



INDEPENDENT SCHOOL DISTRICT NO. 108
NORWOOD YOUNG AMERICA, MN 55368
AGENDA: Monday, December 20, 2021



6:00 PM Meeting
High School Media Center

A. PROCEDURAL ITEMS:

Board Chair

1. Call to order

Board Chair

call the meeting to order

2. Roll Call

Board Chair

3. Pledge of Allegiance

Board Chair

4. Approval of Agenda

Board Chair

Board members can amend the presented agenda by adding, removing or adjusting items to suit the needs of a particular meeting.

5. Consent Agenda

Board Chair

a) Approval of Minutes

November 22, 2021 Regular Board Meeting Minutes

b) Payment of Invoices

c) Correspondence

d) Approve Field Trip(s)

e) Human Resources Items:

1. Retirement

a).

2. Lane Change

a).

3. Resignations

a).

4. Non-Renewal

a).

5. New Hires

a).

6. Leave of Absence

f) Extra Curricular Assignments

g) Volunteer Coaches

5

6. Acceptance of Gifts
Board Chair
Board approves donations recieved
- B. Temporary Adjournment of regular Board Meeting
- C. 6:10 PM Open Truth in Taxation Meeting 25
- D. Adjourn Truth in Taxation Meeting
- E. Re-Open Regular Board Meeting
- F. PUBLIC FORUM
Board Chair
During the Public Forum any person may address the School Board on a topic of interest or concern. Listed below are the procedures.
 1. Public Forum will follow the Procedural Items on the agenda.
 2. Public Forum will be open up to 30 minutes (3 minutes per speaker, 10 minutes per topic, and no more than 3 speakers per topic as a general rule). Comments should be brief, and repetition of public comments already expressed at the same meeting should be avoided.
 3. Those wishing to address the Board should fill out the Public Forum Speaker Card and submit the card to the School Board clerk or other district official at the meeting
 4. Questions may be asked on any topic, including those on the agenda.
 5. School District policy and data privacy laws preclude the Board from publicly discussing personnel matters or data, including information, which, if discussed in a public meeting could violate law or policy. Under School Board Policy 206, complaints or concerns regarding individual school district employees should be presented in writing to school administration and signed by the person submitting the complaint or concern.
 6. An attempt will be made to answer questions addressed to the Board. In those cases where an answer is not provided, a phone call from an appropriate school district official will be made as a follow-up.
 7. A handout on the purpose of School Board meetings and the meeting process is available at each School Board meeting.
 8. Citizens may be asked to address the school board on a particular subject during the discussion of that item.
 9. The School Board chairperson will attempt to reasonably honor requests to speak, but shall also exercise discretion with regard to time constraints and therefore may limit the number of requests to speak accordingly.
- G. INFORMATIONAL ITEMS: MONTHLY REPORTS
Board Chair
 1. Student Council
Board Chair

- 2. Student Representative
Board Chair
- 3. Superintendent
Board Chair
- 4. Board 45
Board Chair
Minnesota State High School League
Representative: Strickfaden; Alt: Latzig

Community Education Board
Representatives: Evenski; Latzig

Southwest Metro Educational Coop
Representative: Schug Alt: Latzig

Technology Committee
Representatives: Lehrke, Erickson, Alt: Evenski

Community Development/County & City Liaison
Representative: Latzig; Alt: Eischens

Finance Committee
Representative: Strickfaden: Alt: Latzig

Policy Committee:
Representatives: Erickson, Evenski, Eischens

Negotiation Committees:

MN School Employees Association:
Representatives: Evenski, Strickfaden, Eischens

Teachers Association:
Representatives: Latzig, Lehrke, Schug

Superintendent:
Representatives: Erickson, Schug, Latzig

Principals/Administration:
Representatives Evenski, Lehrke, Eischens

Non-Union Support Staff, Technology Director, Community Ed. Director:
Representatives Evenski, Erickson, Eischens

H. DISCUSSION ITEMS

- Board Chair
- 1. First reading of board policies 101, 101.1, 102, 103 and 104 49
- 2. Review Central Booster Club application to MDH for concessions 60

3.	2022 -20232 Calendar	62
4.	Building Update	
I.	OPERATIONAL ITEMS	
	Board Chair	
1.	Resolution - Building Bonds Series 2021A	64
2.	Consideration of Nexus Contract	92
J.	NEXT BOARD MEETING	
	Board Chair	
K.	ADJOURNMENT	
	Board Chair	

November 22, 2021

Monday, November 22, 2021 6:00 PM

High School Media Center, 531 Morse Street, Norwood Young America, MN 55368

Sara Eischens: Present
Shelby Erickson: Present
Nicole Evenski: Present
Elroy Latzig: Present
Sarah Lehrke: Present
Rich Schug: Present
Kyle Strickfaden: Present

T Schochenmaier A Franck C Harms - student council - student council J Beneke
- Student Representative B Bode - eide bailey audit B Braun

A. PROCEDURAL ITEMS:	Speaker (s): Board Chair
1. Call to order	Speaker (s): Board Chair
2. Roll Call	Speaker (s): Board Chair
3. Pledge of Allegiance	Speaker (s): Board Chair
4. Approval of Agenda Action(s): Move to approve the agenda as presented/amended:. This motion, made by Elroy Latzig and seconded by Rich Schug, Carried. Voting Detail: Sara Eischens: Yea Shelby Erickson: Yea Nicole Evenski: Yea Elroy Latzig: Yea Sarah Lehrke: Yea Rich Schug: Yea Kyle Strickfaden: Yea Voting Summary: Yea: 7, Nay: 0	Speaker (s): Board Chair
5. Consent Agenda Action(s): Move to approve Consent agenda as presented. This motion, made by Rich Schug and seconded by Sarah Lehrke, Carried. Voting Detail: Sara Eischens: Yea Shelby Erickson: Yea Nicole Evenski: Yea Elroy Latzig: Yea Sarah Lehrke: Yea Rich Schug: Yea	Speaker (s): Board Chair

Kyle
Strickfaden: Abstain (With Conflict)
Voting Summary: Yea: 6, Nay: 0, Abstain (With Conflict): 1

6. Acceptance of Gifts	Speaker (s): Board Chair
B. PUBLIC FORUM	Speaker (s): Board Chair
C. INFORMATIONAL ITEMS: MONTHLY REPORTS	Speaker (s): Board Chair
1. Student Council	Speaker (s): Board Chair
2. Student Representative	Speaker (s): Board Chair
3. Superintendent	Speaker (s): Board Chair
4. Board	Speaker (s): Board Chair
D. DISCUSSION ITEMS	Speaker (s): Board Chair
1. Audit Report from Eide Bailey	
2. Bond Recap and Process Moving Forward	
3. 2022-23 District Calendar	
4. Superintendent Goals	
E. OPERATIONAL ITEMS	Speaker (s): Board Chair
1. Consideration of the FY21 Audit	
Action(s): Move to approved 2020-2021 Audit as presented. This motion, made by Sara Eischens and seconded by Sarah Lehrke, Carried.	
Voting Detail: Sara Eischens: Yea Shelby Erickson: Yea Nicole Evenski: Yea Elroy Latzig: Yea Sarah Lehrke: Yea Rich Schug: Yea Kyle Strickfaden: Yea	
Voting Summary: Yea: 7, Nay: 0	
2. Consideration of the 2022-2025 Superintendent Contract	
Action(s): Move to approve Superintendent contract as presented. This motion, made by Elroy Latzig and seconded by Sara Eischens, Carried.	
Voting Detail: Sara Eischens: Yea	

Shelby Erickson: Yea
Nicole Evenski: Yea
Elroy Latzig: Yea
Sarah Lehrke: Yea
Rich Schug: Yea
Kyle
Strickfaden: Yea

Voting Summary: Yea: 7, Nay: 0

3. Resolution to Set Parameters for Bond Sale

Action(s):

Move to approved resolution as presented: Roll
Call vote: Schug Lehrke Strickfaden Eischens
Latzig Evenski Erickson. This motion, made by
Nicole Evenski and seconded by Shelby Erickson,
Carried.

Voting Detail:

Sara Eischens: Yea
Shelby Erickson: Yea

Nicole Evenski: Yea

Elroy Latzig: Yea
Sarah Lehrke: Yea
Rich Schug: Yea
Kyle
Strickfaden: Yea

Voting Summary: Yea: 7, Nay: 0

F. **NEXT BOARD MEETING**

Speaker(s): Board
Chair

G. **ADJOURNMENT**

Speaker(s): Board
Chair

Action(s):

Move to adjourn meeting. This motion, made by
Sara Eischens and seconded by Shelby Erickson,
Carried.

Voting Detail:

Sara Eischens: Yea
Shelby Erickson: Yea

Nicole Evenski: Yea

Elroy Latzig: Yea
Sarah Lehrke: Yea
Rich Schug: Yea
Kyle
Strickfaden: Yea

Voting Summary: Yea: 7, Nay: 0

Board Secretary

Norwood-Young America School
December 20, 2021 Board Payment Register By Check
Fund Summary

Fund Description		Total
01	General Fund	\$106,093.44
02	Food Service	\$46,083.89
04	Community Services	\$15,241.03
Report Total		\$167,418.36

Norwood-Young America School

December 20, 2021 Board Payment Register By Check

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type
0108	GEN1	39348	5123		ANDERSON, STEVEN		Check
				E 01	200 630 000 000 320	November Cell Phone Reimbursement	\$80.00
	PO#: 21574	Voucher #:	75187	Invoice	Invoice No: CellPhone	12/20/2021	Paid Amt: \$80.00
							Check Amount: \$80.00
0108	GEN1	39349	6435		BRICK & BREW PROPERTIES LLC		Check
				E 01	005 850 000 302 570	January 2022 Lease	\$1,849.71
	PO#: 21538	Voucher #:	75188	Invoice	Invoice No: January 2022 Lease	12/20/2021	Paid Amt: \$1,849.71
							Check Amount: \$1,849.71
0108	GEN1	39350	4946		BSN SPORTS LLC		Check
				E 04	005 505 013 321 305	Basketball Uniform Shorts	\$825.00
				E 04	005 505 013 321 305	Freight for Shorts	\$23.06
	PO#: 22107	Voucher #:	75189	Invoice	Invoice No: 914504879	12/20/2021	Paid Amt: \$848.06
							Check Amount: \$848.06
0108	GEN1	39351	00048		CARQUEST AUTO PARTS		Check
				E 01	300 810 000 000 401	Maintenance Supplies For Van	\$31.99
	PO#: 22120	Voucher #:	75225	Invoice	Invoice No: 5927-240815	12/20/2021	Paid Amt: \$31.99
				E 01	300 810 063 000 350	AHU Belt	\$11.99
	PO#: 22120	Voucher #:	75226	Invoice	Invoice No: 5927-241219	12/20/2021	Paid Amt: \$11.99
							Check Amount: \$43.98
0108	GEN1	39352	00202		CARVER COUNTY		Check
				E 01	005 110 000 000 329	Business Office Postage/Express	\$454.28
				E 01	005 110 000 000 305	Business Office Consulting Fees/Services	\$3,395.54
	PO#:	Voucher #:	75190	Invoice	Invoice No: 2894	12/20/2021	Paid Amt: \$3,849.82
							Check Amount: \$3,849.82
0108	GEN1	39353	01698		CARVER COUNTY PARKS		Check
				E 04	005 505 000 321 305	Comm Ed Rec programs - 9/1/21 and 9/9/21	\$232.50
	PO#: 22114	Voucher #:	75227	Invoice	Invoice No: 203556	12/20/2021	Paid Amt: \$232.50
							Check Amount: \$232.50
0108	GEN1	39354	1118		CENTRAL BOOSTER CLUB		Check
				E 01	005 105 720 000 401	Raider Gear - Nov 2021 Health & Wellness Prize	\$392.00
	PO#: 22094	Voucher #:	75191	Invoice	Invoice No: Hoodies	12/20/2021	Paid Amt: \$392.00
							Check Amount: \$392.00
0108	GEN1	39355	00061		CITY OF NORWOOD YOUNG AMERICA		Check
				E 01	100 810 000 000 331	Elem Electricity	\$1,354.48
	PO#:	Voucher #:	75192	Invoice	Invoice No: 561	12/20/2021	Paid Amt: \$1,354.48
				E 01	200 810 000 000 331		\$458.06
				E 01	300 810 000 000 331		\$687.08
	PO#:	Voucher #:	75193	Invoice	Invoice No: HS/MS	12/20/2021	Paid Amt: \$1,145.14
							Check Amount: \$2,499.62
0108	GEN1	39356	3272		COMMUNITY CLUB TOURS		Check
				E 04	005 505 000 321 305	Looney Lutherans Trip - Adult program	\$75.00
	PO#: 22067	Voucher #:	75194	Invoice	Invoice No: LooneyLutherans	12/20/2021	Paid Amt: \$75.00
				E 04	005 505 000 321 305	Rat Pack Christmas	\$162.00
	PO#: 22101	Voucher #:	75195	Invoice	Invoice No: RatPackChristmas	12/20/2021	Paid Amt: \$162.00
							Check Amount: \$237.00
0108	GEN1	39357	4732		DAIKIN APPLIED		Check
				E 01	300 810 063 000 350	Repair Parts For Boilers	\$1,056.47
	PO#: 22121	Voucher #:	75228	Invoice	Invoice No: 3328396	12/20/2021	Paid Amt: \$1,056.47
							Check Amount: \$1,056.47
0108	GEN1	39358	2721		DASHIR MANAGEMENT SERVICES INC		Check
				E 01	100 810 000 000 305	Elem. Maint Consulting/Serv	\$5,867.59
				E 01	200 810 000 000 305	MS Maint Consulting Fees/Serv	\$5,867.59
				E 01	300 810 000 000 305	HS Maint Consulting Fees/Serv	\$5,867.59
				E 02	005 770 000 701 305	Consulting Fees/Serv	\$1,029.87
				E 04	005 590 003 000 305	Preschool Consulting Fees/Serv	\$451.47
				E 04	005 505 030 321 305	Craft Fair Consulting Fees/Serv	\$242.64
				E 01	300 810 000 000 305	HS Maint Consulting Fees/Serv	\$151.65
	PO#:	Voucher #:	75196	Invoice	Invoice No: 7270	12/20/2021	Paid Amt: \$19,478.40
				E 01	100 810 000 000 305	Elem. Maint Consulting/Serv	\$5,867.59
				E 01	200 810 000 000 305	MS Maint Consulting Fees/Serv	\$5,867.59
				E 01	300 810 000 000 305	HS Maint Consulting Fees/Serv	\$5,867.59
				E 02	005 770 000 701 305	Consulting Fees/Serv	\$1,029.87
				E 02	005 770 000 701 305	Consulting Fees/Serv	\$451.47
	PO#:	Voucher #:	75229	Invoice	Invoice No: 7289	12/20/2021	Paid Amt: \$19,084.11
							Check Amount: \$38,562.51
0108	GEN1	39359	00533		DRAMATIC PUBLISHING CO		Check
				E 01	300 291 111 000 305	Royalty Fees	\$40.00
	PO#: 22068	Voucher #:	75197	Invoice	Invoice No: 100101881	12/20/2021	Paid Amt: \$40.00
							Check Amount: \$40.00

Norwood-Young America School December 20, 2021 Board Payment Register By Check

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type
0108	GEN1	39360	4883		EIDE BAILLY LLP		Check
				E 01	005 110 000 000 313 Business Office Audit Fees		\$12,025.00
	PO#:	Voucher #:	75198	Invoice	Invoice No: EI01243549	12/20/2021	Paid Amt: \$12,025.00
							Check Amount: \$12,025.00
0108	GEN1	39361	3639		FOX, DARRIN		Check
				E 01	005 760 000 723 360 Elementary DAPE		\$8.50
	PO#:	Voucher #:	75199	Invoice	Invoice No: DAPE	12/20/2021	Paid Amt: \$8.50
							Check Amount: \$8.50
0108	GEN1	39362	4288		FRIEND, ALISSA		Check
				E 01	100 203 074 000 430 canvas 8x10 10 pack		\$20.00
				E 01	100 203 074 000 430 white yarn		\$2.98
				E 01	100 203 074 000 430 plastic heart (pack of 10)		\$7.96
	PO#: 22098	Voucher #:	75200	Invoice	Invoice No: supplies	12/20/2021	Paid Amt: \$30.94
							Check Amount: \$30.94
0108	GEN1	39363	2694		HECKERT, LISA		Check
				E 01	100 203 070 000 430 reimbursement for Christmas Gifts-Kindergarten		\$15.84
				E 01	100 260 000 000 430 reimburseent for Crepe Paper for Science Wind:		\$6.00
	PO#: 22070	Voucher #:	75201	Invoice	Invoice No: supplies	12/20/2021	Paid Amt: \$21.84
							Check Amount: \$21.84
0108	GEN1	39364	4733		HILDI INC.		Check
				E 01	005 110 000 000 305 Business Office Consulting Fees/Services		\$7,190.00
	PO#:	Voucher #:	75202	Invoice	Invoice No: 13188	12/20/2021	Paid Amt: \$7,190.00
							Check Amount: \$7,190.00
0108	GEN1	39365	4202		KELZER, DEBRA SUSAN		Check
				E 04	700 590 000 353 305 Emanuel Guidance and Counseling		\$1,196.36
	PO#:	Voucher #:	75230	Invoice	Invoice No: EmanuelCounselorServ	12/20/2021	Paid Amt: \$1,196.36
				E 04	702 590 000 353 305 St John Guidance and Counseling		\$1,813.82
	PO#:	Voucher #:	75231	Invoice	Invoice No: StJohnsCounselorServ	12/20/2021	Paid Amt: \$1,813.82
				E 04	703 590 000 353 305 Zion Guid/Cnsl Consulting		\$849.02
	PO#:	Voucher #:	75232	Invoice	Invoice No: ZionCounselorService	12/20/2021	Paid Amt: \$849.02
							Check Amount: \$3,859.20
0108	GEN1	39366	1626		KNG SPORTS		Check
				E 04	005 560 022 321 401 Basketball Camp shirts		\$501.00
	PO#:	Voucher #:	75204	Invoice	Invoice No: 202120	12/20/2021	Paid Amt: \$501.00
							Check Amount: \$501.00
0108	GEN1	39367	6439		KRIZ, TAYLOR		Check
				E 01	300 256 000 000 430 TPT Architect Project		\$5.00
	PO#: 22073	Voucher #:	75203	Invoice	Invoice No: TPT Architect	12/20/2021	Paid Amt: \$5.00
							Check Amount: \$5.00
0108	GEN1	39368	6563		LEE'S REFRIGERATIOIN		Check
				E 02	005 770 000 701 350 Freezer Repairs H/S		\$388.00
	PO#: 22123	Voucher #:	75233	Invoice	Invoice No: 35194	12/20/2021	Paid Amt: \$388.00
							Check Amount: \$388.00
0108	GEN1	39369	3185		MARCO TECHNOLOGIES, LLC		Check
				E 01	005 108 000 795 305 Professional Services - Configure, Test and Impl		\$1,110.00
	PO#: 21586	Voucher #:	75234	Invoice	Invoice No: INV9379796	12/20/2021	Paid Amt: \$1,110.00
							Check Amount: \$1,110.00
0108	GEN1	39370	6545		MARCO TECNOLOGIES LLC		Check
				E 01	005 850 000 302 580 November Copy and Printing Contract		\$2,346.81
	PO#: 21838	Voucher #:	75205	Invoice	Invoice No: 458433893	12/20/2021	Paid Amt: \$2,346.81
							Check Amount: \$2,346.81
0108	GEN1	39371	1606		MAYER LUMBER CO, INC		Check
				E 01	300 301 501 830 433 8' 2x4s		\$102.40
				E 01	300 301 501 830 433 Drip Edge - 10' pieces		\$39.30
				E 01	300 301 501 830 433 sheet rock		\$34.74
				E 01	300 301 501 830 433 Landmark Shingles		\$150.00
				E 01	300 301 501 830 433 7/16 OSB		\$113.60
	PO#: 22136	Voucher #:	75235	Invoice	Invoice No: 209888	12/20/2021	Paid Amt: \$440.04
							Check Amount: \$440.04
0108	GEN1	39372	05234		MCGRAW-HILL SCHOOL EDUCATION HOLDINGS, LLC.		Check
				E 04	703 590 000 351 460 Zion Textbooks/Workbooks		\$21.54
	PO#:	Voucher #:	75236	Invoice	Invoice No: 120389204001	12/20/2021	Paid Amt: \$21.54
							Check Amount: \$21.54
0108	GEN1	39373	5990		McNEIL, MARY PAT		Check
				E 01	005 105 000 000 305 CE catalog redesign & winter/spring catalog des		\$6,705.00
	PO#: 22116	Voucher #:	75237	Invoice	Invoice No: ComEdCatalog	12/20/2021	Paid Amt: \$6,705.00
				E 01	005 105 000 000 305 Print Invoice - CE catalog		\$3,721.75
				E 01	005 105 000 000 305 Initial catalog set up and design of winter/spring		\$0.00
	PO#: 22116	Voucher #:	75238	Invoice	Invoice No: ComEdCatalogPrint	12/20/2021	Paid Amt: \$3,721.75
				E 01	200 211 000 000 401 Business envelopes		\$215.16
				E 01	005 110 000 000 401 Business envelopes		\$215.16

