnormal weather, labor disputes, or any other cause, including those partially attributable to GeoSurfaces, its employees, subcontractors, or suppliers. All such liability is expressly released by Purchaser.

### Notice to Delay

GeoSurfaces shall provide Purchaser with written notice of any foreseeable delay within a reasonable time after the occurrence or commencement of delay. Such notice may include an estimate of the probable effect of the delay on the progress of the Work. Failure to provide notice shall not create any claim against GeoSurfaces.

### Resumption of Work

Upon termination of a delay, GeoSurfaces shall resume performance and complete the Work. The Project completion date shall be adjusted to reflect the duration of the delay.

**Standard of Performance**

Notwithstanding the foregoing, GeoSurfaces shall not intentionally cause or engage in any unreasonable delays in its performance or completion of the Project.

**9. Governing Law; Entire Agreement**

The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the substantive laws of the State of Michigan. This Agreement, together with the other Contract Documents, constitutes the entire agreement between the Parties, and there are no understanding, representations, or agreements of any kind, express or implied, except as expressly set forth herein. No modification or waiver of any term or condition of this Agreement shall be binding upon GeoSurfaces unless made in writing and executed by an authorized officer of GeoSurfaces. The terms and conditions of this Agreement and other Contract Documents shall not be altered, amended, or superseded by any acknowledgment, acceptance, or other terms contained in any purchase order or other document issued by the Purchaser. The Parties acknowledge that they have jointly participated in the negotiation, preparation, and execution of this Agreement and the other Contract Documents and agree that any ambiguity herein shall not be construed against either Party but shall be interpreted fairly and in accordance with its plain meaning.

**10. Litigation; Venue; Attorneys' Fees**

In the event of litigation arising out of or relating to this Agreement or the other Contract Documents, the prevailing party shall be entitled to recover its reasonable attorney's fees and all other costs of litigation from the non-prevailing party in the form of a monetary judgment. Venue for such action shall lie in a court of competent jurisdiction located in Berrien County, Michigan, unless otherwise elected by GeoSurfaces in writing.

**11. Execution of Agreement**

The Parties, through their duly authorized representative, hereby execute this Agreement, which shall become effective on the date it is signed by the last Party to do so. Execution of this Agreement may be evidenced by facsimile transmission, scanned copy, or email of a signed counterpart, each of which shall be deemed valid and binding. This Agreement may be executed in one or more counterparts, all of which together shall constitute a single instrument.

**GeoSurfaces, Inc.**

By: \_\_\_\_\_  
          Kyle Faulkner, VP of Operations

Address: 7080 St. Gabriel Avenue – Ste. A  
          St. Gabriel, LA 70776

EMAIL: [kyle.faulkner@geosurfaces.com](mailto:kyle.faulkner@geosurfaces.com)

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

**PURCHASER: New Buffalo Area Schools**

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

Print Name and Title: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

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