Norwood-Young America School December 20, 2021 Board Payment Register By Check

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type
0108	GEN1	39373	5990		McNEIL, MARY PAT		Check
				E 01	100 203 000 000 401	Business envelopes	\$215.16
				E 01	300 211 000 000 401	Business envelopes	\$215.16
				E 01	300 710 000 000 401	Business envelopes	\$215.15
	PO#: 22099	Voucher #:	75239	Invoice	Invoice No: BusinessEnvelopes	12/20/2021	Paid Amt: \$1,075.79
							Check Amount: \$11,502.54
0108	GEN1	39374	00572		MENARDS INC		Check
				E 01	300 301 501 830 433	1x4 boards	\$23.31
				E 01	300 301 501 830 433	8d nails	\$14.29
				E 01	300 301 501 830 433	16d nails	\$14.29
				E 01	300 301 501 830 433	wire cup brush	\$2.49
				E 01	300 301 501 830 433	6" Bench Grinding Wheel	\$7.18
				E 01	300 301 501 830 433	chuck key	\$3.99
				E 01	300 301 501 830 433	5/8" bit	\$4.48
				E 01	300 301 501 830 433	1/4" drill bit	\$4.49
				E 01	300 301 501 830 433	3/32" drill bit set	\$7.99
				E 01	300 301 501 830 433	2" T-25 bits	\$2.29
				E 01	300 301 501 830 433	3.5" T-25 bits	\$6.96
				E 01	300 301 501 830 433	reciprocating saw blades	\$12.97
				E 01	300 301 501 830 433	scroll saw blades	\$15.92
				E 01	300 301 501 830 433	sandpaper	\$2.17
				E 01	300 301 501 830 433	wood glue	\$4.38
				E 01	300 301 501 830 433	Welding gloves	\$13.98
				E 01	300 301 501 830 433	6013 welding electrodes	\$13.99
	PO#: 22077	Voucher #:	75206	Invoice	Invoice No: 23661	12/20/2021	Paid Amt: \$155.17
				E 01	300 301 501 830 433	Paper joint tape	\$2.56
				E 01	300 301 501 830 433	3/8" hex nuts	\$2.99
				E 01	300 301 501 830 433	5/16" washers	\$2.69
				E 01	300 301 501 830 433	Quik Stik yellow marker	\$6.39
				E 01	300 301 501 830 433	DIY Drywall Kit	\$9.98
				E 01	300 301 501 830 433	2" socket adapter set	\$4.88
				E 01	300 301 501 830 433	3" knot wire cup brush	\$5.99
				E 01	300 301 501 830 433	drywall rasp	\$7.49
				E 01	300 301 501 830 433	T-20 bits	\$4.98
				E 01	300 301 501 830 433	3/32" drill bit set	\$7.99
				E 01	300 301 501 830 433	JB Weld	\$4.84
				E 01	300 301 501 830 433	6" wire wheel	\$7.27
				E 01	300 301 501 830 433	2x2 drywall panels	\$10.89
				E 01	300 301 501 830 433	12" plastic mud pan	\$3.99
	PO#: 22109	Voucher #:	75207	Invoice	Invoice No: 24417	12/20/2021	Paid Amt: \$82.93
							Check Amount: \$238.10
0108	GEN1	39375	05062		MID-COUNTY CO-OP OIL ASSN.		Check
				E 01	005 760 000 720 442	Transp Fuel for Vehicles	\$3,796.80
	PO#:	Voucher #:	75240	Invoice	Invoice No: 692828	12/20/2021	Paid Amt: \$3,796.80
							Check Amount: \$3,796.80
0108	GEN1	39376	6388		MN DEPT OF HEALTH		Check
				E 01	300 292 000 000 305	Boosters Licence renewal - Concessions	\$290.00
	PO#: 22148	Voucher #:	75241	Invoice	Invoice No: LicenseConcessions	12/20/2021	Paid Amt: \$290.00
							Check Amount: \$290.00
0108	GEN1	39377	01301		MN DEPT OF LABOR AND INDUSTRY		Check
				E 01	300 810 063 000 350	Annual Pressure Vessel	\$30.00
	PO#: 22124	Voucher #:	75242	Invoice	Invoice No: ABR0273501X	12/20/2021	Paid Amt: \$30.00
				E 01	300 810 063 000 350	Annual Pressure Vessel	\$40.00
	PO#: 22124	Voucher #:	75243	Invoice	Invoice No: ABR0272396X	12/20/2021	Paid Amt: \$40.00
							Check Amount: \$70.00
0108	GEN1	39378	00002		MN RURAL EDUCATION ASSOCIATION		Check
				E 01	005 010 000 000 820	2021-2022 Membership	\$1,059.00
	PO#: 21987	Voucher #:	75244	Invoice	Invoice No: 2022-7462-01	12/20/2021	Paid Amt: \$1,059.00
							Check Amount: \$1,059.00
0108	GEN1	39379	00806		ORIENTAL TRADING CO INC		Check
				E 01	100 203 074 000 430	Word search activity book pack of 24. #12/4869	\$14.86
				E 01	100 203 074 000 430	Stackable snowman pencils #4/2031	\$9.56
				E 01	100 203 074 000 430	Freight	\$9.95
	PO#: 22084	Voucher #:	75208	Invoice	Invoice No: 713731613-02	12/20/2021	Paid Amt: \$34.37
							Check Amount: \$34.37
0108	GEN1	39380	5494		PEHRSON, PATRIC		Check
				E 01	200 255 000 000 430	LaCrouix Sparkling Water	\$2.70
				E 01	200 255 000 000 430	Sunbelt Granola Bars	\$3.99
				E 01	200 255 000 000 430	Crackers Salted	\$2.82
				E 01	200 255 000 000 430	Unsalted carackers	\$2.81
				E 01	200 255 000 000 430	Pure Leaf Sweet Tea	\$1.99

Norwood-Young America School

December 20, 2021 Board Payment Register By Check

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type		
0108	GEN1	39380	5494		PEHRSON, PATRIC		Check		
				E 01	200 255 000 000 430	Pure Leaf Unsweetened Tea		\$1.99	
	PO#: 22079	Voucher #:	75209	Invoice	Invoice No:	supplies	12/20/2021		Paid Amt: \$16.30
									Check Amount: \$16.30
0108	GEN1	39381	09305		POSTMASTER		Check		
				E 01	005 110 000 000 329	Annual Post Office Box Fee HS/MS PO Box 247		\$166.00	
				E 01	005 110 000 000 329	Annual Post Office Box Fee Elementary PO Bo:		\$166.00	
	PO#: 22134	Voucher #:	75245	Invoice	Invoice No:	PostOfficeBoxFees	12/20/2021		Paid Amt: \$332.00
									Check Amount: \$332.00
0108	GEN1	39382	05604		RIDGEVIEW MEDICAL CENTER		Check		
				E 01	300 292 000 000 401	Fall Sports coverage supplies		\$342.46	
				E 01	300 292 000 000 305	Fall 2021 sports medicine coverage		\$3,472.46	
	PO#: 22145	Voucher #:	75246	Invoice	Invoice No:	FallSportsMedicine	12/20/2021		Paid Amt: \$3,814.92
				E 01	300 294 050 000 401	Varsity football/ trainer at away games		\$775.00	
	PO#: 22086	Voucher #:	75210	Invoice	Invoice No:	Football Game Covera	12/20/2021		Paid Amt: \$775.00
									Check Amount: \$4,589.92
0108	GEN1	39383	3713		ROCHESTER TELECOM SYSTEMS, INC		Check		
				E 01	100 810 000 000 320	Elem Communication/Phone		\$8.70	
				E 01	200 810 000 000 320	MS Communication/Phone		\$8.71	
				E 01	300 810 000 000 320	HS Communication/Phone		\$8.71	
				E 04	005 505 000 321 320	CE General Communication/Phone		\$8.70	
	PO#:	Voucher #:	75211	Invoice	Invoice No:	12992	12/20/2021		Paid Amt: \$34.82
									Check Amount: \$34.82
0108	GEN1	39384	3304		RUBERG, DEVON		Check		
				E 01	100 203 070 000 430	Fidget bracelets for guided reading centers		\$20.95	
	PO#: 22125	Voucher #:	75247	Invoice	Invoice No:	supplies	12/20/2021		Paid Amt: \$20.95
									Check Amount: \$20.95
0108	GEN1	39385	6406		SAVVAS LEARNING COMPANY LLC		Check		
				E 04	703 590 000 351 460	ELVMGS19 SE+DCW 1 Yr Lic life		\$35.00	
				E 04	703 590 000 351 460	Shipping/Handling		\$2.45	
	PO#:	Voucher #:	75213	Invoice	Invoice No:	7027800693	12/20/2021		Paid Amt: \$37.45
									Check Amount: \$37.45
0108	GEN1	39386	5927		SCHOCHENMAIER, TIM		Check		
				E 01	005 020 000 000 366	Mileage		\$970.48	
				E 01	005 020 000 000 320	Phone Reimbursement per Contract		\$720.00	
	PO#: 22147	Voucher #:	75248	Invoice	Invoice No:	Reimbursement	12/20/2021		Paid Amt: \$1,690.48
									Check Amount: \$1,690.48
0108	GEN1	39387	01816		SECTION 4A		Check		
				E 01	300 291 110 000 369	4A Speech Sections Team Fee		\$50.00	
				E 01	300 291 110 000 369	c/oRick Johns 3526 72nd St E Inver Grove Heigl		\$0.00	
	PO#: 22117	Voucher #:	75249	Invoice	Invoice No:	SpeechTeamFee	12/20/2021		Paid Amt: \$50.00
									Check Amount: \$50.00
0108	GEN1	39388	6251		SHERWIN WILLIAMS CO.		Check		
				E 01	300 810 000 000 401	Paint For Locker Room		\$47.43	
	PO#: 22126	Voucher #:	75250	Invoice	Invoice No:	1825-7	12/20/2021		Paid Amt: \$47.43
									Check Amount: \$47.43
0108	GEN1	39389	00374		SMITH OIL CO.		Check		
				E 01	300 810 000 000 401	gasoline		\$30.30	
	PO#: 22019	Voucher #:	75251	Invoice	Invoice No:	156207	12/20/2021		Paid Amt: \$30.30
				E 01	300 810 000 000 401	Gas In Van		\$36.35	
	PO#: 22127	Voucher #:	75252	Invoice	Invoice No:	156909	12/20/2021		Paid Amt: \$36.35
				E 01	005 760 000 720 440	Transp Fuel for Buildings		\$3,086.00	
	PO#:	Voucher #:	75253	Invoice	Invoice No:	November2021	12/20/2021		Paid Amt: \$3,086.00
									Check Amount: \$3,152.65
0108	GEN1	39390	00673		SOUTH CENTRAL SERVICE COOP		Check		
				E 01	300 291 066 000 369	KB Regional Registration		\$735.00	
	PO#: 22110	Voucher #:	75214	Invoice	Invoice No:	SrHighKnowBowl	12/20/2021		Paid Amt: \$735.00
									Check Amount: \$735.00
0108	GEN1	39391	5287		SOUTHWEST METRO INTERMEDIATE DISTRICT 288		Check		
				E 01	100 412 011 420 303	El SpEd FedSubAwards up to \$25,000		\$2,211.96	
	PO#:	Voucher #:	75215	Invoice	Invoice No:	3245	12/20/2021		Paid Amt: \$2,211.96
				E 01	300 365 000 830 390	FY22 Sept Voc Billing - Med Careers		\$304.20	
	PO#:	Voucher #:	75216	Invoice	Invoice No:	3225	12/20/2021		Paid Amt: \$304.20
				E 01	300 365 000 830 390	FY22 Oct Voc Billing - Med Careers		\$321.10	
	PO#:	Voucher #:	75217	Invoice	Invoice No:	3236	12/20/2021		Paid Amt: \$321.10
									Check Amount: \$2,837.26
0108	GEN1	39392	2656		STEP SAVER INC.		Check		
				E 01	300 810 000 000 401	Softner Salt		\$195.30	
	PO#: 22129	Voucher #:	75254	Invoice	Invoice No:	149806	12/20/2021		Paid Amt: \$195.30
									Check Amount: \$195.30

Norwood-Young America School December 20, 2021 Board Payment Register By Check

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type
0108	GEN1	39393	2325		TAHER, INC. - BIN# 135092		Check
				E 02	005 770 000 701 305 Consulting Fees/Serv		\$22,789.62
				E 02	005 770 000 701 490 Food		\$15,052.18
				E 02	005 770 000 701 491 Commodities		\$2,965.68
				E 02	005 770 000 701 401 General Supplies		\$2,377.20
	PO#:	Voucher #:	75219	Invoice	Invoice No: 0060566-IN	12/20/2021	Paid Amt: \$43,184.68
							Check Amount: \$43,184.68
0108	GEN1	39394	6252		T-MOBILE		Check
				E 01	300 810 000 000 320 mobile hot spots		\$816.00
				E 01	200 810 000 000 320 mobile hot spots		\$792.00
				E 01	100 810 000 000 320 mobile hot spots		\$792.00
	PO#:	Voucher #:	75218	Invoice	Invoice No: 969563964	12/20/2021	Paid Amt: \$2,400.00
							Check Amount: \$2,400.00
0108	GEN1	39395	6476		TOP 20 TRAINING		Check
				E 01	005 640 600 000 305 Top 20 Training November 5, 2021		\$3,800.00
	PO#:	Voucher #:	75220	Invoice	Invoice No: 5153	12/20/2021	Paid Amt: \$3,800.00
							Check Amount: \$3,800.00
0108	GEN1	39396	6472		TRAINING HAUS		Check
				E 04	005 560 017 321 305 Training Haus - Performance Camp		\$8,050.00
	PO#: 22082	Voucher #:	75221	Invoice	Invoice No: 00031695	12/20/2021	Paid Amt: \$8,050.00
							Check Amount: \$8,050.00
0108	GEN1	39397	1157		UHL COMPANY		Check
				E 01	300 810 063 000 350 Heating Issues At H/S And M/S		\$778.50
	PO#: 22130	Voucher #:	75255	Invoice	Invoice No: 38601	12/20/2021	Paid Amt: \$778.50
							Check Amount: \$778.50
0108	GEN1	39398	6606		VOSSEN, KELLY		Check
				E 04	005 505 000 321 320 Technology - per contract July - December 2021		\$720.00
	PO#: 22103	Voucher #:	75222	Invoice	Invoice No: TechnologyAllowance	12/20/2021	Paid Amt: \$720.00
							Check Amount: \$720.00
0108	GEN1	39399	00955		WEST MUSIC		Check
				E 01	300 258 258 000 430 Singers Arise		\$13.20
				E 01	300 258 258 000 430 Love then and Still		\$15.90
				E 01	300 258 258 000 430 There's Gonna Be a Homecomin'		\$13.50
				E 01	300 258 258 000 430 Nino Precioso		\$6.75
				E 01	300 258 258 000 430 Let the River Run		\$6.45
	PO#: 22137	Voucher #:	75256	Invoice	Invoice No: Sl2079932	12/20/2021	Paid Amt: \$55.80
							Check Amount: \$55.80
0108	GEN1	39400	6635		WILLIAM H. SADLIER, INC.		Check
				E 04	703 590 000 351 460 Grmr Wrng SE LvYlW Gr8		\$22.79
				E 04	703 590 000 351 460 Shipping		\$8.68
	PO#:	Voucher #:	75212	Invoice	Invoice No: INV113434	12/20/2021	Paid Amt: \$31.47
							Check Amount: \$31.47
0108	GEN1	39401	6469		WILLIAMS, ASHLEY		Check
				E 01	300 211 000 000 369 Scholastic Art & Writing Awards: Submission fee		\$7.00
				E 01	300 211 000 000 369 Scholastic Art & Writing Awards: Submission fee		\$7.00
				E 01	300 211 000 000 369 Scholastic Art & Writing Awards: Submission fee		\$7.00
				E 01	300 211 000 000 369 Scholastic Art & Writing Awards: Submission fee		\$7.00
	PO#: 22140	Voucher #:	75257	Invoice	Invoice No: ScholasticAwardsFFee	12/20/2021	Paid Amt: \$28.00
							Check Amount: \$28.00
							Report Total: \$167,418.36

December 5-2021 PAYROLL

GROSS PAY	\$268,703.52
FEDERAL TAX	(19,554.51)
MN STATE TAX	(9,649.85)
OASDI	(15,659.79)
MEDICARE	(3,662.39)
PERA	(3,271.20)
TRA	(15,873.59)
ANNUITIES	(4,752.21)
FLEX	(16,559.52)
VOLUNTARIES	(5,289.04)
NET PAYROLL	<u><u>\$174,431.42</u></u>

December 20-2021 PAYROLL

GROSS PAY	\$268,512.04
FEDERAL TAX	(20,138.02)
MN STATE TAX	(9,654.42)
OASDI	(15,339.45)
MEDICARE	(3,653.32)
PERA	(3,078.45)
TRA	(15,959.49)
ANNUITIES	(4,756.38)
FLEX	(16,559.46)
VOLUNTARIES	(5,303.01)
NET PAYROLL	<u><u>\$174,070.04</u></u>

**Norwood-Young America School
December 2021 Payroll Taxes and Liabilities**

Bank	Batch	Pmt No	Check No	Pay Type	Grp Code	Rcd	Vendor	Tax Class	Pay/Void			Amount	
									Print	Recon	Void		Date
GEN1	p20631	53083		Wire	1	04035	TEACHERS RETIREMENT ASSOC		No	No	No	12/03/2021	33,524.98
GEN1	p20631	53084		Wire	1	05255	DEPARTMENT OF THE TREASURY		No	No	No	12/03/2021	58,198.87
GEN1	p20631	53085		Wire	1	06027	COMMISSIONER OF REVENUE		No	No	No	12/03/2021	9,649.85
GEN1	p20631	53086		Wire	1	3785	EDUCATORS FINANCIAL SERVICES		No	No	No	12/03/2021	8,031.38
GEN1	p20631	53087		Wire	1	3904	FURTHER-SELECT ACCOUNT		No	No	No	12/03/2021	60.72
GEN1	p20632	53113		Wire	1	00150	BLUE CROSS & BLUE SHIELD		No	No	No	12/20/2021	24,206.00
GEN1	p20632	53114		Wire	1	01780	MN CHILD SUPPORT PAYMENT CTR		No	No	No	12/20/2021	439.00
GEN1	p20632	53115		Wire	1	04035	TEACHERS RETIREMENT ASSOC		No	No	No	12/20/2021	33,706.41
GEN1	p20632	53116		Wire	1	05255	DEPARTMENT OF THE TREASURY		No	No	No	12/20/2021	58,123.56
GEN1	p20632	53117		Wire	1	06027	COMMISSIONER OF REVENUE		No	No	No	12/20/2021	9,654.42
GEN1	p20632	53118		Wire	1	2260	AFLAC		No	No	No	12/20/2021	166.98
GEN1	p20632	53119		Wire	1	3785	EDUCATORS FINANCIAL SERVICES		No	No	No	12/20/2021	8,039.72
GEN1	p20632	53120		Wire	1	3904	FURTHER-SELECT ACCOUNT		No	No	No	12/20/2021	1,031.66
GEN1	p20632	53121		Wire	1	5699	MN PUBLIC EMPLOYEES INSURANCE PF		No	No	No	12/20/2021	54,193.34
GEN1	p20632	53122		Wire	1	5699	MN PUBLIC EMPLOYEES INSURANCE PF		No	No	No	12/20/2021	1,885.60
GEN1	p20631	53081	39327	Check	1	01140	MADISON NATL LIFE INS CO INC.		Yes	No	No	12/03/2021	1,155.82
GEN1	p20631	53082	39328	Check	1	04034	PERA		Yes	No	No	12/03/2021	7,045.62
GEN1	p20632	53110	39339	Check	1	07999	C.E.A.		Yes	No	No	12/20/2021	8,181.20
GEN1	p20632	53111	39340	Check	1	1439	DELTA DENTAL PLAN OF MN		Yes	No	No	12/20/2021	4,657.10
GEN1	p20632	53109	39341	Check	1	06032	MINNESOTA SCHOOL EMP ASSOC		Yes	No	No	12/20/2021	827.90
GEN1	p20632	53112	39342	Check	1	3796	NATIONAL INSURANCE SERVICES OF WI		Yes	No	No	12/20/2021	356.85
GEN1	p20632	53107	39343	Check	1	00808	NCPERS Group Life Ins.		Yes	No	No	12/20/2021	48.00
GEN1	p20632	53108	39344	Check	1	04034	PERA		Yes	No	No	12/20/2021	6,499.69

Bank Total: \$329,684.67

Report Total: \$329,684.67

Norwood-Young America School
November 2020 Miscellaneous Payment Register
Fund Summary

Fund Description		Total
01	General Fund	\$24,466.95
02	Food Service	\$908.29
04	Community Services	\$21,012.65
Report Total		\$46,387.89

Norwood-Young America School November 2020 Miscellaneous Payment Register

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type
0108	GEN1	2468	R2		MASTERCARD - HARRIS BANK		Wire
				E 01 005 720 011 155 401	B086T638CS Single Use Disposable Face Mask		\$4.76
		PO#: 21835	Voucher #:	75138	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$4.76
				E 01 200 630 000 000 405	B07DDD1VR Amazon Basics AC Powered PC I		\$79.47
		PO#: 21822	Voucher #:	75139	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$79.47
				E 01 005 720 000 000 401	Pillow Case		\$26.60
				E 01 005 720 000 000 401	Medi First Eye Wash		\$16.50
				E 01 005 720 000 000 401	Waterproof Pillow cases. 1 set of 4		\$14.88
				E 01 005 720 000 000 401	AA and AAA Combo Battery Pack		\$26.77
				E 01 005 720 000 000 401	Medium size glove, 400 count		\$58.98
		PO#: 21841	Voucher #:	75141	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$143.73
				E 01 300 260 000 000 430	B005QDPZ6U American Educational Classroom		\$52.25
				E 01 300 260 000 000 430	B00GJV15YO Rock Collection and ID Chart - 18		\$24.99
				E 01 300 260 000 000 430	Amazon Shipping Charge		\$9.55
		PO#: 21844	Voucher #:	75142	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$86.79
				E 01 005 105 720 000 401	Woolzies 100% Pure Wellness Essential Oil Ble		\$16.99
				E 01 005 105 720 000 401	HALLS Defense Assorted Citrus Vitamin C Drop:		\$21.62
		PO#: 21851	Voucher #:	75145	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$38.61
				E 01 005 720 000 000 401	B09C5XWKL iPad Pro 11 Case 2021 3rd Gene		\$53.98
		PO#: 21866	Voucher #:	75146	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$53.98
				E 01 100 203 070 000 430	Playdoh on Amazon		\$49.98
				E 01 100 203 070 000 430	Plastic Sleeves on Amazon		\$46.78
		PO#: 21849	Voucher #:	75147	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$96.76
				E 01 100 203 070 000 430	Round Mirrors from Amazon		\$15.19
		PO#: 21850	Voucher #:	75148	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$15.19
				E 01 100 219 000 317 430	Treasure box prizes		\$16.99
				E 01 100 219 000 317 430	Treasure box prizes		\$16.99
		PO#: 21918	Voucher #:	75169	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$33.98
				E 01 005 110 000 000 401	BIC Round Stic Xtra Life Ballpoint Pen, Medium		\$12.05
				E 01 005 110 000 000 401	Amazon Basics Medium Duty Storage Filing Box		\$34.99
		PO#: 21926	Voucher #:	75170	Invoice Invoice No: 21926	11/30/2021	Paid Amt: \$47.04
				E 01 005 105 000 000 401	Quality Park Clasp Envelopes, Brown Kraft, 10 >		\$20.27
		PO#: 21946	Voucher #:	75171	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$20.27
				E 04 005 590 003 000 401	B08RP5TXKD Perfect Stix 4lb Kraft White Paper		\$33.21
				E 04 005 590 003 000 401	B07YVXFG7W Perfect Stix - Brown Bag 4-100 4		\$39.21
		PO#: 21947	Voucher #:	75172	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$72.42
				E 01 005 020 000 000 401	I Voted Today with Red, White, and Blue Circle &		\$26.97
				E 01 005 020 000 000 401	2022 Daily Desk Calendar Refill by AT-A-GLANC		\$7.99
		PO#: 21894	Voucher #:	75159	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$34.96
				E 01 300 630 000 000 456	B08JLZWM4 HDMI Splitter Adapter Cable - HC		\$9.25
				E 01 300 630 000 000 456	B00EEK22TY CablesOnline 10-Pack 6inch CAT5		\$11.40
				E 01 300 630 000 000 456	B005G2YP6M Targus Classic Slim Briefcase witl		\$60.00
				E 01 300 630 000 000 456	B093GHWSQL 2 Pack-Liakai RJ45 Ethernet Spl		\$26.97
				E 01 300 630 000 000 456	B097T692J9 USB Microphone, Piy Painting Rec		\$17.33
				E 01 300 630 000 000 456	B07SL1Q9S8 65W AC Adapter Laptop Charger i		\$25.14
		PO#: 21906	Voucher #:	75160	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$150.09
				E 01 300 810 000 000 401	InnoGear Desktop Microphone Stand		\$14.24
		PO#: 21903	Voucher #:	75161	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$14.24
				E 01 300 260 000 000 430	B078SCKJFG Mandala Crafts Flat Elastic Band,		\$11.99
		PO#: 21896	Voucher #:	75162	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$11.99
				E 01 300 810 000 000 401	Door alarm for library emergency exit		\$32.00
		PO#: 21904	Voucher #:	75163	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$32.00
				E 04 005 590 003 000 430	B00ZY6JHU4 Super Z Outlet Liquid Motion Bub		\$7.99
				E 04 005 590 003 000 430	B08GCF62VY MITCIEN Kids Camping Play Tent		\$35.99
				E 04 005 590 003 000 430	B08R9G9Q9M HahaGift Boys Toys Age 2-5, Anir		\$13.99
				E 04 005 590 003 000 430	B01GW3TQNU Monkey Foam - 40% More Than		\$17.89
				E 04 005 590 003 000 430	B07PBT2K43 AFMAT Electric Pencil Sharpener,		\$26.00
				E 04 005 590 003 000 430	B07FCJNR7P SKKSTATIONERY 36-Pcs Mini Dr		\$29.18
				E 04 005 590 003 000 430	B095CCQ8CF TOMYOU 200 Pieces Building Bl		\$16.99
				E 04 005 590 003 000 430	B000FL3HJ0 Find it Games - Original Version -		\$24.74
				E 04 005 590 003 000 430	B08QHGXKDZ Kidcia Fidget Toys, 35 PCS Sens		\$16.99
				E 04 005 590 003 000 430	B0042FS96G Sterillite 17531712 15 Quart/14 Lit		\$266.44
				E 04 005 590 003 000 430	B08GSSS4JC Crayola Colors of The World Mar		\$11.94
				E 04 005 590 003 000 430	B01MCQKMW9 edxeducation-21365 Junior Geog		\$25.95
		PO#: 21888	Voucher #:	75164	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$494.09
				E 01 300 301 501 830 433	DK SONIC 6L Large Touch Ultrasonic Cleaner w		\$284.99
				E 01 300 301 501 830 433	IWISS 1/2,3/4,1-inch ProPEX Expander Tool Kit		\$114.99
				E 01 300 301 501 830 433	Pexflow PXKT10012 Starter Kit for 1/2-In Pex wit		\$167.71
				E 01 300 301 501 830 433	OTC 5609 Cylinder Leakage Tester Kit		\$73.27
		PO#: 21905	Voucher #:	75165	Invoice Invoice No: Carlson	11/30/2021	Paid Amt: \$640.96
				E 01 200 212 000 000 430	B08Y5TSMZT 50Pcs Beading Needles, 2 Sizes |		\$4.99
				E 01 200 212 000 000 430	B071NG5TX6 Outus 30 Pieces Beading Needles		\$11.98
				E 01 200 212 000 000 430	B0742B5594 Durable Loom Warp Thread (Natur		\$12.99

Norwood-Young America School November 2020 Miscellaneous Payment Register

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type	
0108	GEN1	2468	R2		MASTERCARD - HARRIS BANK		Wire	
			E 01	200 212 000 000 430	B009LION50 64-Yard NYMO Nylon Beading Thr		\$23.52	
			E 01	200 212 000 000 430	B0006HXP4A Plast'r Craft Modeling Material PO		\$64.08	
			E 01	200 212 000 000 430	B005A0IQ6A INOVART Cardboard Mini Weaving		\$26.74	
			E 01	200 212 000 000 430	B07VXTSZZG 25 Large Eye Stitching Needles -		\$10.98	
			E 01	200 212 000 000 430	B0742B8N2L Durable Loom Warp Thread (Black		\$13.99	
PO#:	21899	Voucher #:	75166	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$169.27
			E 04	005 590 003 000 430	Rarlan Golf Pencils, 2 HB, Pre-Sharpended, 320		\$15.96	
PO#:	21865	Voucher #:	75150	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$15.96
			E 01	300 230 000 000 430	0071615474 Schaum's Outline of German Vocat		\$25.00	
			E 01	300 230 000 000 430	1260120996 Schaum's Outline of German Gram		\$19.83	
PO#:	21893	Voucher #:	75153	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$44.83
			E 01	300 630 000 000 456	B099W5T98W mCover Hard Shell Case Compat		\$239.50	
			E 01	300 630 000 000 456	B099WH19FL mCover Hard Shell Case Compati		\$239.50	
			E 01	300 630 000 000 456	B099W8193Y mCover Hard Shell Case Compati		\$239.50	
PO#:	21887	Voucher #:	75154	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$718.50
			E 01	005 020 000 000 401	Quality Park Clasp Envelopes, Brown Kraft, 10 >		\$20.80	
PO#:	21900	Voucher #:	75156	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$20.80
							Check Amount:	\$3,040.69
0108	GEN1	3904			FURTHER-SELECT ACCOUNT		Wire	
			E 01	005 110 000 000 305	Business Office Consulting Fees/Services		\$43.65	
PO#:		Voucher #:	75135	Invoice	Invoice No: 15886836	11/30/2021	Paid Amt:	\$43.65
			E 01	005 110 000 000 305	Business Office Consulting Fees/Services		\$170.15	
PO#:		Voucher #:	75136	Invoice	Invoice No: 15895993	11/30/2021	Paid Amt:	\$170.15
							Check Amount:	\$213.80
0108	GEN1	4091			MASTERCARD - HARRIS BANK		Wire	
			E 01	100 630 000 000 456	PNY 240 GB SSD		\$449.85	
PO#:	21833	Voucher #:	75140	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$449.85
			E 04	700 590 000 351 460	Learning Without Tears Refund		\$343.00	
PO#:		Voucher #:	75149	Credit	Invoice No: Carlson	11/30/2021	Paid Amt:	(\$343.00)
			E 02	005 770 000 701 350	Univex 7510015 Knob (WebstaurantStore)		\$19.82	
			E 02	005 770 000 701 350	Univex 710014 Knife Guard Shaft (Webstaurant		\$56.23	
			E 02	005 770 000 701 350	Shipping (WebstaurantStore)		\$15.66	
PO#:	21845	Voucher #:	75143	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$91.71
			E 02	005 770 000 701 350	Terminal Block, Input, 2 Pole, 20A (Partstown)		\$33.42	
PO#:	21845	Voucher #:	75144	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$33.42
			E 04	005 590 003 000 305	Bus Passes for mid day preschool - Smart Link		\$200.00	
PO#:	21930	Voucher #:	75173	Invoice	Invoice No: Vossen	11/30/2021	Paid Amt:	\$200.00
			E 04	005 505 000 321 305	Photos for CE flyers and catalog		\$92.00	
PO#:	21910	Voucher #:	75174	Invoice	Invoice No: Vossen	11/30/2021	Paid Amt:	\$92.00
			E 04	005 505 510 321 350	Piano Service - Lippert Piano		\$100.00	
			E 01	100 258 000 000 350	Piano Service - Lippert Piano		\$100.00	
			E 01	300 258 258 000 350	Piano Service - Lippert Piano		\$200.00	
PO#:	21945	Voucher #:	75175	Invoice	Invoice No: Vossen	11/30/2021	Paid Amt:	\$400.00
			E 04	005 590 003 000 401	Bus card for preschool mid day - new student		\$100.00	
PO#:	21948	Voucher #:	75176	Invoice	Invoice No: Vossen	11/30/2021	Paid Amt:	\$100.00
			E 04	005 570 040 321 401	Games/toys for Kids Co - pd with CC		\$177.29	
PO#:	21848	Voucher #:	75177	Invoice	Invoice No: Hendrycks	11/30/2021	Paid Amt:	\$177.29
			E 04	005 570 040 321 401	Target items for kids co classroom		\$48.64	
PO#:	21884	Voucher #:	75178	Invoice	Invoice No: Hendrycks	11/30/2021	Paid Amt:	\$48.64
			E 04	005 570 040 321 401	Kids CO items for classroom		\$7.00	
PO#:	21883	Voucher #:	75179	Invoice	Invoice No: Hendrycks	11/30/2021	Paid Amt:	\$7.00
			E 04	005 505 030 321 329	2 Rolls of Stamps for Craft Fair		\$116.00	
PO#:	21969	Voucher #:	75180	Invoice	Invoice No: Hendrycks	11/30/2021	Paid Amt:	\$116.00
			E 04	005 570 040 321 305	items for extended day childcare		\$3.80	
PO#:	21944	Voucher #:	75181	Invoice	Invoice No: Hendrycks	11/30/2021	Paid Amt:	\$3.80
			E 01	005 105 000 000 305	Indeed - Employment Ads		\$350.00	
PO#:	22051	Voucher #:	75182	Invoice	Invoice No: Schochenmaier	11/30/2021	Paid Amt:	\$350.00
			E 01	300 211 000 000 401	26 x CHILD (6-16YRS)		\$779.74	
			E 01	300 211 000 000 401	2 x BASIC-TIMED		\$79.98	
			E 01	300 211 000 000 401	Service charge		\$191.80	
			E 01	300 211 000 000 401	Sales Tax		\$69.08	
PO#:	21913	Voucher #:	75183	Invoice	Invoice No: Schochenmaier	11/30/2021	Paid Amt:	\$1,120.60
			E 01	005 020 000 000 366	MN Rural Education Assn. - Conference Registr		\$350.00	
PO#:	21941	Voucher #:	75184	Invoice	Invoice No: Schochenmaier	11/30/2021	Paid Amt:	\$350.00
			E 01	005 020 000 000 366	Craguns - Lodging for MN Rural Education Conl		\$178.26	
PO#:	21941	Voucher #:	75185	Invoice	Invoice No: Schochenmaier	11/30/2021	Paid Amt:	\$178.26
			E 01	005 110 000 000 401	10 X 15 Envelopes, 100		\$32.99	
PO#:	21949	Voucher #:	75186	Invoice	Invoice No: Schochenmaier	11/30/2021	Paid Amt:	\$32.99
			E 01	100 420 011 419 366	3 night stay at Madden's on Gull Lake- 26th, 27i		\$556.20	
PO#:	21895	Voucher #:	75157	Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$556.20
			E 01	300 211 000 000 401	T-shirts for band & choir students 5-12, 215 T-Si		\$1,692.75	

Norwood-Young America School November 2020 Miscellaneous Payment Register

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type		
0108	GEN1	4091			MASTERCARD - HARRIS BANK		Wire		
				E 01	300 211 000 000 401	Artwork Set-up to work with sizing in shirts differ		\$40.00	
	PO#: 21912	Voucher #: 75158		Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$1,732.75	
				E 01	100 260 000 000 430	wide ruled composition notebook (colors may va		\$37.50	
	PO#: 21892	Voucher #: 75155		Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$37.50	
				E 01	100 219 000 317 430	Nearpod Gold Annual Subscription		\$120.00	
	PO#: 22078	Voucher #: 75151		Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$120.00	
				E 01	100 420 011 419 366	MASE Fall Conference Registration Fee-		\$319.00	
	PO#: 21890	Voucher #: 75152		Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$319.00	
				E 01	300 219 000 317 430	Teachers Pay Teachers Newcomer Bundle		\$67.00	
	PO#: 21901	Voucher #: 75167		Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$67.00	
				E 01	300 291 065 000 401	Musical T-shirts - reimbursed by cast		\$950.82	
	PO#: 75168	Voucher #: 75168		Invoice	Invoice No: Carlson	11/30/2021	Paid Amt:	\$950.82	
							Check Amount:	\$7,191.83	
0108	GEN1	5002			WASTE MANAGEMENT OF WI-MN		Wire		
				E 01	100 810 000 000 334	Elem Garbage		\$391.58	
				E 01	200 810 000 000 334	MS Garbage		\$391.58	
				E 01	300 810 000 000 334	HS Garbage		\$391.58	
				E 02	005 770 000 701 334	Garbage		\$783.16	
	PO#: 75137	Voucher #: 75137		Invoice	Invoice No: 19-38265-43002	11/30/2021	Paid Amt:	\$1,957.90	
							Check Amount:	\$1,957.90	
0108	GEN1	6605			ELEYO		Wire		
				E 04	005 505 013 321 305	Boys/Girls Youth BB Consulting Fees		\$148.97	
				E 04	005 505 020 321 305	Elem Sports Consulting Fees/Serv		\$85.90	
				E 04	005 505 030 321 305	Craft Fair Consulting Fees/Serv		\$35.64	
				E 04	005 505 510 321 305	Continuing Ed Consulting Fees/Serv		\$27.41	
				E 04	005 560 017 321 305	Athletics Consulting Fees/Serv		\$105.10	
				E 04	005 570 040 321 305	Latchkey Consulting Fees/Serv		\$389.35	
				E 04	005 590 003 000 305	Preschool Consulting Fees/Serv		\$186.45	
				E 04	005 580 000 325 305	Gen ECFE Consulting Fees/Serv		\$10.97	
	PO#: 75133	Voucher #: 75133		Invoice	Invoice No: November21Software	11/30/2021	Paid Amt:	\$989.79	
				E 04	005 505 013 321 305	Boys/Girls Youth BB Consulting Fees		\$13.91	
				E 04	005 505 020 321 305	Elem Sports Consulting Fees/Serv		\$90.00	
				E 04	005 505 030 321 305	Craft Fair Consulting Fees/Serv		\$4.12	
				E 04	005 505 510 321 305	Continuing Ed Consulting Fees/Serv		\$7.70	
				E 04	005 560 017 321 305	Athletics Consulting Fees/Serv		\$10.82	
				E 04	005 570 040 321 305	Latchkey Consulting Fees/Serv		\$514.77	
				E 04	005 590 003 000 305	Preschool Consulting Fees/Serv		\$531.25	
				E 04	005 580 000 325 305	Gen ECFE Consulting Fees/Serv		\$54.20	
	PO#: 75134	Voucher #: 75134		Invoice	Invoice No: November21 Processi	11/30/2021	Paid Amt:	\$1,226.77	
							Check Amount:	\$2,216.56	
0108	GEN1	01606			CENTERPOINT ENERGY		Wire		
				E 01	100 810 000 000 440	Elem Fuel For Bldgs		\$521.87	
				E 01	005 760 000 720 440	Transp Fuel for Buildings		\$46.57	
				E 01	200 810 000 000 440	MS Fuel For Bldgs		\$185.07	
				E 01	300 810 000 000 440	HS Fuel For Bldgs		\$277.61	
				E 01	200 810 000 000 440	MS Fuel For Bldgs		\$24.00	
				E 01	300 810 000 000 440	HS Fuel For Bldgs		\$36.00	
				E 01	300 810 000 000 440	HS Fuel For Bldgs		\$15.00	
				E 04	005 590 003 000 330	Preschool Utility Services		\$22.60	
	PO#: 75132	Voucher #: 75132		Invoice	Invoice No: Nov21BankPay	11/30/2021	Paid Amt:	\$1,128.72	
							Check Amount:	\$1,128.72	
0108	GEN1	2728			BREMER BANK, NA28		Wire		
				E 01	005 110 000 000 305	Business Office Consulting Fees/Services		\$86.30	
	PO#: 75131	Voucher #: 75131		Invoice	Invoice No: Oct 2021	11/30/2021	Paid Amt:	\$86.30	
							Check Amount:	\$86.30	
0108	GEN1	6438			AMERICAN MAILING MACHINES		Wire		
				E 01	005 110 000 000 329	Replenish Postage Meter		\$2,000.00	
	PO#: 22030	Voucher #: 75130		Invoice	Invoice No: Postage meter	11/30/2021	Paid Amt:	\$2,000.00	
							Check Amount:	\$2,000.00	
0108	GEN1	39225 00621			COMMUNITY EDUCATION PETTY CASH		Check		
				R 04	005 560 000 321 040	6949 Payton		\$72.00	
				R 04	005 560 000 321 040	6950 Storms		\$72.00	
				E 04	005 582 002 344 329	6951 USPS		\$110.00	
				R 04	005 570 040 321 040	6952 Woida		\$100.00	
				R 04	005 560 000 321 040	6953 Babel		\$72.00	
				R 04	005 560 000 321 040	6954 Payton		\$72.00	
				R 04	005 560 000 321 040	6955 Ische		\$100.00	
				R 04	005 505 030 321 040	6956 Witt		\$100.00	
				R 04	005 560 000 321 040	6957 Kranz		\$20.00	
				E 04	005 505 510 321 401	6958 Kroells		\$76.17	
				E 04	005 570 040 321 401	6959 Stieve		\$28.14	

Norwood-Young America School November 2020 Miscellaneous Payment Register

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type	
0108	GEN1	39225	00621		COMMUNITY EDUCATION PETTY CASH		Check	
				R 04	005 505 030 321 040	6960 Butler	\$100.00	
				R 04	005 505 030 321 040	6961 Weiers	\$50.00	
				R 04	005 560 000 321 040	6962 Schrupp, J.	\$80.00	
				R 04	005 560 000 321 040	6963 Schrupp, A.	\$80.00	
				R 04	005 560 000 321 040	6964 Panning	\$50.00	
				R 04	005 560 000 321 040	6965 Backstrom	\$50.00	
				R 04	005 560 000 321 040	6966 Kamps	\$50.00	
				R 04	005 505 030 321 040	6967 Jaide	\$50.00	
	PO#:	Voucher #:	74895	Invoice	Invoice No:	Replenish	11/4/2021	Paid Amt: \$1,332.31
							Check Amount: \$1,332.31	
0108	GEN1	39226	3213		CENTURYLINK		Check	
				E 01	100 810 000 000 320	Elem Communication/Phone	\$174.30	
				E 01	200 810 000 000 320	MS Communication/Phone	\$174.29	
				E 01	300 810 000 000 320	HS Communication/Phone	\$174.29	
				E 04	005 505 510 321 320	Continuing Ed Communication/Phone	\$100.00	
	PO#:	Voucher #:	74896	Invoice	Invoice No:	313866160	11/5/2021	Paid Amt: \$622.88
							Check Amount: \$622.88	
0108	GEN1	39227	2382		CITY OF COLOGNE		Check	
				E 04	005 590 003 000 330	Preschool Utility Services	\$58.11	
	PO#:	Voucher #:	74897	Invoice	Invoice No:	581	11/5/2021	Paid Amt: \$58.11
							Check Amount: \$58.11	
0108	GEN1	39228	5109		FIRST		Check	
				E 01	300 291 108 000 369	2022 First FRC Registration Fee	\$5,000.00	
	PO#: 21983	Voucher #:	74898	Invoice	Invoice No:	#5626	11/5/2021	Paid Amt: \$5,000.00
							Check Amount: \$5,000.00	
0108	GEN1	39229	2647		HOME DEPOT CREDIT SERVICES		Check	
				E 01	300 301 501 830 433	Stanley Tape Measures	\$25.94	
				E 01	300 301 501 830 433	Random Orbital Sanders	\$178.00	
				E 01	300 301 501 830 433	60 grit sand paper	\$19.97	
				E 01	300 301 501 830 433	120 Grit Sandpaper	\$19.97	
				E 01	300 301 501 830 433	220 grit sandpaper	\$19.97	
				E 01	300 301 501 830 433	Golden Oak Puddy	\$3.97	
				E 01	300 301 501 830 433	Wood Puddy	\$3.97	
				E 01	300 301 501 830 433	Walnut Wood Puddy	\$3.97	
				E 01	300 301 501 830 433	Dark Walnut Stain	\$8.78	
				E 01	300 301 501 830 433	Paint Care Fee	\$0.49	
				E 01	300 301 501 830 433	Classic Espresso Stain	\$8.78	
				E 01	300 301 501 830 433	Paint Care Fee	\$0.49	
				E 01	300 301 501 830 433	Maple Stain	\$8.78	
				E 01	300 301 501 830 433	Pain Fee	\$0.49	
				E 01	300 301 501 830 433	Golden Oak Stain	\$8.78	
				E 01	300 301 501 830 433	Recycle Fee	\$0.49	
				E 01	300 301 501 830 433	Plastic Wood Filler	\$9.87	
				E 01	300 301 501 830 433	16 Gage 1 1/2" Nails	\$21.98	
				E 01	300 301 501 830 433	Wood Glue	\$16.98	
				E 01	300 301 501 830 433	1/2" T50 Staples 1250 pack	\$3.82	
				E 01	300 301 501 830 433	Gorilla Silver Duct Tape	\$18.54	
				E 01	300 301 501 830 433	8D Hot Galvanize 2 1/2" Nails	\$21.98	
				E 01	300 301 501 830 433	Provincial Stain	\$8.78	
				E 01	300 301 501 830 433	12" Finish Saw Blade	\$54.97	
				E 01	300 301 501 830 433	Painters Touch Gloss Navy Blue Spray Paint	\$9.16	
				E 01	300 301 501 830 433	Spray Paint Apple Red	\$9.16	
				E 01	300 301 501 830 433	Spray Paint White	\$9.16	
				E 01	300 301 501 830 433	Spray Paint Grape	\$9.16	
				E 01	300 301 501 830 433	Spray Paint Wildflower Blue	\$9.16	
				E 01	300 301 501 830 433	Spray Paint Golden Sunset	\$9.16	
				E 01	300 301 501 830 433	Spray Paint Black	\$9.96	
				E 01	300 301 501 830 433	Bolt Cutter	\$34.97	
				E 01	300 301 501 830 433	Recovery Fee	\$0.49	
	PO#: 21988	Voucher #:	74899	Invoice	Invoice No:	8171374	11/5/2021	Paid Amt: \$570.14
							Check Amount: \$570.14	
0108	GEN1	39230	00182		HOME SOLUTIONS UNLIMITED		Check	
				E 01	300 810 000 000 401	New Switch	\$5.98	
				E 01	300 810 000 000 401	Maintenance Cleaning Supplies	\$16.99	
	PO#: 21919	Voucher #:	74900	Invoice	Invoice No:	October2021	11/5/2021	Paid Amt: \$22.97
				E 04	005 505 020 321 401	Strip Paint	\$21.87	
	PO#: 21939	Voucher #:	74901	Invoice	Invoice No:	October	11/5/2021	Paid Amt: \$21.87
							Check Amount: \$44.84	

Norwood-Young America School November 2020 Miscellaneous Payment Register

Co	Bank	Check No	Code	Rcd	Vendor	Pmt/Void Date	Pmt Type	
0108	GEN1	39231	6545		MARCO TECNOLOGIES LLC		Check	
				E 01	005 850 000 302 580	October Copy and Printing Contact	\$2,346.81	
	PO#: 21838	Voucher #:	74902	Invoice	Invoice No: 456274265	11/5/2021	Paid Amt: \$2,346.81	
							Check Amount:	\$2,346.81
0108	GEN1	39232	00906		SCHOLASTIC, INC.		Check	
				E 04	005 590 003 000 430	New Preschool Curriculum	\$3,103.00	
	PO#: 21650	Voucher #:	74903	Invoice	Invoice No: 31375030	11/5/2021	Paid Amt: \$3,103.00	
				E 04	005 590 003 000 430	New Preschool Curriculum	\$3,103.00	
	PO#: 21650	Voucher #:	74904	Invoice	Invoice No: 31384857	11/5/2021	Paid Amt: \$3,103.00	
				E 04	005 590 003 000 430	New Preschool Curriculum	\$3,103.00	
	PO#: 21650	Voucher #:	74905	Invoice	Invoice No: 31384859	11/5/2021	Paid Amt: \$3,103.00	
				E 04	005 590 003 000 430	New Preschool Curriculum	\$3,103.00	
	PO#: 21650	Voucher #:	74906	Invoice	Invoice No: 31384858	11/5/2021	Paid Amt: \$3,103.00	
							Check Amount:	\$12,412.00
0108	GEN1	39233	3557		CARDINAL ATHLETIC FOUNDATION		Check	
				E 04	005 505 013 321 305	4th Grade Boys Cardinal Clash Tournament	\$300.00	
	PO#: 21977	Voucher #:	74909	Invoice	Invoice No: ComEdRegistration	11/8/2021	Paid Amt: \$300.00	
				E 04	005 505 013 321 305	February Cardinal Clash Basketball Tournament	\$300.00	
	PO#: 21958	Voucher #:	74910	Invoice	Invoice No: ComEdRegistration	11/8/2021	Paid Amt: \$300.00	
							Check Amount:	\$600.00
0108	GEN1	39234	3551		DASSEL-COKATO YOUTH BASKETBALL		Check	
				E 04	005 505 013 321 305	4th Grade Girls Basketball Tournament	\$175.00	
	PO#: 21959	Voucher #:	74911	Invoice	Invoice No: ComEdRegistration	11/8/2021	Paid Amt: \$175.00	
							Check Amount:	\$175.00
0108	GEN1	39235	1912		MAYER LUTHERAN HIGH SCHOOL		Check	
				E 04	005 505 013 321 305	6th Grade Boys Basketball Tournament	\$275.00	
	PO#: 21968	Voucher #:	74908	Invoice	Invoice No: ComEdRegistration	11/8/2021	Paid Amt: \$275.00	
							Check Amount:	\$275.00
0108	GEN1	39236	4734		SOCCER BLAST		Check	
				E 04	005 505 020 321 305	Indoor Soccer League	\$2,040.00	
	PO#: 21970	Voucher #:	74907	Invoice	Invoice No: ComEdRegistration	11/8/2021	Paid Amt: \$2,040.00	
							Check Amount:	\$2,040.00
0108	GEN1	39244	6252		T-MOBILE		Check	
				E 01	300 810 000 000 320	Hot Spots	\$792.00	
				E 01	200 810 000 000 320	Hot Spots	\$792.00	
				E 01	100 810 000 000 320	Hot Spots	\$816.00	
	PO#:	Voucher #:	74942	Invoice	Invoice No: 969563964	11/12/2021	Paid Amt: \$2,400.00	
							Check Amount:	\$2,400.00
0108	GEN1	39245	3557		CARDINAL ATHLETIC FOUNDATION		Check	
				E 04	005 505 013 321 305	6th Grade Girls Basketball Tournament	\$300.00	
	PO#: 21998	Voucher #:	74943	Invoice	Invoice No: 6thGr GBBTourn	11/15/2021	Paid Amt: \$300.00	
							Check Amount:	\$300.00
0108	GEN1	39246	2804		HOWARD LAKE-WAVERLY-WINSTED YOUTH BASKETBALL INC.		Check	
				E 04	005 505 013 321 305	5th Grade Girls Basketball Tournament	\$175.00	
	PO#: 22031	Voucher #:	74944	Invoice	Invoice No: 5thGrade GBB	11/16/2021	Paid Amt: \$175.00	
							Check Amount:	\$175.00
0108	GEN1	39247	5490		HUTCHINSON YOUTH BASKETBALL ASSOCIATION		Check	
				E 04	005 505 013 321 305	5th Grade Girls Basketball Tournament	\$200.00	
	PO#: 22032	Voucher #:	74945	Invoice	Invoice No: 5thGrade GBB	11/16/2021	Paid Amt: \$200.00	
							Check Amount:	\$200.00
							Report Total:	\$46,387.89

Central Public Schools

2021 Payable 2022

Truth In Taxation Public Meeting

6:10pm

Dec. 20, 2021 at the

Central Public Schools HS Media Center

531 Morse St.

Norwood Young America, MN 55368



Truth in Taxation Law

Minnesota's Truth in Taxation Law requires that cities, counties and school districts follow certain steps before adopting a tax levy for the following year.

- The law requires a mailed notice to each property owner in the county, which describes the tax levies proposed by the city, county and school district and what percent increase (decrease) such a levy would mean in dollars.
- School districts are required to hold a single meeting in which the public is allowed to speak and the budget and levy is discussed. This meeting may be part of a regularly scheduled meeting but must occur after 6:00 P.M.
- The meeting date and location must be provided at the same time or prior to certifying the proposed property tax levy. The meeting date must be between November 25 and December 27.
- You are here tonight as part of the school district's public meeting process.



Requirements of the Truth in Taxation Public Meeting

1. Discuss proposed property tax levy for taxes payable 2022
2. Provide and discuss information on the current budget (2022).
3. Public must be given a reasonable amount of time to comment on the proposed property tax levy and budget and to ask questions.

- Minnesota Statute 275.065



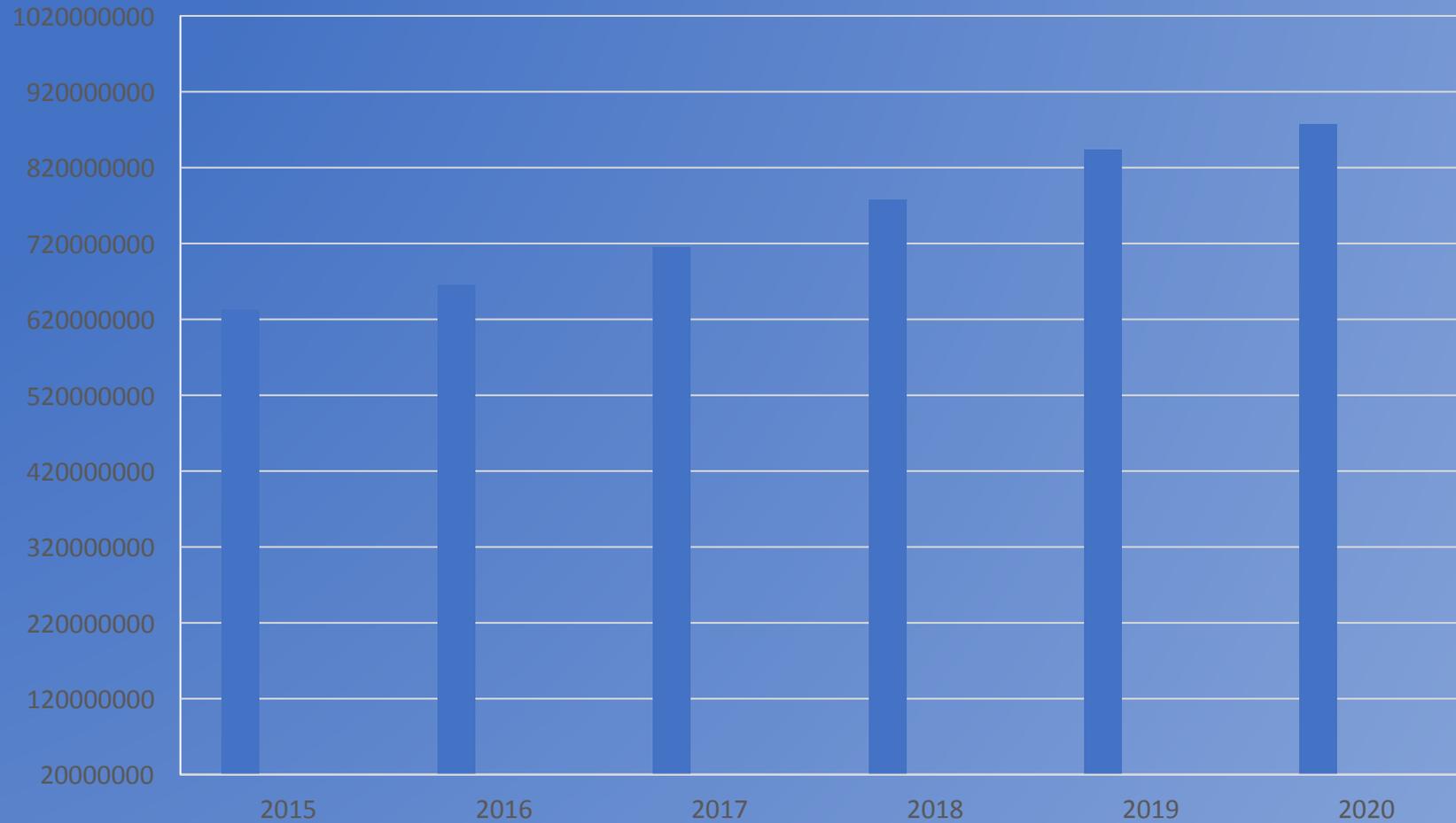
Points to Remember

1. Revenue formulas are set by the State Legislature except for voter approved referendums.
2. Local Levy and State Aid mix are set by the State Legislature.
3. An increase in local taxes does not necessarily mean an increase in revenues for the school district.

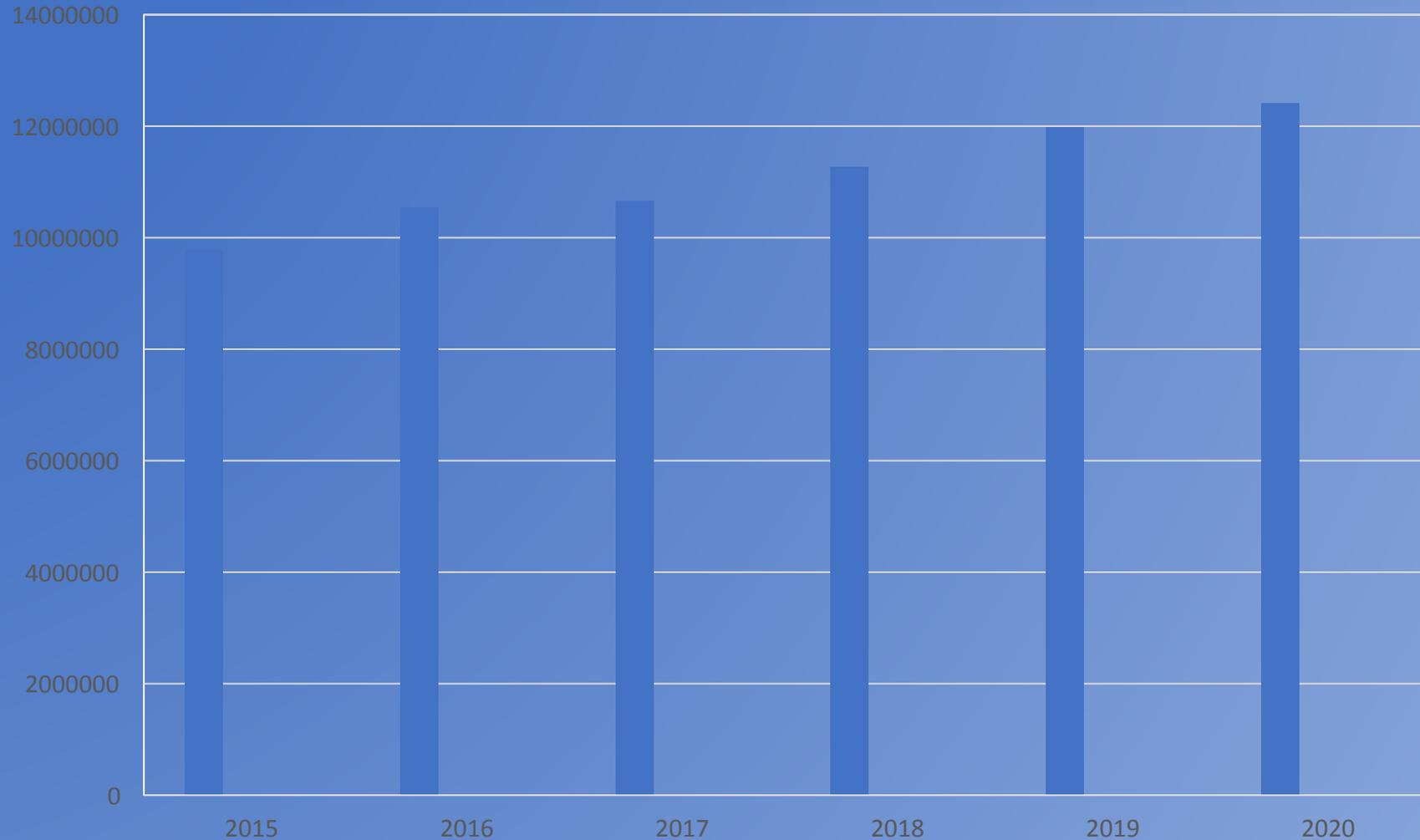
- Minnesota Statute 275.065



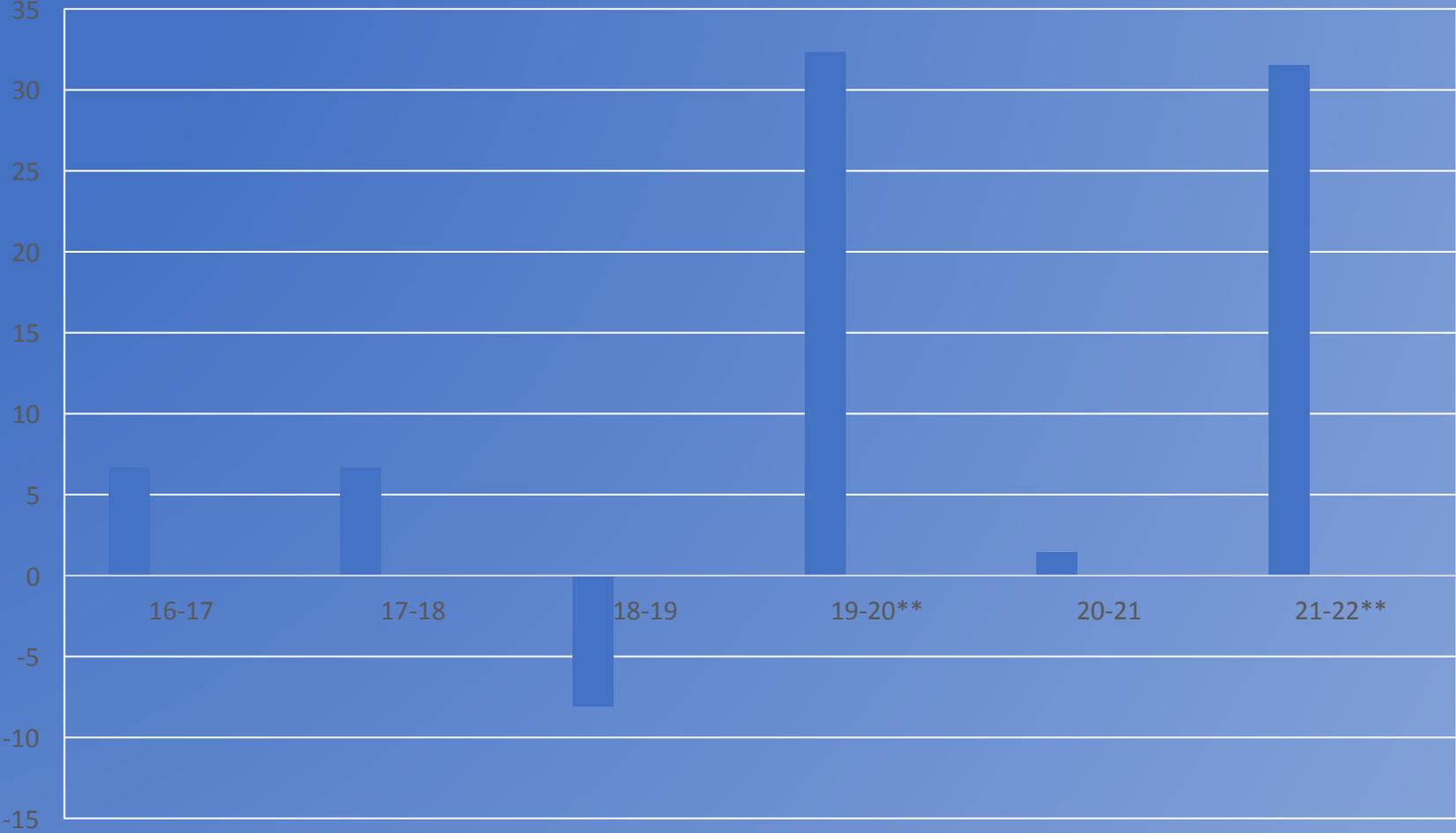
Referendum Market Value Analysis



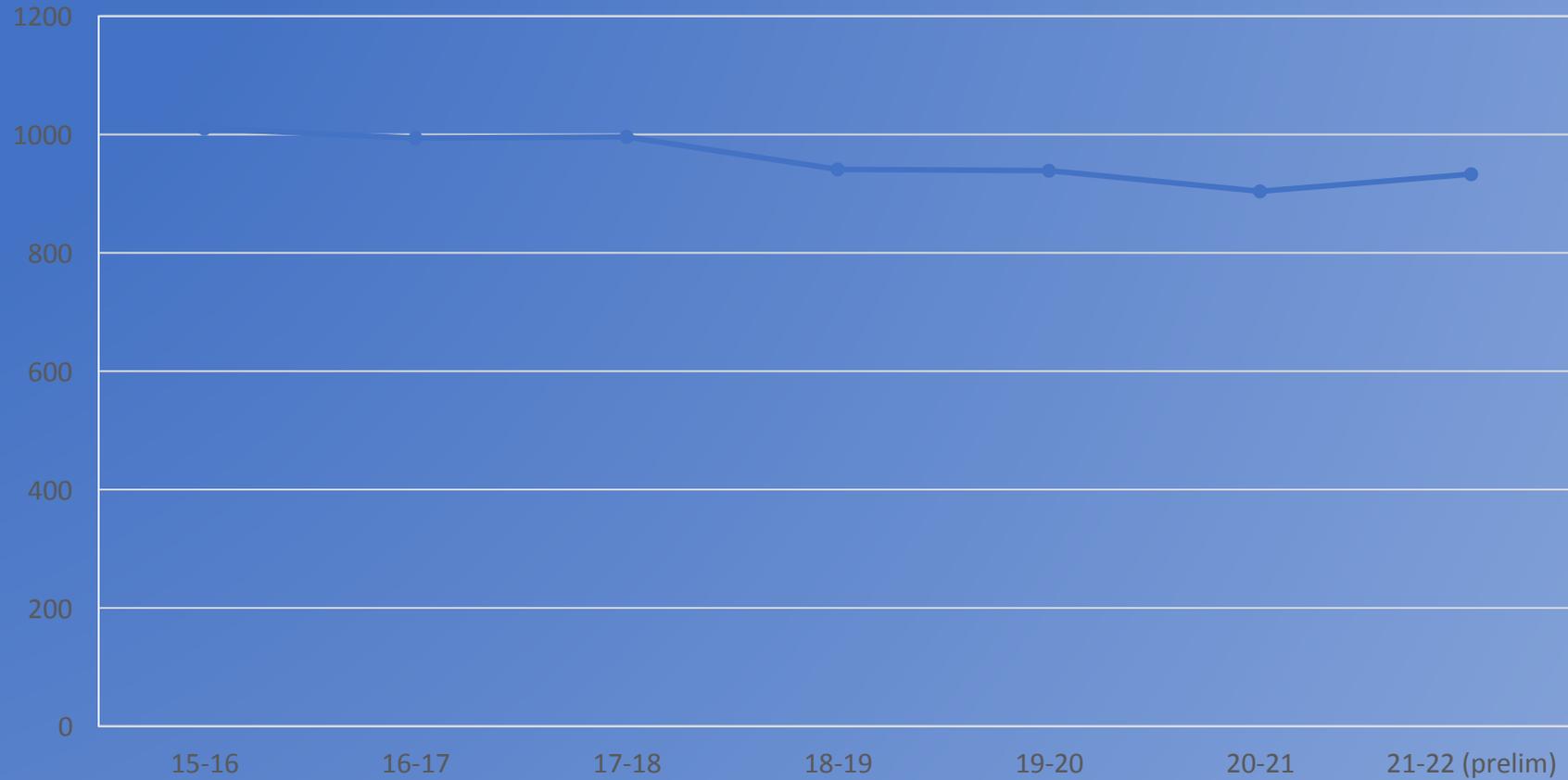
Adjusted Net Tax Capacity Analysis



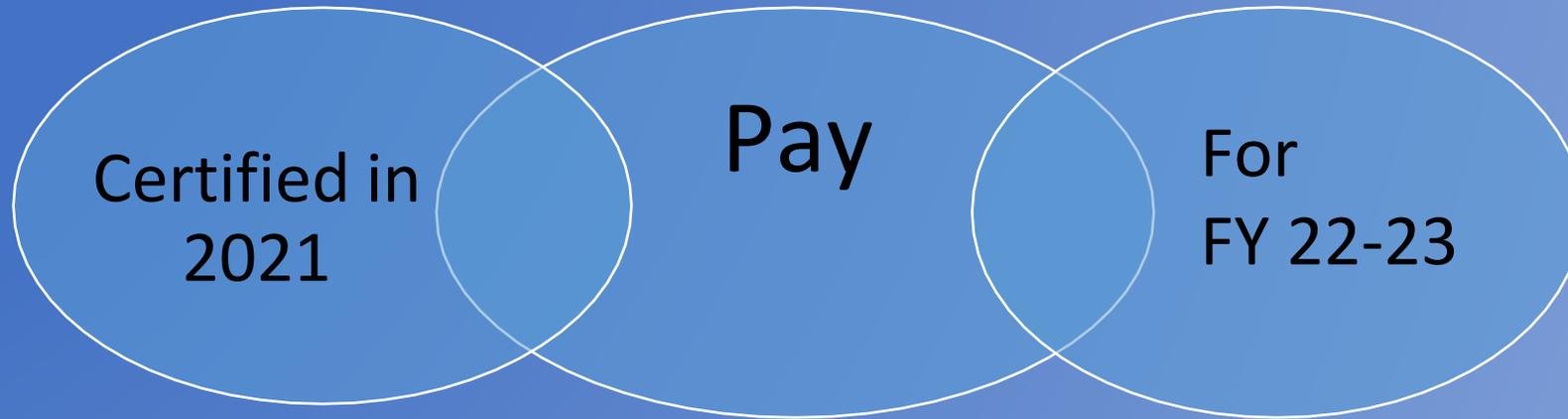
5-Year Levy History



Enrollment History Trends



Levy Certification



School Board approves Preliminary Levy in September 2021 and Adopts Final Levy in December, 2021

Property Owners pay taxes in May 2022 and October 2022 based on amounts approved by the school board

School district recognizes revenue from collection of taxes from Calendar Year 2022 in Fiscal year 2022-23.



School District Budget
Current School Year
2021-22



2021-2022 BUDGET OVERVIEW

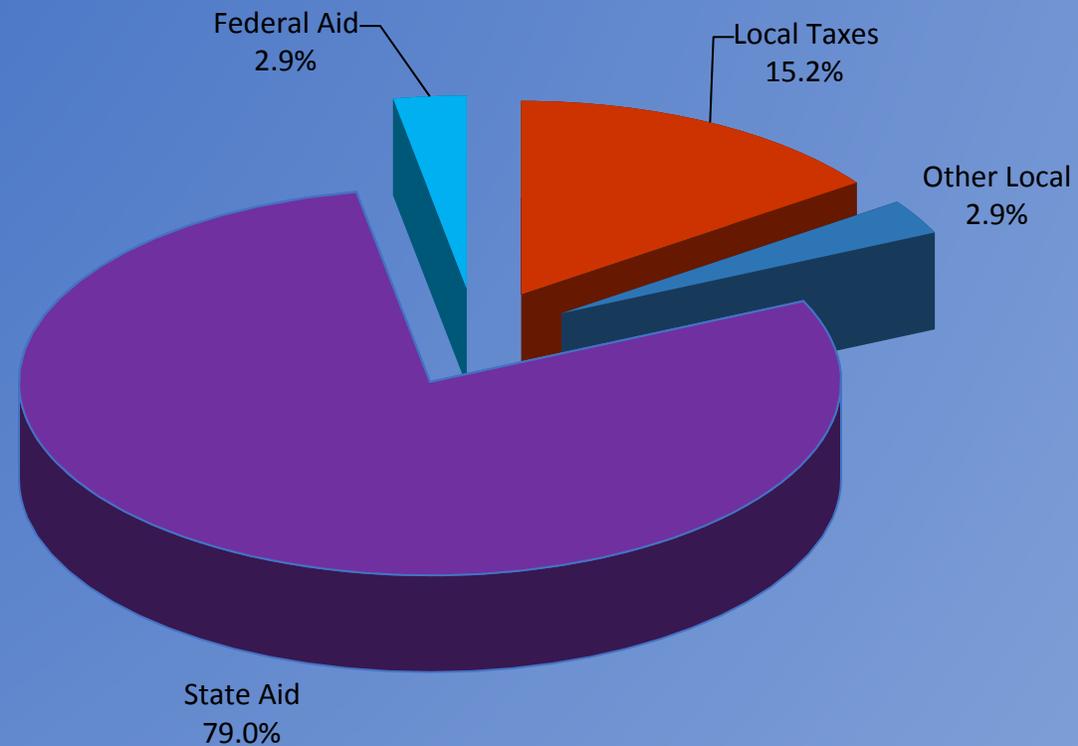
REVENUES

	20-21 Audited	21-22 Approved Budget	Percent Change
General Fund	11,646,139	11,495,917	-1.29%
Food Service	429,806	488,031	13.55%
Community Service	772,202	758,992	-1.71%
Debt Service	<u>988,516</u>	<u>977,801</u>	<u>-1.08%</u>
Totals	<u>\$ 13,836,663</u>	<u>\$ 13,720,741</u>	<u>-0.84%</u>



General Fund Revenue Budget

Where Do Our School Revenues Come From?



2021-2022 BUDGET OVERVIEW

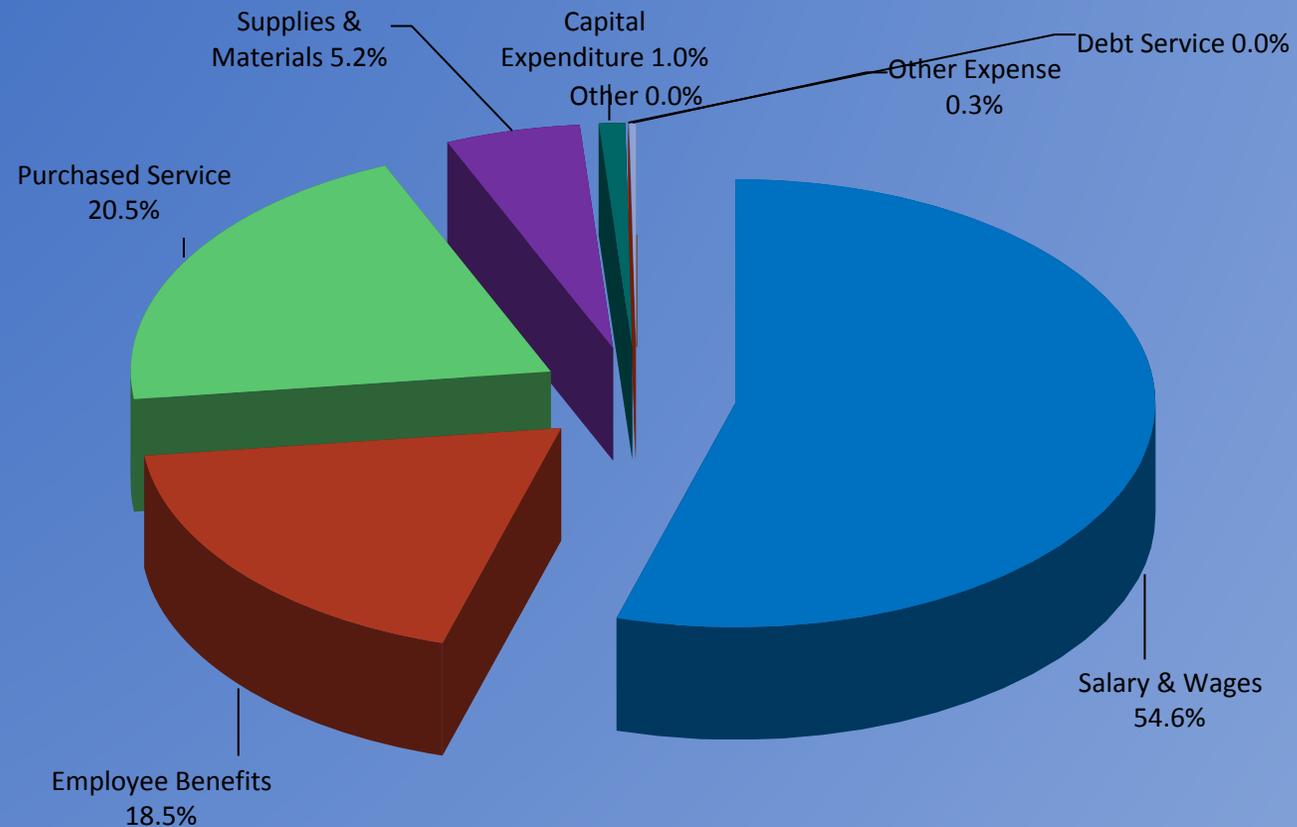
EXPENDITURES

	20-21 Audited	21-22 Approved Budget	Percent Change
General Fund	11,270,964	11,495,917	2.00%
Food Service	407,380	468,961	15.12%
Community Service	750,670	787,709	4.93%
Debt Service	<u>990,053</u>	<u>988,979</u>	<u>-0.11%</u>
 Totals	 <u>\$ 13,419,067</u>	 <u>\$ 13,741,566</u>	 <u>2.40%</u>



General Fund Expenditure Budget

What Do Our Expenditures Pay For?



Authority for School Levies

A School District Tax Levy must be either:



- Set by State Formula
- or-
- Voter Approved

Vote



Factors Impacting Tax Change

Issues Driven by Legislative Decisions:

- Change in sales ratio (impacting ANTC)
- Change in tax capacity rate structure (Ag2School)

Issues Determined by District Voters:

- Voter approved building bond issue
- Voter approved excess levy referendum



Factors Impacting Tax Change (*cont.*)

Local Factors:

- Addition of voter approved levy
- Abatements
- Property improvements not previously taxed
- Change in individual assessed market value
- Possible change in property classification (*e.g. homestead to rental*)



Central Public Schools

LEVY LIMITATION AND CERTIFICATION 2021 Payable 2022

Comparison of Certified Payable 2021 Levy with Proposed Payable 2022 Levy

GROSS LEVIES BY FUND	ACTUAL 20 PAY 21	PROPOSED 21 PAY 22	DOLLAR DIFFERENCE	PERCENT DIFFERENCE
General Fund	2,356,229.00	2,614,845.00	258,616.00	10.98%
Community Services	104,838.00	156,778.00	51,940.00	49.54%
Debt Redemption	976,801.00	1,750,133.00	773,332.00	79.17%
Total	3,437,868.00	4,521,756.00	1,083,888.00	31.53%

How Does Central Compare to Neighbors?

School District	General Education	Referendum	Special Education	Facilities/ Other	Total Revenue per Pupil	Rank out of 330
G.F.W.	\$8,671	\$2,130	-\$166	\$1,226	\$11,861	125
Eastern Carver County	\$7,712	\$1,704	\$1,320	\$1,047	\$11,784	134
Waconia	\$7,289	\$1,676	\$1,508	\$699	\$11,173	198
Hutchinson	\$7,819	\$1,035	\$1,452	\$859	\$11,165	199
Glencoe-Silver Lake	\$7,668	\$1,195	\$875	\$1,062	\$10,801	231
Lester Prairie	\$7,845	\$1,418	\$334	\$1,158	\$10,756	236
Watertown-Mayer	\$7,406	\$1,228	\$1,069	\$763	\$10,466	268
Tri-City United	\$7,971	\$734	\$877	\$742	\$10,324	282
Central Public Schools	\$7,745	\$1,379	\$227	\$940	\$10,291	284
Howard Lake-Waverly-Winsted	\$7,680	\$791	\$1,055	\$726	\$10,240	289
Jordan	\$7,521	\$724	\$1,252	\$668	\$10,165	295
Sibley East	\$7,853	\$724	\$465	\$954	\$9,996	304
Belle Plaine	\$7,438	\$724	\$955	\$864	\$9,981	306

Questions?



Finance Committee Report

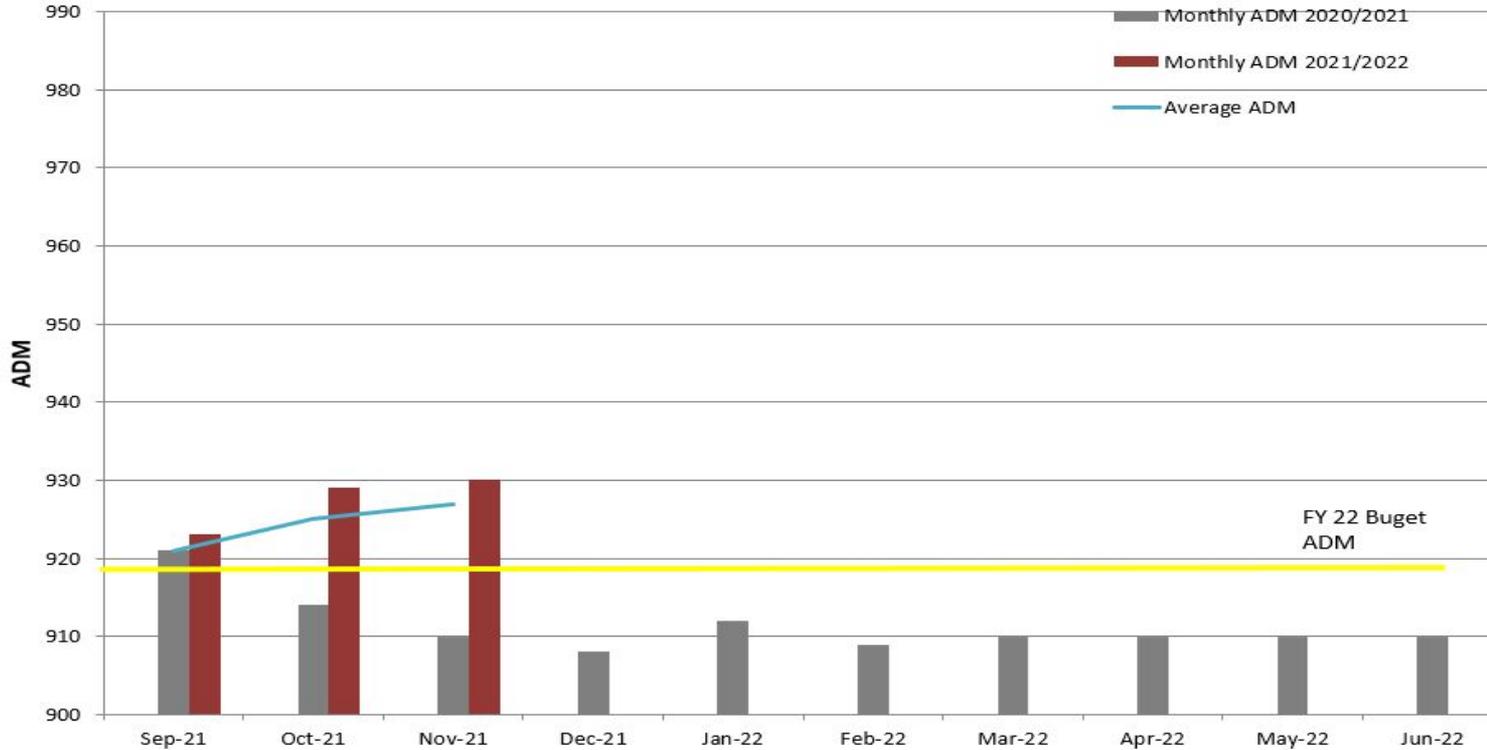


December 20, 2021

Enrollment by Month



21-22 Monthly, Average, and Budgeted Daily Membership



Monthly Revenue/Expense



November 2021 Data

Using FY22 Adopted Budget

YTD Revenues						
	21-22 Revenue Budget	21-22 Revenue to Date	% of Budget	20-21 Revenue Budget	20-21 Revenue to Date	% of Budget
General Fund	\$ 11,655,887	\$ 2,998,612	25.7%	\$ 11,509,854	\$ 3,024,935	26.3%
Food Services	\$ 488,031	\$ 159,152	32.6%	\$ 377,243	\$ 94,315	25.0%
Community Services	\$ 758,992	\$ 329,230	43.4%	\$ 722,304	\$ 279,481	38.7%
Debt Services	\$ 977,801	\$ 307,006	31.4%	\$ 988,392	\$ 453,102	45.8%
Scholarships	\$ 3,000	\$ 2,760	92.0%	\$ 3,000	\$ 2,473	82.4%
Student Activities	\$ -	\$ 37,837		\$ -	\$ 12,025	
Total Revenue	\$ 13,883,711	\$ 3,834,597	27.6%	\$ 13,600,793	\$ 3,866,331	28.4%

YTD Expenses						
	21-22 Expense Budget	21-22 Expenses to Date	% of Budget	20-21 Expense Budget	20-21 Expenses to Date	% of Budget
General Fund	\$ 11,492,917	\$ 3,834,646	33.4%	\$ 11,876,623	\$ 3,500,831	29.5%
Food Services	\$ 468,691	\$ 126,236	26.9%	\$ 376,400	\$ 68,062	18.1%
Community Services	\$ 787,709	\$ 330,882	42.0%	\$ 769,323	\$ 268,101	34.8%
Debt Services	\$ 988,979	\$ 69,239	7.0%	\$ 990,303	\$ 74,902	7.6%
Scholarships	\$ 3,000	\$ 1,000	33.3%	\$ 3,000	\$ -	0.0%
Student Activities	\$ -	\$ 28,954		\$ -	\$ 14,347	
Total Expenses	\$ 13,741,296	\$ 4,390,957	32.0%	\$ 14,015,649	\$ 3,926,243	28.0%
Favorable/(Unfavorable)	\$ 142,415	\$ (556,360)	-390.66%	\$ (414,856)	\$ (59,912)	14.4%

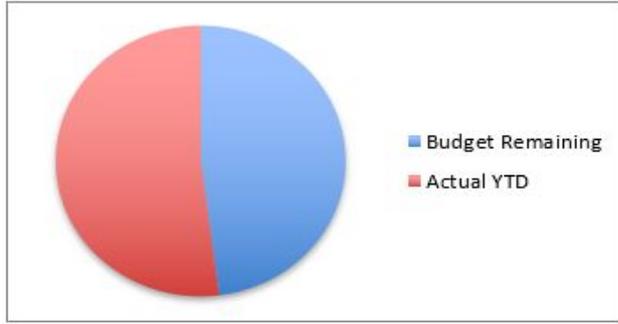
21-22 Fund Balance					
	Audited Fund Balance 7/1/21	21-22 Revenues to Date	21-22 Expenses to Date	Fund Balance 6/30/22	Favorable/(Unfavorable)
General Fund	\$ 2,371,332	\$ 2,998,612	\$ 3,834,646	\$ 1,535,298	\$ (836,034)
Food Services	\$ 128,167	\$ 159,152	\$ 126,236	\$ 161,083	\$ 32,916
Community Services	\$ 332,840	\$ 329,230	\$ 330,882	\$ 331,188	\$ (1,652)
Debt Services	\$ 208,956	\$ 307,006	\$ 69,239	\$ 446,723	\$ 237,767
Scholarships	\$ 33,584	\$ 2,760	\$ 1,000	\$ 35,344	\$ 1,760
Student Activities	\$ 109,590	\$ 37,837	\$ 28,954	\$ 118,473	\$ 8,883
Total Fund Balance	\$ 3,184,469	\$ 3,834,597	\$ 4,390,957	\$ 2,628,109	\$ (556,360)

ISD 108 Promise to Voters



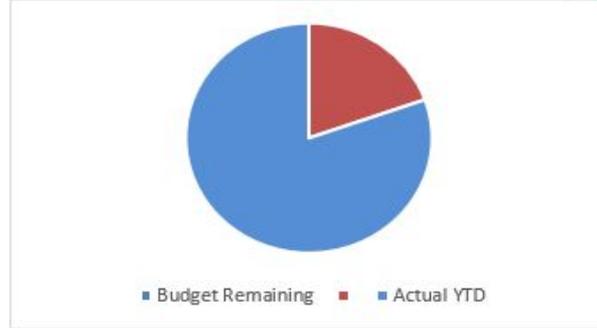
Q1 Curriculum

Budget Remaining **Actual YTD**
74,838 81,162



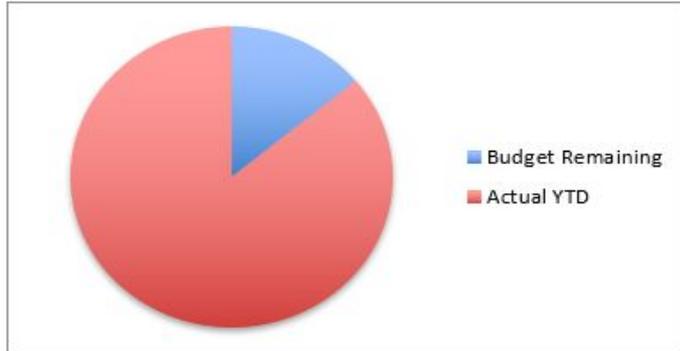
Q1 Staff Development

Budget Remaining **Actual YTD**
13,445 55,223



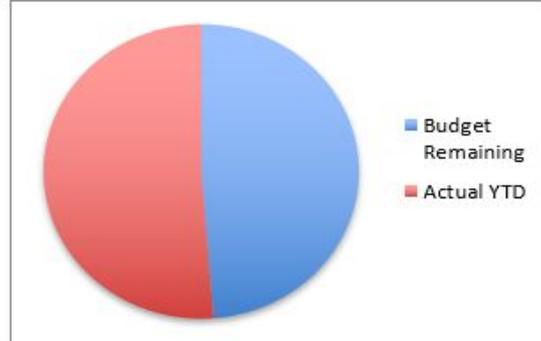
Q2 Tech Levy

Budget Remaining **Actual YTD**
49,111 302,052



Q1 Maintain Class Size

Budget Remaining **Actual YTD**
165,606 173,886



104 SCHOOL DISTRICT MISSION STATEMENT

I. PURPOSE

The purpose of this policy is to establish a clear statement of the purpose for which the school district exists.

II. GENERAL STATEMENT OF POLICY

The school board believes that a mission statement should be adopted. The mission statement should be based on the beliefs and values of the community, should direct any change effort and should be the basis on which decisions are made. The school board, on behalf of and with extensive participation by the community, should develop a consensus among its members regarding the nature of the enterprise the school board governs, the purposes it serves, the constituencies it should consider, including student representation, and the results it intends to produce.

III. MISSION STATEMENT

EDUCATION IS CENTRAL

Enter District 108 and you will discover an energized, enthusiastic and caring learning environment.

This will be a place where lifelong learners are actively engaged in understanding, exploring and creating the world of knowledge.

We will expand beyond the doors of our buildings into the community and world around us and be connected through resources, relationships, technology and innovation. High standards and quality will be the norm and success will be a reality for all.

Listen to the voices of our community and you will hear a sense of pride, affirmation, encouragement and support. There will be a strong spirit of collaboration and togetherness.

District 108 will be a community that is alive with the excitement of learning. People will be united in the memory of a rich history, the pride of present celebrations, and the hopes and dreams of the future.

IV. REVIEW

The school board will review the school district's mission every two years, especially when members of the board change. The school board will conduct a comprehensive review of the mission, including the beliefs and values of the community, every five to seven years.

Legal References: Minn. Stat. § 120B.11 (School District Process for Reviewing Curriculum, Instruction, and Student Achievement)

Minn. Rule Parts 3501.0010-3501.0180

Minn. Rule Parts 3501.0200-3501.0270

Cross References:

101 LEGAL STATUS OF THE SCHOOL DISTRICT

I. PURPOSE

A primary principle of this nation is that the public welfare demands an educated and informed citizenry. The power to provide for public education is a state function vested in the state legislature and delegated to local school districts. The purpose of this policy is to clarify the legal status of the school district.

II. GENERAL STATEMENT OF POLICY

A. The school district is a public corporation subject to the control of the legislature, limited only by constitutional restrictions. The school district has been created for educational purposes.

B. The legislature has authority to prescribe the school district's powers and privileges, its boundaries and territorial jurisdictions.

C. The school district has only the powers conferred on it by the legislature; however, the school board's authority to govern, manage, and control the school district, to carry out its duties and responsibilities, and to conduct the business of the school district includes implied powers in addition to any specific powers granted by the legislature.

III. RELATIONSHIP TO OTHER ENTITIES

A. The school district is a separate legal entity.

B. The school district is coordinate with and not subordinate to the county(ies) in which it is situated.

C. The school district is not subservient to municipalities within its territory.

IV. POWERS AND AUTHORITY OF THE SCHOOL DISTRICT

A. Funds

1. The school district, through its school board, has authority to raise funds for the operation and maintenance of its schools and authority to manage and expend such funds, subject to applicable law.
2. The school district has wide discretion over the expenditure of funds under its control for public purposes, subject to the limitations provided by law.
3. School district officials occupy a fiduciary position in the management and expenditure of funds entrusted to them.

B. Raising Funds

1. The school district shall, within the limitations specified by law, provide by levy of tax necessary funds for the conduct of schools, payment of indebtedness, and all proper expenses.
2. The school district may issue bonds in accordance with the provisions of Minn. Stat. Ch. 475, or other applicable law.
3. The school district has authority to accept gifts and donations for school purposes, subject to applicable law.

C. Property

1. The school district may acquire property for school purposes. It may sell, exchange, or otherwise dispose of property which is no longer needed for school purposes, subject to applicable law.
2. The school district shall manage its property in a manner consistent with the educational functions of the district.
3. The school district may permit the use of its facilities for community purposes which are not inconsistent with, nor disruptive of, its educational mission.
4. School district officials hold school property as trustees for the use and benefit of students, taxpayers, and the community.

D. Contracts

1. The school district is empowered to enter into contracts in the manner provided by law.
2. The school district has authority to enter into installment purchases and leases with an option to purchase, pursuant to Minn. Stat. § 465.71 or other applicable law.

3. The school district has authority to make contracts with other governmental agencies and units for the purchase, lease or other acquisition of equipment, supplies, materials, or other property, including real property.

4. The school district has authority to enter into employment contracts. As a public employer, the school district, through its designated representatives, shall meet and negotiate with public employees in an appropriate bargaining unit and enter into written collective bargaining agreements with such employees, subject to applicable law.

E. Textbooks, Educational Materials, and Studies

1. The school district, through its school board and administrators, has the authority to determine what textbooks, educational materials, and studies should be pursued.

2. The school district shall establish and apply the school curriculum.

F. Actions and Suits

The school district has authority to sue and to be sued.

Legal References: Minn. Const. art. 13, § 1

Minn. Stat. Ch. 123B (School Districts, Powers and Duties)

Minn. Stat. Ch. 179A (Public Employment Labor Relations)

Minn. Stat. § 465.035 (Conveyance or Lease of Land)

Minn. Stat. §§ 465.71; 471.345; 471.6161; 471.6175; 471.64 (Rights, Powers, Duties of Political Subdivisions)

Minnesota Association of Public Schools v. Hanson, 287 Minn. 415, 178 N.W.2d 846 (1970)

Independent School District No. 581 v. Mattheis, 275 Minn. 383, 147 N.W.2d 374 (1966)

Village of Blaine v. Independent School District No. 12, 272 Minn. 343, 138 N.W.2d 32 (1965)

Huffman v. School Board, 230 Minn. 289, 41 N.W.2d 455 (1950)

State v. Lakeside Land Co., 71 Minn. 283, 73 N.W.970 (1898)

Cross References: MSBA/MASA Model Policy 201 (Legal Status of School Board)

MSBA/MASA Model Policy 603 (Curriculum Development)

MSBA/MASA Model Policy 604 (Instructional Curriculum)

MSBA/MASA Model Policy 606 (Textbooks and Instructional Materials)

MSBA/MASA Model Policy 704 (Development and Maintenance of an Inventory of Fixed Assets and a Fixed Asset Accounting System)

MSBA/MASA Model Policy 705 (Investments)

MSBA/MASA Model Policy 706 (Acceptance of Gifts)

MSBA/MASA Model Policy 801 (Equal Access to School Facilities)

MSBA Service Manual, Chapter 3, Employee Negotiations

101.1 NAME OF THE SCHOOL DISTRICT

I. PURPOSE

The purpose of this policy is to clarify the name of the school district.

II. GENERAL STATEMENT OF POLICY

Pursuant to statute, the official name of the school district is Independent School District No. . However, the school district is often referred to by other informal names. In order to avoid confusion and to encourage consistency in school district letterheads, signage, publications and other materials, the school board intends to establish a uniform name for the school district.

III. UNIFORM NAME

- A. The name of the school district shall be Central Public Schools
- B. The name specified above may be used to refer to the school district and may be shown on school district letterheads, signage, publications and other materials.
- C. In official communications and on school district ballots, the school district shall be referred to as Independent School District No. 108, Central Public Schools, but inadvertent failure to use the correct name shall not invalidate any legal proceeding or matter or affect the validity of any document.

Legal References: Minn. Stat. § 123A.55 (Classes, Number)

Cross References:

102 EQUAL EDUCATIONAL OPPORTUNITY

I. PURPOSE

The purpose of this policy is to ensure that equal educational opportunity is provided for all students of the school district.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the school district is to provide equal educational opportunity for all students. The school district does not unlawfully discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, parental status, status with regard to public assistance, disability, sexual orientation, including gender identity and expression, or age. The school district also makes reasonable accommodations for disabled students.
- B. The school district prohibits the harassment of any individual for any of the categories listed above. For information about the types of conduct that constitute violation of the school district's policy on harassment and violence and the school district's procedures for addressing such complaints, refer to the school district's policy on harassment and violence.
- C. This policy applies to all areas of education including academics, coursework, co-curricular and extracurricular activities, or other rights or privileges of enrollment.
- D. Every school district employee shall be responsible for complying with this policy conscientiously.
- E. Any student, parent, or guardian having a question regarding this policy should discuss it with the appropriate school district official as provided by policy. In the absence of a specific designee, an inquiry or a complaint should be referred to the superintendent.

Legal References: Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious, and Racial Harassment and Violence Policy)

Minn. Stat. Ch. 363A (Minnesota Human Rights Act)

20 U.S.C. § 1681 *et seq.* (Title IX of the Education Amendments of 1972)

42 U.S.C. § 12101 *et seq.* (Americans with Disabilities Act)

Cross References: MSBA/MASA Model Policy 402 (Disability Nondiscrimination)

MSBA/MASA Model Policy 413 (Harassment and Violence)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)
MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)

103 COMPLAINTS – STUDENTS, EMPLOYEES, PARENTS, OTHER PERSONS

I. PURPOSE

The school district takes seriously all concerns or complaints by students, employees, parents or other persons. If a specific complaint procedure is provided within any other policy of the school district, the specific procedure shall be followed in reference to such a complaint. If a specific complaint procedure is not provided, the purpose of this policy is to provide a procedure that may be used.

II. GENERAL STATEMENT OF POLICY

A. Students, parents, employees or other persons, may report concerns or complaints to the school district. While written reports are encouraged, a complaint may be made orally. Any employee receiving a complaint shall advise the principal or immediate supervisor of the receipt of the complaint. The supervisor shall make an initial determination as to the seriousness of the complaint and whether the matter should be referred to the superintendent. A person may file a complaint at any level of the school district; i.e., principal, superintendent or school board. However, persons are encouraged to file a complaint at the building level when appropriate.

B. Depending upon the nature and seriousness of the complaint, the supervisor or other administrator receiving the complaint shall determine the nature and scope of the investigation or followup procedures. If the complaint involves serious allegations, the matter shall promptly be referred to the superintendent who shall determine whether an internal or external investigation should be conducted. In either case, the superintendent shall determine the nature and scope of the investigation and designate the person responsible for the investigation or followup relating to the complaint. The designated investigator shall ascertain details concerning the complaint and respond promptly to the appropriate administrator concerning the status or outcome of the matter.

C. The appropriate administrator shall respond in writing to the complaining party concerning the outcome of the investigation or followup, including any appropriate action or corrective measure that was taken. The superintendent shall be copied on the correspondence and consulted in advance of the written response when appropriate. The response to the complaining party shall be consistent with the rights of others pursuant to the applicable provisions of Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act) or other law.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)

Cross References: MSBA/MASA Model Policy 206 (Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations)

MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)

MSBA/MASA Model Policy 413 (Harassment and Violence)

MSBA/MASA Model Policy 514 (Bullying Prohibition)

MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records – Privacy – Access to Data)



MINNESOTA DEPARTMENT of HEALTH
 Environmental Health Division
 625 Robert St. North, P.O. Box 64495
 St. Paul, Minnesota 55164-0495
 (651) 201-4500



2022 License Renewal Application
 Food, Beverage, Lodging, or Youth Camp Establishment

LICENSE NO. FBL-36430-30346

NOTE: You must not operate without a license

This renewal application cannot be used if there is an ownership change for this establishment, or for a new establishment. Please notify the Department of Health at (651) 201-4500 to receive the application form for a new owner.

ISSUED TO:
 Central Booster Club
 531 Morse St
 P.O. Box 247
 Norwood Young America, Minnesota 55397
 (Please write in any address change)

ESTABLISHMENT NAME: (94)
 Central Booster Club
 531 Morse Street
 P.O. Box 247
 Norwood Young America, Minnesota 55397

WORKERS' COMPENSATION INSURANCE INFORMATION - REQUIRED FOR LICENSE ISSUANCE

Company Name: _____
 Address: _____ Policy Number: _____
 City: _____ Coverage from: ____/____/____ Thru ____/____/____
 State/Zip: _____

OR

I certify that I am not required to carry workers' compensation liability coverage because:

- I am a sole proprietor or partner and I have no employees.
- I have no employees who are covered by the workers' compensation law. (Note: Only employees exempt by statutes are not covered by the workers' compensation law. These include: Spouse, parent and children regardless of age.)
- I represent a nonprofit association which does not pay more than \$1000.00 in salary or wages in a year.

Establishment Business Phone #: (952) 486-3815
 Emergency Contact Name: Timothy Schochenmaier
 How would you like to be notified Email Phone
 Emergency Contact Business #: (952) 467-7000
 Email Address: tschochenmaier@central.k12.mn.us
 MN Business Tax ID Number: 8001912
 Federal Tax ID Number: 416000487
 Billing Email: tschochenmaier@central.k12.mn.us
 Mobile Unit License Plate #: _____
 (Please write in any changes)

Qty	Fee Category	2022 License Fee
1	Base Fee - FBL	\$165.00
1	Hospitality Fee	\$40.00
1	Seasonal Temporary Food Stand	\$85.00

Total Due if paid before your first event in 2022: \$290.00
 or
 Total fee and \$60 late fee due if submitted after your first event in 2022 \$350.00

If Seasonal, enter opening date: ____/____/2022

Make checks payable to: "Minnesota Department of Health"

If your payment is late you may also be subject to enforcement action and additional penalties.

I certify that the information provided on this application is accurate and complete:

Signature: _____ Date: ____/____/____

Office Use Only
 Rec'd: ____/____/____
 Check #: _____
 Amount: _____

2022 Renewal Notice for All Applicants

Important Dates

Year-Round Operations

A license renewal application and fee must be submitted to the Minnesota Department of Health before business operations begin in 2022. Businesses intending to operate on January 1, 2022, must submit their renewal license application and fee no later than December 31, 2021. The following late penalties will be assessed if license fees are submitted after business operations begin in 2022:

- \$120 late penalty if license fees are submitted **within 30 days** after operations begin.
- \$360 late penalty if license fees are submitted **more than 30 days** after operations begin.

Seasonal Operations

A license renewal application and fee must be submitted to the Minnesota Department of Health before business operations begin in 2022. Please include the opening date for calendar year 2022 on the license renewal application. The following late penalties will be assessed if license fees are submitted after business operations begin in 2022:

- \$120 late penalty if license fees are submitted **within 30 days** after operations begin.
- \$360 late penalty if license fees are submitted **more than 30 days** after operations begin.

Mobile Food Units, Seasonal Permanent/Temporary Food Stands, and Food Carts

A license renewal application and fee must be submitted to the Minnesota Department of Health before business operations begin in 2022. Please include the opening date for calendar year 2022 on the license renewal application. The following late penalties will be assessed if license fees are submitted after business operations begin in 2022:

- \$60 late penalty if license fees are submitted after operations begin.

Application Information

Please review and update the emergency contact information, workers' compensation insurance information, and federal and state tax identification numbers on the renewal application. Make changes by crossing out existing information and writing in new information directly on the application.

Ownership Change

This renewal application cannot be used if there has been an ownership change for the business. Please contact us to request a new application following a change in ownership.

- Email: health.foodlodging@state.mn.us
- Phone: (651) 201-4500

Payment

Please submit payment by **check or money order only**. No cash or credit card payments are accepted at this time.

Please note:

- **No walk-in customer service** is currently provided at any of our office locations. Applications and fees must be submitted by mail.
- The issuance of a dishonored check will result in a **service fee of \$30**, per Minnesota Statutes, Section 604.113.

Mailing Address:

Minnesota Department of Health
Food, Pools, and Lodging Services Section
P.O. Box 64495
St. Paul, MN 55164-0495

Continued on reverse side

2022-23

Central Public Schools

	Students	Teachers
1st Qtr	43	48
2nd Qtr	43	44
3rd Qtr	42	44
4th Qtr	39	40
	167	176

July

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
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August

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- Aug. 8-11: Teacher Workshop
- Aug 10: Transition Day K-5 (Conferences and open house individualized by appointment)
- Aug 15: Transition Day K-5 by appointment. 6th, 9th grades at school. Bussing provided for 6th and 9th grade.
- Aug. 16: First Day of School

Sept. 5: No School Labor Day

- Oct. 13: End of 1st Qtr.
- Oct. 14: No School; Teacher workshop
- Oct. 20 & 21: No School; Fall Recess
- Oct. 18 & 27: Elementary Conferences
- Oct. 27 & Nov. 3: HS/MS Conferences

Nov. 23, 24 & 25: No School Teacher Comp. & Thanksgiving Break

- Dec. 23: No School Teacher Workshop
- Dec. 22: End of 2nd Qtr.
- Dec. 24 - 31: No School: Winter Break

Jan. 2: School Resumes

Jan. 16: No School

Jan. 19 & 26: Elementary Conferences

Jan. 26 & Feb. 2: MS/HS Conferences

Feb. 16: Kindergarten Registration

Feb. 17 & 20: No School President's Day

March 2: End of 3rd Qtr

March 3: No School Teacher Workshop

March 6: Teacher Comp
March 7-10: No School Spring Break

April 7: No School

May 5: Last Day of School, 1/2 day, students released after lunch

May 5: Graduation

January

S	M	T	W	T	F	S
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2022-23

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CERTIFICATION OF MINUTES

RELATING TO

GENERAL OBLIGATION SCHOOL BUILDING BONDS, SERIES 2021A
(MINNESTOA SCHOOL DISTRICT CREDIT ENHANCEMENT PROGRAM)

ISSUER: INDEPENDENT SCHOOL DISTRICT NO. 108
(CENTRAL PUBLIC SCHOOLS)
STATE OF MINNESOTA

GOVERNING BODY: SCHOOL BOARD

KIND, DATE, TIME AND PLACE OF MEETING: A regular meeting held on December 20, 2021, at 6:00 o'clock p.m., held in the High School Media Center in Norwood Young America, Minnesota.

MEMBERS PRESENT: _____

MEMBERS ABSENT: _____

Documents Attached: Extract of Minutes of said meeting.

RESOLUTION OF THE SCHOOL BOARD OF INDEPENDENT SCHOOL DISTRICT NO. 108 (CENTRAL PUBLIC SCHOOLS) STATE OF MINNESOTA (THE "DISTRICT") APPROVING THE SALE OF THE DISTRICT'S GENERAL OBLIGATION SCHOOL BUILDING BONDS, SERIES 2021A (THE "BONDS") TO THE PURCHASER THEREOF; DETERMINING THE FORM AND DETAILS OF SUCH BONDS; AUTHORIZING THE EXECUTION, DELIVERY AND REGISTRATION OF SUCH BONDS; PROVIDING FOR THE PAYMENT OF AND THE SECURITY FOR SUCH BONDS; AND AUTHORIZING AND RATIFYING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH

I, the undersigned, being the duly qualified and acting recording officer of the public corporation issuing the obligations referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of said corporation in my legal custody, from which they have been transcribed; that said documents are a correct and complete transcript of the minutes of a meeting of the governing body of said corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at said meeting, so far as they relate to said obligations; and that said meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting duly given as required by law.

EXECUTED AND DATED this ___th day of December, 2021.

School District Clerk

EXTRACT OF MINUTES OF A MEETING
OF THE SCHOOL BOARD
OF INDEPENDENT SCHOOL DISTRICT NO. 108
(CENTRAL PUBLIC SCHOOLS)
STATE OF MINNESOTA

HELD: December 20, 2021

Pursuant to due call and notice thereof, a regular meeting of the School Board of Independent School District No. 108 (Central Public Schools), State of Minnesota (the "District"), was duly held on December 20, 2021, at 6:00 o'clock p.m., for the purpose, in part, of approving the sale of of the General Obligation School Building Bonds, Series 2021A of the District All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION OF THE SCHOOL BOARD OF INDEPENDENT SCHOOL DISTRICT NO. 108 (CENTRAL PUBLIC SCHOOLS) STATE OF MINNESOTA (THE “DISTRICT”) APPROVING THE SALE OF THE DISTRICT’S GENERAL OBLIGATION SCHOOL BUILDING BONDS, SERIES 2021A (THE “BONDS”) TO THE PURCHASER THEREOF; DETERMINING THE FORM AND DETAILS OF SUCH BONDS; AUTHORIZING THE EXECUTION, DELIVERY AND REGISTRATION OF SUCH BONDS; PROVIDING FOR THE PAYMENT OF AND THE SECURITY FOR SUCH BONDS; AND AUTHORIZING AND RATIFYING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH

BE IT RESOLVED by the School Board (the “Board”) of Independent School District No. 108 (Central Public Schools), State of Minnesota (the “District”), as follows:

**Article I
Authorization and Sale**

Section 1.01 Authorization and Purpose.

(a) The Board has previously determined that it is necessary that the District expend funds for the purposes of financing the costs of acquisition and betterment of school sites and facilities, including but not limited to, safety and security enhancements, the completion of various deferred maintenance projects, environmental systems improvements, energy efficiency upgrades, technology infrastructure improvements, parking expansion, expansion and modernization of special education spaces, a new boys and girls locker room, weight room, fitness center; modernization of classrooms, including the creation of flexible learning spaces, STEM labs and new furniture, construction of an additional two-court auxiliary gymnasium at the High School; construction of a new athletic stadium for track, soccer, and football with concessions, visitor seating, synthetic turf, and parking; construction of a new wrestling training room; and creation of an additional ball field with bleachers (collectively, the “**Project**”).

(b) Pursuant to a resolution passed by this Board on August 9, 2021 (the “**Election Resolution**”), there was submitted to the qualified electors of the District, at a special election held on November 2, 2021 (the “**Election**”), the questions of issuing bonds of the District in a principal amount not to exceed \$38,855,000 for the purposes of financing the costs of the Project and levying and collecting a special levy of taxes against all the taxable property in the District sufficient in rate and amount to pay the principal of, premium, if any, and interest on said bonds.

(c) Notice of the Election and the submission of such question, and the sample ballot regarding such question, was duly given to the qualified electors of the District by timely publication in a legal newspaper of general circulation within the District.

(d) The Election was held as designated in the Election Resolution and the notice, and at said Election there was submitted to the qualified electors of the District the question of issuing said bonds and levying taxes to pay the same as set out in the Election Resolution.

(e) The Election returns, as certified by the Election Commissioner, provided that a majority of the electors voting on the proposition cast ballots in favor of said bonds and tax.

(f) At a meeting held on November 22, 2021, this Board determined to sell and issue its general obligation school building bonds of the District in the total aggregate principal amount of not to exceed \$38,855,000 (as more fully described herein, the “**Bonds**”), which have been authorized by the voters of the District at the Election to be used to finance a portion of the costs of the Project.

Section 1.02 Sale. The Board, having been advised by Blue Rose Capital Advisors, its independent municipal advisor, has determined that this issue shall be sold after direct negotiation, as authorized pursuant to Minnesota Statutes, Section 475.60, Subdivision 2(9), as amended. The proposal of Robert W. Baird & Co. (the “**Underwriter**”) to purchase the Bonds at a price of \$9,880,765.45 (representing the par amount of the Bonds of \$9,375,000, plus original issue premium of \$622,952.95 and less underwriter’s discount of \$117,187.50), was accepted by the Board Chair and the Superintendent on December 9, 2021 pursuant to the Bond Purchase Agreement between the Underwriter and the Board Chair and the Superintendent. The proposal of the Underwriter and the award of the sale of the Bonds is hereby ratified by the Board.

Section 1.03 Execution of Documents. The execution of the Bond Purchase Agreement dated December 9, 2021 between the Underwriter and the District is hereby ratified.

Section 1.04 Compliance with Law. All acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to happen and to be performed precedent to the issuance of the Bonds having been done, having happened and having been performed in regular and due form, time and manner as required by law, the Board hereby finds and determines that it is necessary for this Board to provide for the issuance, sale and delivery of the Bonds, to establish the form and terms of the Bonds and to provide for the payment and the security thereof.

Article II

Authorization; Bond Terms; Registration; Execution and Delivery

Section 2.01 Authorization and Designation. In accordance with the laws of the State of Minnesota, the Board hereby authorizes the issuance of the Bonds in the aggregate principal amount of \$9,375,000 to be used to finance a portion of the Project costs. Such Bonds shall be designated as “General Obligation School Building Bonds, Series 2021A”.

Section 2.02 Maturities, Interest Rates and Denominations. The Bonds shall be originally dated their date of original issue and delivery (December 30, 2021), shall be issued and sold in denominations of \$5,000 or any integral multiple thereof within a single maturity, shall mature on February 1 in the years and amounts set forth below and shall bear interest at the rates per annum set forth below opposite such years and amounts from their date of original issue or from the most recent Interest Payment Date to which interest has been paid or duly provided for until paid or duly called for redemption (if any), as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest</u>
2033	\$1,820,000	3.000%
2034	1,935,000	3.000
2035	2,050,000	3.000
2036	2,165,000	2.000
2037	1,405,000	2.000

The Bonds shall be issuable only in fully registered form. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. The interest thereon and, upon surrender of each Bond, the principal amount thereof, shall be paid by check or draft issued by the Registrar described herein; provided, however, that so long as the Bonds are registered in the name of a securities depository, or a nominee thereof, in accordance with Section 2.08 hereof, the principal of and the interest on the Bonds shall be paid in accordance with the operational arrangements of the securities depository.

The District plans to issue bonds in early 2022, which will utilize the remaining bonding authority approved by voters at the Election (an aggregate amount not to exceed \$29,480,000 in 2022). Upon the issuance of the Bonds and the planned 2022 bonds, the maturities set forth above, together with the maturities of the planned 2022 bonds and all other outstanding general obligation bonds of the District, meet the requirements of Minnesota Statutes, Section 475.54.

Section 2.03 Dates and Interest Payments. Upon initial delivery of the Bonds pursuant to Section 2.07 hereof and upon any subsequent transfer or exchange pursuant to Section 2.06 hereof, the date of authentication shall be noted on each Bond so delivered, exchanged or transferred. The interest on the Bonds shall be payable on February 1 and August 1 (each, an “**Interest Payment Date**”), commencing August 1, 2022, to the owners 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 (“**Record Date**”).

If any payments of interest due on the Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Registrar whenever monies for the purpose of paying such defaulted interest becomes available.

If the date for payment of the principal of or the interest on the Bonds shall be a Saturday, Sunday, legal holiday or day on which banking institutions in the city in which the principal corporate trust office of the Registrar is located are authorized by law or executive order to close,

the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal payment date.

Section 2.04 Redemption.

(a) **Optional Redemption.** The District may elect on February 1, 2028, and on any day thereafter, to prepay Bonds due on or after February 1, 2029. Redemption may be in whole or in part and if in part at the option of the District and in such manner as the District shall determine. All Bonds shall be redeemed at a price of par plus accrued interest to the date of redemption. Bonds subject to redemption shall be redeemed in whole multiples of \$5,000. If any Bond is in a denomination in excess of \$5,000, portions of the principal amount thereof in installments of \$5,000 or any whole multiple thereof may be redeemed, and if less than all of the principal amount thereof is to be redeemed, in such case upon the surrender of such Bonds there shall be issued to the registered owner thereof without charge therefor, for the then unredeemed balance of the principal amount thereof, Bonds of like series, maturity and interest rates in any of the authorized denominations provided by this Resolution. If less than all Bonds of any maturity are to be called for redemption pursuant to this Resolution, the Registrar shall select the particular Bonds of such maturity to be redeemed by lot.

(b) **Notice of Redemption.** Notice of redemption of Bonds stating their designation, date, maturity, principal amounts and the redemption date shall be given by the Registrar by mailing such notice by first class mail, postage prepaid, not less than 30 days prior to the date fixed for redemption (or such shorter period as may be acceptable to the then registered owner of the Bonds) to the registered owners at their most recent addresses appearing upon the books of the Registrar. Failure to give notice to any particular registered owner or any defect in the notice given to such owner shall not affect the validity of the proceedings calling the Bonds or the redemption of any Bonds for which proper notice has been given. Notice of redemption need not be given to the holder of any Bonds, whether registered or not, who has waived notice of redemption. Notice of redemption having been given as provided above or notice of redemption having been waived by the owners of Bonds called for redemption to whom such notice has not been given as provided above, the Bonds so called for redemption shall become due and payable on the designated redemption date. The District shall give written notice to the Registrar of its election to redeem Bonds at least 45 days prior to the said redemption date, or such shorter period as shall be acceptable to the Registrar. If on or before the said redemption date funds sufficient to pay the Bonds so called for redemption at the applicable redemption price and accrued interest to said date have been deposited or caused to have been deposited by the District with the Registrar for the purposes of such payment and notice of redemption thereof has been given or waived as hereinbefore provided, then from and after the date fixed for redemption interest on such Bonds so called shall cease to accrue and become payable. If such funds shall not have been so deposited with the Registrar as aforesaid no later than the date fixed for redemption, such call for redemption shall be revoked and the Bonds so called for redemption shall continue to be outstanding the same as though they had not been so called; such Bonds shall continue to bear interest until paid at such rate as they would have borne had they not been called for redemption and shall continue to be protected by this Bond Resolution and entitled to the benefits and security hereof.

Section 2.05. Appointment of Initial Registrar. The District hereby appoints U.S. Bank National Association in St. Paul, Minnesota, as the initial bond registrar, transfer agent and paying agent (the “**Registrar**”). The Chair of the Board and the Clerk of the District are authorized to execute and deliver, on behalf of the District, a contract with the Registrar (the “**Registrar Agreement**”). The Registrar shall have only such duties and obligations as are expressly specified by this Resolution and the Registrar Agreement, and no other duties or obligations shall be implied to the Registrar, except as may be set forth in a written agreement between the District and a successor Registrar.

The District agrees to pay the reasonable and customary charges of the Registrar for the services performed. The Registrar shall notify the District in writing of any changes in its principal corporate trust office as set forth in this Section.

Upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar.

The District reserves the right to remove the Registrar upon thirty (30) days’ notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Bonds in its possession to the successor Registrar and shall deliver the bond register to the successor Registrar. The Chair of the Board and the Clerk of the District is each authorized to remove the Registrar as provided herein if he or she determines such removal is in the best interest of the District. Upon such removal, such officer is authorized to appoint a successor Registrar and to execute a Registrar Agreement with such successor Registrar in a form substantially similar to that approved by the Board pursuant to this Resolution, but with such changes as he or she shall deem appropriate or necessary.

Section 2.06. Registration. 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 any Record Date and until the immediately succeeding Interest Payment Date.

(c) Exchange of Bonds. Whenever any Bonds are 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 valid and genuine and that the requested 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 upon such Bond to the extent of the sum or sums so 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 destroyed, stolen or lost, 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 destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that such Bond was destroyed, stolen or lost, 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, destroyed, stolen or lost 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.

(j) Valid Obligations. 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.

Section 2.07. Execution; Authentication and Delivery. The Bonds shall be prepared under the direction of the Clerk of the District and shall be executed on behalf of the District by the signatures of the Chair of the Board and the Clerk of the District, provided that all signatures may be printed, engraved, or lithographed facsimiles of the originals. 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 the Registrar. 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 executed and authenticated, they shall be delivered by the Clerk of the District to the Underwriter upon payment of the purchase price in accordance with the contract of sale heretofore made and executed.

Section 2.08. 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, if any, 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 DTC's Operational Arrangements, 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 Bonds in the form of bond certificates, the District may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Bonds in the form of 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, in substantially the form attached hereto as Exhibit B, by the Chair of the Board or the Clerk of the District, if not previously filed with DTC, is hereby authorized and directed.

(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 Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Bonds, or another securities depository as owner of all the Bonds, the provisions of this Resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Bonds in the form of bond certificates and the method of payment of principal of and interest on such Bonds in the form of bond certificates.

**Article III
Form of Bonds**

The Bonds shall be issued in substantially the form of bond attached as Exhibit A hereto.

**Article IV
Deposit and Application of Bond Proceeds**

Upon payment for the Bonds by the Underwriter, proceeds of the Bonds shall be deposited to the Project Fund (as defined herein) and shall be applied to pay costs and expenses of the Project. A portion of the proceeds of the Bonds may be disbursed by the District to pay the costs of issuing the Bonds. The District may also pay such costs from other legally available moneys.

**Article V
Creation of Funds; Tax Levies; Investments**

Section 5.01. General Obligation School Building Bonds, Series 2021A Project Fund. There is hereby established on the official books and records of the District a “General Obligation School Building Bonds, Series 2021A Project Fund” (the “**Project Fund**”). All proceeds of the Bonds deposited in the Project Fund in accordance with Article IV hereof shall be expended solely for the payment of the costs of the Project as approved by the voters at the Election as required pursuant to Minnesota Statutes, Section 475.58, Subdivision 4. The District shall maintain the Project Fund until all costs and expenses incurred in connection with the Project have been paid. Amounts in the Project Fund shall be applied to pay the costs and expenses of acquiring, constructing, equipping and furnishing the Project. Project Fund moneys may be applied to pay the costs of issuing the Bonds; the District may also pay such costs from other legally available moneys. After payment of all Project costs and expenses, the Project Fund shall be discontinued and any Bond proceeds remaining therein shall be credited to the Debt Service Fund established by Section 5.02 hereof.

Section 5.02. General Obligation School Building Bonds, Series 2021A Debt Service Fund. The principal of and the interest on the Bonds shall be paid from a separate General Obligation School Building Bonds, Series 2021A Debt Service Fund (the “**Debt Service Fund**”) which shall be created and maintained on the books of the District as a separate debt redemption fund until the Bonds, and all interest thereon, are fully paid. All ad valorem taxes levied and collected as hereinafter specified shall be credited to the Debt Service Fund, as well as any other funds appropriated by the Board for the payment of the Bonds and any moneys received pursuant to the Credit Enhancement Act (as defined in Article IX herein). If any payment of principal of or interest on the Bonds shall become due when there is not sufficient money in the Debt Service Fund to make such payment, the Clerk of 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 when available. If the District does not have other moneys available to pay scheduled debt service on the Bonds, the District shall take all necessary actions pursuant to Article IX hereof.

Section 5.03. Pledge of Full Faith and Credit; Tax Levies. The Board hereby irrevocably pledges the full faith, credit and taxing power of the District to the prompt and full

payment of the principal of and interest on the Bonds as the same respectively become due. To provide moneys for the payment of principal of and interest on the Bonds as required by Minnesota Statutes, Section 475.61, the Board hereby represents, warrants and covenants that it shall cause to be levied and collected annually on all taxable property in the District a direct, annual ad valorem tax which shall be spread upon the tax rolls for collection in the years and amounts as follows, as a part of other general taxes of the District, as follows:

<u>Levy Years</u>	<u>Collection Years</u>	<u>Amount</u>
-------------------	-------------------------	---------------

(See Exhibit C hereto for levy computation)

Such tax shall be in excess of and in addition to all other taxes now or hereafter authorized to be levied by the District. The special tax described herein and all receipts therefrom are pledged to the payment of debt service on the Bonds. Such tax shall be irrevocable 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 which, together with Bond proceeds deposited in the Debt Service Fund (if any), will be 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 5.01 hereof or amounts are owing to the State in the manner provided in Article IX hereof, an additional direct, irrevocable, 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.

Section 5.04. Investments. Moneys in each of the funds and accounts created and established by this Resolution shall be deposited, invested and secured in accordance with State law. Moneys held in such funds and accounts may be invested by the District or at its direction in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in the accounts or funds; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund or account was created; and provided further that such investments shall be subject to the covenants and provisions of the Article VII hereof. All interest on any authorized investment held in any fund or account shall accrue to and become a part of such fund or account. All money held in the funds created by this Resolution shall be kept separate and apart from all other funds of the District so that there shall be no commingling of such funds with any other funds of the District.

Article VI
Certification of Proceedings

Section 6.01. Filing with County Auditors. The Clerk of the District is hereby authorized and directed to file with the County Auditor of each county in which the District is located in whole or in part a certified copy of this Resolution together with such other information as the County Auditors shall require and to obtain from the County Auditors a certificate that the Bonds have been entered upon the bond registers and that the tax for the payment of the Bonds has been levied as required by law.

Section 6.02. Certification of Proceedings. The officers of the District and the County Auditors are hereby authorized and directed to prepare and furnish to the Underwriter and to Kutak Rock LLP, 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 the officer's custody and control or as otherwise known to the them. All such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the District to the correctness of all statements contained herein.

Section 6.03. Official Statement. The Preliminary Official Statement relating to the Bonds, as of its date December 2, 2021 prepared and distributed by the Underwriter, including any amendments or supplements thereto, is hereby ratified, approved and deemed "final" for purposes of Rule 15c2-12 promulgated under the Securities and Exchange Act of 1934, as amended ("**Rule 15c2-12**"). The Underwriter is hereby authorized on behalf of the District to prepare and distribute to the purchasers within seven business days from the date hereof, 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 Official Statement by Rule 15c2-12. The use and public distribution of the final Official Statement by the Underwriter in connection with the offering of the Bonds is hereby authorized. The officers of the District are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency of the Official Statement.

Article VII
Covenants and Arbitrage Matters.

Section 7.01. Restrictive Action. The Board covenants and agrees with the registered owners of the Bonds, that it will not take or permit to be taken by any of its officers, employees or agents any actions that would cause interest on the Bonds to become includable in gross income of the recipient under the Code and applicable Regulations, and covenants to take any and all actions within its powers to ensure that the interest will not become includable in gross income of the recipient under the Code and the Regulations. It is hereby certified that the proceeds of the Refunded Bonds were used to finance the acquisition and betterment of school facilities owned and operated by the District and the District covenants and agrees that, so long as the Bonds are outstanding, the District shall not enter into any lease, management agreement, use agreement or other contract with any nongovernmental entity relating to the school facilities

so financed which would cause the Bonds to be considered “private activity bonds” or “private loan bonds” pursuant to Section 141 of the Code.

Section 7.02. Arbitrage Certification. The Chair of the Board and the Clerk of the District, 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 Section 148 of the Code and applicable 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.

Section 7.03. Arbitrage Rebate. The Board acknowledges that the Bonds are subject to the rebate requirements of Section 148(f) of the Code and covenants to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under Section 148(f) and applicable Regulations to preserve the exclusion of interest on the Bonds from gross income for federal income tax purposes, unless the Bonds qualify for an exception from the rebate requirement pursuant to one of the spending exceptions set forth in Section 1.148-7 of the Regulations and no “gross proceeds” of the Bonds (other than amounts constituting a “bona fide debt service fund”) arise during or after the expenditure of the original proceeds thereof.

Section 7.04. Post-Issuance Compliance Procedures. The Board has previously adopted the Post-Issuance Tax Compliance Procedures attached to this Resolution as Exhibit D to ensure that the District satisfies and meets all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Bonds. The District reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as it may determine. The District also reserves the right to change these policies and procedures from time to time, without notice.

Section 7.05. Bank Qualified Status. The Bonds are hereby designated qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Code.

Article VIII Continuing Disclosure

Section 8.01. Continuing Disclosure Undertaking. The Board (a) authorizes and directs any District officer to execute and deliver, on the date of the issuance of the Bonds, a continuing disclosure undertaking (the “**Undertaking**”) in such form that satisfies the requirements of Rule 15c2-12 and is acceptable to the Underwriter and bond counsel and (b) covenants that it will comply with and carry out all of the provisions of the Undertaking. A description of this undertaking is set forth in the Official Statement. Notwithstanding any other provisions of this Resolution or the Undertaking, failure of the District to comply with the Undertaking will not be considered a default under this Resolution or the Bonds; however, any Bondholder 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 subparagraph and the Undertaking. For purposes of this

subparagraph, “**Beneficial Owner**” means any person who (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.

Article IX Credit Enhancement Act

The Board hereby covenants and obligates the District to be bound by and to use the provisions of Minnesota Statutes, Section 126C.55 (the “**Credit Enhancement Act**”) to guarantee payment of the principal of, the premium, if any, and the interest on the Bonds when due. The District shall comply with all procedures now or hereafter established by the Minnesota Department of Management and Budget and the Minnesota Department of Education pursuant to subdivision 2(c) of the Credit Enhancement Act and to take such actions as necessary to comply with the Credit Enhancement Act. The Chair of the Board, the Clerk of the District, and the superintendent and the business manager of the District are each authorized to execute any applicable forms of the Minnesota Department of Management and Budget or the Minnesota Department of Education. The Board understands and acknowledges that the provisions of the Credit Enhancement Act shall be binding on the District as long as any Bonds are outstanding.

The Board further covenants to deposit with the Registrar, at least three (3) business days prior to the date on which any payment of principal of, premium, if any, or interest on the Bonds is due, an amount sufficient to pay such payment. If the District believes it may be unable to pay the principal of, the premium, if any or the interest on the Bonds on the date any such payment is due, the District shall notify the Commissioner of the Department of Education as soon as possible, but not less than 15 business days before the date such payment is due. The District shall authorize and direct the Registrar to notify the Commissioner of the Department of Education if (i) the Registrar becomes aware of a potential payment default with respect to the Bonds or (ii) two (2) business days prior to the date a payment is due on the Bonds the Registrar does not have sufficient funds to make the payment due on such date.

Article X Defeasance

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 from the due date to the date of such deposit. The District may also 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 an amount equal to the principal, interest and redemption premium, if any, which are then due, provided that notice of such redemption has been duly given as provided herein. 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 authorized by law to be so deposited, bearing interest payable at such time

and at such rates and maturing or callable at the holder's option on such dates as shall be required to pay all principal and interest to become due thereon to maturity or earlier designated redemption date. If any deposit is made more than ninety days before the maturity date or specified redemption date of the Bonds to be discharged, the District shall have received a written opinion of Bond Counsel to the effect that such deposit does not adversely affect the exemption of interest on any Bonds from federal income taxation and a written report of an accountant or investment banking firm verifying that the deposit is sufficient to pay when due all of the principal and interest on the Bonds to be discharged on and before their maturity dates or earlier designated redemption date. When all of the Bonds have been discharged as provided in this Article, all pledges, covenants and other rights granted by this Resolution to the registered owners of the Bonds shall cease.

Article XI Authorization of Officers

Without in any way limiting the power, authority, or discretion elsewhere herein granted or delegated, the Board hereby (a) authorizes and directs each officer, employee and agent of the District to carry out, or cause to be carried out, and to perform such obligations of the District and such other actions as they, or any one of them shall consider necessary, advisable, desirable, or appropriate in connection with this Resolution and the issuance, sale, and delivery of the Bonds, including, without limitation and whenever applicable, the execution and delivery thereof and of all other related documents, instruments, certificates, and opinions; and (b) delegates to each such officer, employee and agent the right, power, and authority to exercise her or his own independent judgment and absolute discretion in determining and finalizing the terms, provisions, form and contents of each of the foregoing. The execution and delivery by any such officer, employee or agent of the District of any such documents, instruments, certifications, and opinions, or the doing by them of any act in connection with any of the matters which are the subject of this Resolution, shall constitute conclusive evidence of both the District's and their approval of all changes, modifications, amendments, revisions, and alterations made therein, and shall conclusively establish their absolute, unconditional, and irrevocable authority with respect thereto from the District and the authorization, approval, and ratification by the District of the documents, instruments, certifications, and opinions so executed and the action so taken.

* * * * *

The motion was duly seconded by _____.

Upon vote taken on the foregoing resolution, the following voted in favor thereof:

_____;

the following voted against the same: _____;

and the following were absent or did not vote: _____.

Said Resolution having been voted upon favorably by a majority of the members of the Board,
the same was by the Chairperson declared passed and adopted.

EXHIBIT A

(FORM OF BOND)

**UNITED STATES OF AMERICA
STATE OF MINNESOTA**

**INDEPENDENT SCHOOL DISTRICT NO. 108
(CENTRAL PUBLIC SCHOOLS)**

GENERAL OBLIGATION SCHOOL BUILDING BOND, SERIES 2021A

R-_____ \$ _____

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATE OF ORIGINAL ISSUE</u>	<u>CUSIP</u>
_____%	February 1, 20__	December 30, 2021	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

INDEPENDENT SCHOOL DISTRICT NO. 108 (CENTRAL PUBLIC SCHOOLS), STATE OF MINNESOTA, a duly organized and existing independent school district, whose administrative offices are located in Norwood Young America, Minnesota (the “District”), promises to pay to the registered owner specified above, or registered assigns, the principal sum specified above on the maturity date specified above, and to pay interest thereon from the date of original issue specified above, or from the most recent interest payment date to which interest has been paid or duly provided for, at the annual rate specified above, payable on February 1 and August 1 in each year, commencing August 1, 2022, 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. The interest hereon and, upon presentation and surrender hereof at the principal office of the Registrar described below, the principal hereof, are payable in lawful money of the United States of America by check or draft drawn on U.S. Bank National Association in St. Paul, Minnesota, as bond registrar, transfer agent and paying agent, or its successor designated under the resolution described herein (the “Registrar”).

This Bond is one of an issue in the aggregate principal amount of \$9,375,000 (the “Bonds”), issued by the District to be used for the purposes of financing the costs of acquisition and betterment of school sites and facilities, including the construction of new gymnasiums at both school facility sites, costs related to updating and remodeling of all the school facility sites and costs related to updating and improving safety and security at all school facilities of the District (collectively, the “Project”), and is issued pursuant to and in full conformity with resolution adopted by the School Board on December 20, 2021 (the “Resolution”), and is issued

pursuant to and in full conformity with the Constitution and laws of the State of Minnesota thereunto enabling, including Minnesota Statutes, Chapter 475. The Bonds are issuable only in fully registered form, in denominations of \$5,000 or any integral multiple thereof, of single maturities.

The Bonds are direct, general obligations of the District, to which the full faith, credit and resources and the taxing power of the District are irrevocably pledged. Pursuant to the Resolution, the District has covenanted to cause to be made annually a special levy of taxes on all the taxable property in the District, in addition to all other taxes, sufficient in rate and amount to produce sums not less than five percent in excess of the principal of and interest on the Bonds when due. The District has pledged such tax levy and all receipts therefrom to all payments due on the Bonds. The District has further covenanted to be bound by and to use the provisions of Minnesota Statutes, Section 126C.55 (the "Credit Enhancement Act") to guarantee payment of the principal of and the interest on the Bonds when due.

The District may elect on February 1, 2028, and on any day thereafter, to prepay Bonds due on or after February 1, 2029. Redemption may be in whole or in part and if in part at the option of the District and in such manner as the District shall determine. All Bonds shall be redeemed at a price of par plus accrued interest to the date of redemption.

Notice of redemption of this Bond shall be given to the Registered Owner hereof by first class mail, postage prepaid, not less than thirty (30) days prior to the date fixed for redemption (or such shorter period as may be acceptable to the then registered owner of the Bonds), all as more particularly set forth in the Bond Resolution; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of any Bond with respect to which no such failure has occurred. Notice of redemption having been given as provided in the Bond Resolution, or notice of redemption having been waived, and funds for the payment thereof having been deposited with the Registrar, this Bond shall cease to bear interest from and after the date fixed for redemption.

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 office of the Registrar, by the registered owner hereof in person or by the owner's attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or the owner's 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 Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the District nor the Registrar shall be affected by any notice to the contrary.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the District.

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 exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the District in accordance with its terms, have been done, do exist, have happened and have been performed as so required, and that the issuance of this Bond, together with all other indebtedness of the District outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the District to exceed any constitutional or statutory limitation of indebtedness.

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

IN WITNESS WHEREOF, Independent School District No. 108 (Central Public Schools), State of Minnesota, by its School Board, has caused this Bond to be executed in its behalf by the facsimile signatures of the Chair of the Board and Clerk of the District, the District having no seal or said seal having been intentionally omitted as permitted by law.

**INDEPENDENT SCHOOL DISTRICT NO. 108
(CENTRAL PUBLIC SCHOOLS)
MINNESOTA**

/s/ (Facsimile) _____
Chair of the Board

/s/ (Facsimile) _____
School District Clerk

BOND REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within mentioned Resolution.

Date of Authentication: December ____, 2021

U.S. BANK NATIONAL ASSOCIATION
as Registrar and Paying Agent

By _____
Authorized Signature

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

_____ the within Bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated _____

NOTICE: The assignor's 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 whatever.

Signature Guaranteed:

Signature(s) must be guaranteed by a national bank or trust company or by a brokerage firm having a membership in one of the major stock exchanges or any other "Eligible Guarantor Institution" as defined in 17 CFR 240 Ad-15(a)(2).

The Bond Registrar will not effect transfer of this Bond unless the information concerning the assignee requested below is provided.

Name and Address:

(Include information for all joint owners if the Bond is held by joint account.)

Please insert Social Security or other Tax Identification Number of Transferee.

EXHIBIT B

BLANKET ISSUER LETTER OF REPRESENTATIONS

The Depository Trust Company

A subsidiary of the Depository Trust & Clearing Corporation

BLANKET ISSUER LETTER OF REPRESENTATIONS

(To be completed by Issuer and Co-Issuer(s), if applicable)

(Name of Issuer and Co-Issuer(s), if applicable)

(Date)

The Depository Trust Company
570 Washington Blvd, 4th FL
Jersey City, NJ 07310
Attention: Underwriting Department

Ladies and Gentlemen:

This letter sets forth our understanding with respect to all issues (the "Securities") that Issuer shall request to be made eligible for deposit by The Depository Trust Company ("DTC").

Issuer is: **(Note: Issuer shall represent one and cross out the other.)**

[incorporated in] [formed under the laws of] _____.

To induce DTC to accept the Securities as eligible for deposit at DTC, and to act in accordance with DTC's Rules with respect to the Securities, Issuer represents to DTC that issuer will comply with the requirements stated in DTC's Operational Arrangements, as they may be amended from time to time.

Very truly yours,

Note:
Schedule A contains statements that DTC believes accurately describe DTC, the method of effecting book-entry transfers of securities distributed through DTC, and certain related matters.

(Issuer)

By: _____
(Authorized Officer's Signature)

(Print Name)

(Street Address)

(City) (State) (Country) (Zip Code)

(Phone Number)

(E-mail Address)



BLOR 06-2013

EXHIBIT C

LEVY COMPUTATION SHEET

<u>Levy Year</u>	<u>Collection Year</u>	<u>Amount</u>
2021	2022	\$ 280,029.31
2022	2023	257,827.50
2023	2024	257,827.50
2024	2025	257,827.50
2025	2026	257,827.50
2026	2027	257,827.50
2027	2028	257,827.50
2028	2029	257,827.50
2029	2030	257,827.50
2030	2031	257,827.50
2031	2032	2,168,827.50
2032	2033	2,232,247.50
2033	2034	2,292,045.00
2034	2035	2,348,220.00
2035	2036	1,504,755.00

EXHIBIT D

POST-ISSUANCE TAX COMPLIANCE PROCEDURES

General

In connection with the issuance of the Bonds, the District will execute a federal tax certificate (the “**Tax Certificate**”) that describes the requirements and provisions of the Code that must be followed in order to maintain the tax exempt status of interest on such bonds. In addition, the Tax Certificate will contain the reasonable expectations of the District at the time of issuance of the Bonds with respect to the use of the gross proceeds of such bonds and the assets to be financed or refinanced with the proceeds thereof. These Procedures supplement and support the covenants and representations made by the District in the Tax Certificate related to the Bonds. In order to comply with the covenants and representations set forth in the Bond documents and in the Tax Certificate, the District tracks and monitors the actual use of the proceeds of the Bonds, the investment and expenditure of the Bond proceeds and the assets financed or refinanced with the proceeds of such bonds over their life.

Designation of Responsible Person

The Clerk of the District shall maintain an inventory of Bonds and assets financed which contains the pertinent data to satisfy the District’s monitoring responsibilities. Any transfer, sale or other disposition of bond-financed assets must be reviewed and approved by the Clerk of the District.

Post-Issuance Compliance Requirements

External Advisors/Documentation

The District shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for tax-exempt status. Those requirements and procedures shall be documented in the Tax Certificate and/or other documents finalized at or before issuance of the Bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The District also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of Bond-financed or refinanced assets.

The District shall train and employ or otherwise engage expert advisors (a “**Rebate Analyst**”) to assist in the calculation of arbitrage rebate payable in respect of the investment of

Bonds proceeds, unless the Tax Certificate documents that arbitrage rebate will not be applicable to the Bonds.

Unless otherwise provided by the resolution or other authorizing documents relating to the Bonds, unexpended Bond proceeds shall be held in a segregated account by a trustee, and the investment of Bond proceeds shall be managed by the District. The District shall prepare (or cause the trustee to prepare) regular, periodic statements regarding the investments and transactions involving Bond proceeds.

Arbitrage Rebate and Yield

Unless the Tax Certificate documents that arbitrage rebate will not be applicable to the Bonds, the District shall be responsible for:

- engaging the services of a Rebate Analyst and, prior to each rebate calculation date, causing the trustee or other account holder to deliver periodic statements concerning the investment of Bond proceeds to the Rebate Analyst;
- providing to the Rebate Analyst additional documents and information reasonably requested by the Rebate Analyst;
- monitoring efforts of the Rebate Analyst;
- assuring payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond is redeemed;
- during the construction period of each capital project financed in whole or in part by the Bonds, monitoring the investment and expenditure of Bond proceeds and consulting with the Rebate Analyst to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Bonds; and
- retaining copies of all arbitrage reports and account statements as described below under “Record Keeping Requirements”.

The District, in the Tax Certificate and/or other documents finalized at or before the issuance of the Bonds, has agreed to undertake the tasks listed above (unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of the Bonds).

Use of Bond Proceeds and Bond-Financed or Refinanced Assets:

The District shall be responsible for:

- monitoring the use of Bond proceeds and the use of Bond-financed or refinanced assets (*e.g.*, facilities, furnishings or equipment) throughout the term of the bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate;
- maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of the bonds, including a final allocation of Bond proceeds as described below under “Record Keeping Requirements”;
- consulting with bond counsel and other legal counsel and advisers in the review of any contracts or arrangements involving use of Bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate;
- maintaining records for any contracts or arrangements involving the use of Bond-financed or refinanced assets as described below under “Record Keeping Requirements”;
- conferring at least annually with personnel responsible for Bond-financed or refinanced assets to identify and discuss any existing or planned use of Bond-financed or refinanced assets, to ensure that those uses are consistent with all covenants and restrictions set forth in the Tax Certificate; and
- to the extent that the District discovers that any applicable tax restrictions regarding use of Bond proceeds and bond-financed or refinanced assets will or may be violated, consulting promptly with Bond counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified bonds, if such counsel advises that a remedial action is necessary.

The District, in the Tax Certificate and/or other documents finalized at or before the issuance of the Bonds, has agreed to undertake the tasks listed above.

All relevant records and contracts shall be maintained as described below.

Record Keeping Requirement

The District shall be responsible for maintaining the following documents for the term of the Bonds (including refunding bonds, if any) plus at least three years:

- a copy of the Bond closing transcript(s) and other relevant documentation delivered to the District at or in connection with closing of the issue of the Bonds, including any elections made by the District in connection therewith;
- a copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, draw requests for Bond proceeds and evidence as to the amount and date for each draw down of Bond proceeds, as well as documents relating to costs paid or reimbursed with Bond proceeds and records

identifying the assets or portion of assets that are financed or refinanced with Bond proceeds, including a final allocation of Bond proceeds;

- a copy of all contracts and arrangements involving the use of Bond-financed or refinanced assets;
- copies of all trustee statements and reports, including arbitrage reports, prepared with respect to District bonds; and
- a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements, in connection with any investment agreements, and copies of all bidding documents, if any.

Central School District #108 Preliminary Project Schedule

Exhibit B

Project	Approx. Construction Value	2021			2022												2023											
		N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	
Central Schools Athletic Turf Field and Baseball Fields	\$ 4,560,000																											
al High School / Middle School Gymnasium, Locker Room, Wrestling, Fitness Addition	\$ 9,600,000																											
Central High School / Middle School Renovations and Technology Work	\$ 11,680,000																											
High School / Middle School Site Work	\$ 1,760,000																											
Central Elementary School Renovations and Technology Work	\$ 6,200,000																											
Existing Building Masonry/Envelope Work - Elementary School	\$ 200,000																											
Existing Building Masonry/Envelope Work - High School / Middle School	\$ 1,520,000																											
HVAC Retrocommissioning & Commissioning - Elementary School																												
HVAC Retrocommissioning & Commissioning - High School / Middle School																												
Furniture, Furnishings, and Equipment Selection	\$ 1,000,000																											

Design Phase
Bidding Phase
Construction Phase
Punchlist
Commissioning



AIA® Document B144/ARCH-CM™ – 1993

Standard Form of Amendment for the Agreement Between Owner and Architect where the Architect Provides CONSTRUCTION MANAGEMENT Services as an Adviser to the Owner

This **AMENDMENT** dated: December 20, 2021
(Paragraph deleted)
is made to the **AGREEMENT** dated December 20, 2021

BETWEEN the Owner:

Independent School District 108
531 Morse Street
Norwood Young America, MN 55368

and Nexus:

Nexus Solutions, LLC
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

for the following Project:

Elementary, Middle School and High School renovations as more fully set forth in Exhibit A to be financed as follows:

The Owner and Nexus agree that the terms and conditions governing Nexus' services and responsibilities under the Agreement referred to above shall be amended to include the construction management services specified in this Amendment as an addition to Nexus' Basic Services under that Agreement.

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.

Init.

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ARTICLE 1 CONSTRUCTION MANAGEMENT RESPONSIBILITIES

§ 1.1 The construction management services to be provided by Nexus are as enumerated in Articles 2 and 3 of this Amendment. Nexus shall be entitled to use subconsultants to perform or assist in performing any of Nexus' services as construction manager under this Amendment ("Nexus' Subconsultants"). It is understood by the parties that contracts for such professional services are not subject to competitive bidding requirements. All professionals providing such services whether directly by Nexus or professionals under contract with Nexus shall be qualified, and where required, properly licensed and/or certified to perform these services and Nexus is responsible to assure such license and certification.

§ 1.2 Nexus shall provide organization, personnel, and management to carry out the requirements of this Amendment in an expeditious and economical manner consistent with the interests of the Owner.

§ 1.3 The services covered by this Amendment are subject to the time limitations contained in the Agreement between Owner and Nexus referenced above.

ARTICLE 2 SCOPE OF SERVICES DURING PRECONSTRUCTION PHASES

§ 2.1 Nexus, as a part of Nexus' review of the program furnished by the Owner, shall provide a preliminary evaluation of the feasibility of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.2 Nexus shall prepare, in addition to preliminary estimates of Construction Cost for program requirements based on early schematic designs and other design criteria, comparative estimates for the cost evaluations of alternative materials and systems.

§ 2.3 As Nexus progresses with the preparation of the Schematic Design, Design Development and Construction Documents, Nexus shall prepare and update preliminary Construction Cost estimates with increasing detail and refinement. Such estimates shall be provided for the Owner's review and approval prior to the commencement of performance by Nexus of services for each succeeding Preconstruction Phase. If separate contracts are to be awarded, the estimated cost of the scope of Work for each contract shall be indicated with supporting detail. Nexus shall advise the Owner if it appears that a preliminary Construction Cost estimate may exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.4 Following the Owner's approval of the Construction Documents, Nexus shall update and submit the latest estimate of Construction Cost for the Owner's approval in accordance with the Agreement.

§ 2.5 Nexus shall submit recommendations on relative feasibility of construction methods, methods of Project delivery, availability of materials and labor, time requirements for procurement, installation and construction, and appropriate utilization of the site for mobilization of construction forces and materials and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, and possible economies. Nexus shall consult with the Owner regarding the Construction Documents and make recommendations whenever design details adversely affect constructability, costs, or schedules.

§ 2.6 Nexus shall prepare and update a Project schedule to show the timing of anticipated services and construction Work for the Owner's review and approval prior to commencement of Nexus' services for each succeeding Preconstruction Phase.

§ 2.7 In developing the Project schedule, Nexus shall identify critical and long-lead-time items for the coordination and integration of Nexus' services with the Owner's responsibilities, including the services of the Owner's other consultants and contractors.

§ 2.8 Nexus shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

§ 2.9 Nexus shall submit a list of prospective bidders and a bidding schedule for the Owner's review and approval.

§ 2.10 Nexus shall solicit bidders' interest in the Project. Nexus shall assist the Owner in issuing bidding documents to bidders and conduct pre-bid conferences with prospective bidders. Nexus shall assist the Owner with the receipt of questions from bidders and the issuance of addenda.

§ 2.11 Nexus shall receive bids, prepare bid analyses, and make recommendations to the Owner for the Owner's award of Contracts.

§ 2.12 Nexus shall conduct pre-award conferences with successful bidders. Nexus shall advise the Owner of any reasonable objections to the proposed list of Subcontractors and material suppliers.

§ 2.13 Nexus shall make recommendations to the Owner regarding the assignment of responsibilities for providing temporary Project facilities and services for common use of the Contractors. Nexus shall verify that the requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 2.14 Nexus shall advise the Owner on the division of the Project into separate contracts or various categories for work including method to be used for selecting Contractors and awarding contracts. If multiple Contracts are to be awarded, Nexus shall review the Construction Documents and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project have been assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.

§ 2.15 Nexus shall make recommendations to the Owner regarding the allocation of responsibilities for Project conditions among the Contractors.

§ 2.16 Nexus shall assist the Owner in obtaining applicable building permits and special permits for permanent improvements, excluding permits required to be obtained directly by the various Contractors. Nexus shall also make recommendations regarding the allocation of responsibilities for Project conditions and site safety among the Contractors. The Safety programs on the site shall be run by the Contractor designated by the Owner with the help and coordination of the other Contractors.

ARTICLE 3 SCOPE OF SERVICES DURING THE CONSTRUCTION PHASE

§ 3.0 Nexus shall provide administration of the Contracts for Construction as set forth below and in the edition of AIA Document A232, General Conditions of the Contract for Construction, Construction Manager – Advisor Edition.

§ 3.1 Nexus shall prepare a Project construction schedule providing for each scope of Work, including phasing of construction, times for commencement and completion required of each separate Contractor, ordering and delivery of materials requiring long-lead time and the occupancy requirements of the Owner.

§ 3.2 Nexus shall provide the Project construction schedule for each set of Contract Documents.

§ 3.3 Nexus shall provide administrative, management and related services to endeavor to coordinate the activities of the Contractors with each other and with those of the Owner and Nexus to complete the Project in accordance with the latest approved estimate of Construction Cost, the Project construction schedule, and the Contract Documents.

§ 3.4 Nexus shall schedule and conduct preconstruction, construction and progress meetings with the Owner and the Contractors to discuss such matters as procedures, progress, and scheduling. Nexus shall prepare and promptly distribute minutes to the Owner and Contractors.

§ 3.5 Utilizing the Construction Schedules provided by the Contractors, Nexus shall update the Project construction schedule incorporating the activities of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery of products requiring long-lead time and procurement. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. Nexus shall update and reissue the Project construction schedule as required to show current conditions. If an update indicates the previously approved Project construction schedule may not be met, Nexus shall recommend corrective action to the Owner.

§ 3.6 Consistent with the Bidding Documents, and utilizing information from the Contractors, Nexus shall endeavor to coordinate the sequence of construction and assignment of space in areas where multiple Contractors are performing Work.

§ 3.7 Nexus shall monitor the approved estimate of Construction Cost. Nexus shall show actual costs for activities in progress and estimates for uncompleted tasks.

§ 3.8 Nexus shall develop cash flow reports and forecasts for the Project and advise the Owner as to variances between actual and budgeted or estimated costs.

§ 3.9 Nexus shall maintain cost accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, or other Work requiring accounting records.

§ 3.10 Nexus shall record the progress of the Project with written progress reports to the Owner including information on each Contractor's Work, as well as the entire Project, showing percentages of completion.

§ 3.11 Nexus shall keep a daily log containing a record of weather, Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

§ 3.12 Nexus shall maintain at the Project site, on a current basis: one record copy of all Contracts, Drawings, Specifications, addenda, Change Orders, and other Modifications, in good order and marked to record all changes made during construction; Shop Drawings; Product Data; Samples; submittals; purchases; other related documents and revisions that arise out of the Contracts or Work. Nexus shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. Nexus shall make all such records available to the Owner and, upon completion of the Project, shall deliver them to the Owner.

ARTICLE 4 ADDITIONAL SERVICE

§ 4.1 Nexus' basic construction management services, outlined in Articles 1-3, are included in the Cost of Work. All services performed by Nexus that are not specifically identified in Articles 1-3 shall constitute a Change in Services. For all services that constitute a Change in Services, Nexus shall be compensated as set forth in Section 11 of the AIA Document B101-2017, as modified by the Parties.

§ 4.2 The following services shall constitute a Change in Services:

- .1 Providing services made necessary by the termination or default of the contractor, by major defects or deficiencies in the work of a contractor, or by failure of performance of either the Owner or a contractor under a contract for construction.
- .2 Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where Nexus is party thereto.
- .3 Providing services relative to future facilities, systems, and equipment.
- .4 Providing services to verify the accuracy of drawings or other information furnished by the Owner.
- .5 Providing coordination of construction performed by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.
- .6 Providing services in connection with the work of separate consultants retained by the Owner.
- .7 Providing services of consultants for other than architectural, structural, mechanical, and electrical engineering portions of the Project provided as a part of this Agreement.
- .8 Providing any other services not otherwise included in this Agreement.
- .9 Changes arising from Owner-requested changes following the Owner's acceptance of the designs and plans for the Project at each phase of the development process (schematic design, design development and construction documents).
- .10 Providing services necessary if conditions are encountered at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or Record Drawings provided by the Owner or (2) unknown physical conditions of an unusual nature, which 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.

.11 Providing any other services not otherwise included in Article 1.3 and requested in writing from the Owner.

ARTICLE 5 THE OWNER'S RESPONSIBILITIES

§ 5.1 The Owner reserves the right to perform Work related to the Project with the Owner's own forces, and to award contracts in connection with the Project that are not part of Nexus' responsibilities under this Amendment. Nexus shall notify the Owner if any such independent action will in any way interfere with Nexus' ability to perform under this Amendment.

§ 5.2 The Owner shall furnish the required information and services and shall render approvals and decisions expeditiously for the orderly progress of Nexus' services.

ARTICLE 6 BASIS OF COMPENSATION

§ 6.1 The

(Paragraphs deleted)

Owner shall compensate Nexus as set forth in Article 11 of AIA Document B101-2017, as modified by the Parties. Nexus shall be compensated for the Construction Management Services, with compensation for each phase of service to be allocated in accordance with the following percentages of Nexus' fee for Construction Management Services: Pre-construction Services – Thirty Percent (30%); Construction Services – Sixty Percent (60%); Post-construction Services – Ten Percent (10%). The Compensation as set forth in §11.1 of the B101 Agreement includes the construction management services fees to be provided by Nexus under this Agreement.

ARTICLE 7 OTHER CONDITIONS OR SERVICES

§ 7.1 The following Reimbursable Expenses are in addition to those listed in the Agreement modified by this Amendment:

- .1 Compensation for onsite project management, supervision, and related expenses will be considered a reimbursable General Condition.
- .2 Premiums for comprehensive liability insurance including, but not limited to commercial liability insurance, excess umbrella insurance, automobile liability insurance, professional liability insurance, and pollution liability insurance shall be charged at the rate of 0.085% of the Project Budget.
- .3 Charges for the cost of the ProCore software for the Project, but only to the extent the increased costs are due to this Project. Under no circumstances shall the total billed amount exceed 0.10% of the Project Budget.

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

OWNER

NEXUS

(Signature)

(Signature)

Sara Eischens, Board Chairperson

Michael J. David, President

(Signature)

Rich Schug, Board Clerk

(Table deleted)(Paragraphs deleted)

Additions and Deletions Report for AIA® Document B144/ARCH-CM™ – 1993

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 18:38:54 ET on 12/19/2021.

PAGE 1

This **AMENDMENT** dated: December 20, 2021
(*Insert this Amendment's effective date*)

is made to the **AGREEMENT** dated
(*Insert the date of the Agreement between the Owner and the Architect*) December 20, 2021

...

(*Name, Legal Status and Address*)
Independent School District 108
531 Morse Street
Norwood Young America, MN 55368

and the ~~Architect~~ Nexus:
(*Name, Legal Status and Address*)
Nexus Solutions, LLC
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

...

(*Include detailed description of Project, location, address and scope.*) Elementary, Middle School and High School renovations as more fully set forth in Exhibit A to be financed as follows:

The Owner and the ~~Architect~~ Nexus agree that the terms and conditions governing the ~~Architect's~~ Nexus' services and responsibilities under the Agreement referred to above shall be amended to include the construction management services specified in this Amendment as an addition to the ~~Architect's~~ Nexus' Basic Services under that Agreement.

PAGE 2

§ 1.1 The construction management services to be provided by the ~~Architect~~ Nexus are as enumerated in Articles 2 and 3 of ~~this Amendment and any other services included in Article 6,~~ this Amendment. Nexus shall be entitled to use subconsultants to perform or assist in performing any of Nexus' services as construction manager under this Amendment ("Nexus' Subconsultants"). It is understood by the parties that contracts for such professional services are not subject to competitive bidding requirements. All professionals providing such services whether directly by Nexus or professionals under contract with Nexus shall be qualified, and where required, properly licensed and/or certified to perform these services and Nexus is responsible to assure such license and certification.

§ 1.2 The ~~Architect~~ Nexus shall provide organization, ~~personnel~~ personnel, and management to carry out the requirements of this Amendment in an expeditious and economical manner consistent with the interests of the Owner.

§ 1.3 The services covered by this Amendment are subject to the time limitations contained in the Agreement between Owner and ~~Architect~~ Nexus referenced above.

...

§ 2.1 ~~The Architect-Nexus~~, as a part of ~~the Architect's-Nexus'~~ review of the program furnished by the Owner, shall provide a preliminary evaluation of the feasibility of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.2 ~~The Architect-Nexus~~ shall prepare, in addition to preliminary estimates of Construction Cost for program requirements based on early schematic designs and other design criteria, comparative estimates for the cost evaluations of alternative materials and systems.

§ 2.3 As ~~the Architect-Nexus~~ progresses with the preparation of the Schematic Design, Design Development and Construction Documents, ~~the Architect-Nexus~~ shall prepare and update preliminary Construction Cost estimates with increasing detail and refinement. Such estimates shall be provided for the Owner's review and approval prior to the commencement of performance by ~~the Architect-Nexus~~ of services for each succeeding Preconstruction Phase. If separate contracts are to be awarded, the estimated cost of the scope of Work for each contract shall be indicated with supporting detail. ~~The Architect-Nexus~~ shall advise the Owner if it appears that a preliminary Construction Cost estimate may exceed the latest approved Project budget and make recommendations for corrective action.

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§ 2.5 ~~The Architect-Nexus~~ shall submit recommendations on relative feasibility of construction methods, methods of Project delivery, availability of materials and labor, time requirements for procurement, installation and construction, and appropriate utilization of the site for mobilization of construction forces and ~~materials-materials and factors~~ related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, and possible economies. ~~Nexus shall consult with the Owner regarding the Construction Documents and make recommendations whenever design details adversely affect constructability, costs, or schedules.~~

§ 2.6 ~~The Architect-Nexus~~ shall prepare and update a Project schedule to show the timing of anticipated services and construction Work for the Owner's review and approval prior to commencement of ~~the Architect's-Nexus'~~ services for each succeeding Preconstruction Phase.

§ 2.7 In developing the Project schedule, ~~the Architect-Nexus~~ shall identify critical and long-lead-time items for the coordination and integration of ~~the Architect's-Nexus'~~ services with the Owner's responsibilities, including the services of the Owner's other consultants and contractors.

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PAGE 3

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§ 3.2 ~~The Architect-Nexus~~ shall provide the Project construction schedule for each set of Contract Documents.

§ 3.3 ~~The Architect-Nexus~~ shall provide administrative, management and related services to endeavor to coordinate the activities of the Contractors with each other and with those of the Owner and ~~the Architect-Nexus~~ to complete the Project in accordance with the latest approved estimate of Construction Cost, the Project construction schedule schedule, and the Contract Documents.

§ 3.4 ~~The Architect-Nexus~~ shall schedule and conduct preconstruction, construction and progress meetings with the Owner and the Contractors to discuss such matters as procedures, ~~progress-progress~~, and scheduling. ~~The Architect-Nexus~~ shall prepare and promptly distribute minutes to the Owner and Contractors.

§ 3.5 Utilizing the Construction Schedules provided by the Contractors, ~~the Architect-Nexus~~ shall update the Project construction schedule incorporating the activities of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery of products requiring long-lead time and procurement. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. ~~The Architect-Nexus~~ shall update and reissue the Project construction schedule as required to show current conditions. If an update indicates the previously approved Project construction schedule may not be met, ~~the Architect-Nexus~~ shall recommend corrective action to the Owner.

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§ 3.10 ~~The Architect-Nexus~~ shall record the progress of the Project with written progress reports to the Owner including information on each Contractor's Work, as well as the entire Project, showing percentages of completion.

§ 3.11 ~~The Architect-Nexus~~ shall keep a daily log containing a record of weather, Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

§ 3.12 ~~The Architect-Nexus~~ shall maintain at the Project site, on a current basis: one record copy of all Contracts, Drawings, Specifications, addenda, Change Orders-Orders, and other Modifications, in good order and marked to record all changes made during construction; Shop Drawings; Product Data; Samples; submittals; purchases; other related documents and revisions that arise out of the Contracts or Work. ~~The Architect-Nexus~~ shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. ~~The Architect-Nexus~~ shall make all such records available to the Owner and, upon completion of the Project, shall deliver them to the Owner.

ARTICLE 4 — THE OWNER'S RESPONSIBILITIES

ARTICLE 4 ADDITIONAL SERVICE

§ 4.1 ~~The Owner reserves the right to perform Work related to the Project with the Owner's own forces, and to award contracts in connection with the Project that are not part of the Architect's responsibilities under this Amendment. The Architect shall notify the Owner if any such independent action will in any way interfere with the Architect's ability to perform under this Amendment.~~ Nexus' basic construction management services, outlined in Articles 1-3, are included in the Cost of Work. All services performed by Nexus that are not specifically identified in Articles 1-3 shall constitute a Change in Services. For all services that constitute a Change in Services, Nexus shall be compensated as set forth in Section 11 of the AIA Document B101-2017, as modified by the Parties.

§ 4.2 ~~The Owner shall furnish the required information and services and shall render approvals and decisions expeditiously for the orderly progress of the Architect's services.~~ following services shall constitute a Change in Services:

- .1 Providing services made necessary by the termination or default of the contractor, by major defects or deficiencies in the work of a contractor, or by failure of performance of either the Owner or a contractor under a contract for construction.
- .2 Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where Nexus is party thereto.
- .3 Providing services relative to future facilities, systems, and equipment.
- .4 Providing services to verify the accuracy of drawings or other information furnished by the Owner.
- .5 Providing coordination of construction performed by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.
- .6 Providing services in connection with the work of separate consultants retained by the Owner.
- .7 Providing services of consultants for other than architectural, structural, mechanical, and electrical engineering portions of the Project provided as a part of this Agreement.
- .8 Providing any other services not otherwise included in this Agreement.
- .9 Changes arising from Owner-requested changes following the Owner's acceptance of the designs and plans for the Project at each phase of the development process (schematic design, design development and construction documents).
- .10 Providing services necessary if conditions are encountered at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or Record Drawings provided by the Owner or (2) unknown physical conditions of an unusual nature, which 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.
- .11 Providing any other services not otherwise included in Article 1.3 and requested in writing from the Owner.

ARTICLE 5 — BASIS OF COMPENSATION

ARTICLE 5 THE OWNER'S RESPONSIBILITIES

§ 5.1 ~~The Owner shall compensate the Architect FOR AMENDMENT SERVICES as described in Articles 2 and 3, and any other services described in Article 6 of this Amendment. Compensation shall be computed as follows:~~

reserves the right to perform Work related to the Project with the Owner's own forces, and to award contracts in connection with the Project that are not part of Nexus' responsibilities under this Amendment. Nexus shall notify the Owner if any such independent action will in any way interfere with Nexus' ability to perform under this Amendment.

ARTICLE 6 — OTHER CONDITIONS OR SERVICES

§ 5.2 The Owner shall furnish the required information and services and shall render approvals and decisions expeditiously for the orderly progress of Nexus' services.

ARTICLE 6 BASIS OF COMPENSATION

§ 6.1 The following Reimbursable Expenses are in addition to those listed in the Agreement modified by this Amendment:

(List Reimbursable Expenses not already listed in the Agreement between Owner and Architect referenced above.)

Owner shall compensate Nexus as set forth in Article 11 of AIA Document B101-2017, as modified by the Parties. Nexus shall be compensated for the Construction Management Services, with compensation for each phase of service to be allocated in accordance with the following percentages of Nexus' fee for Construction Management Services: Pre-construction Services – Thirty Percent (30%); Construction Services – Sixty Percent (60%); Post-construction Services – Ten Percent (10%). The Compensation as set forth in §11.1 of the B101 Agreement includes the construction management services fees to be provided by Nexus under this Agreement.

ARTICLE 7 OTHER CONDITIONS OR SERVICES

§ 7.1 The following Reimbursable Expenses are in addition to those listed in the Agreement modified by this Amendment:

- .1 Compensation for onsite project management, supervision, and related expenses will be considered a reimbursable General Condition.
- .2 Premiums for comprehensive liability insurance including, but not limited to commercial liability insurance, excess umbrella insurance, automobile liability insurance, professional liability insurance, and pollution liability insurance shall be charged at the rate of 0.085% of the Project Budget.
- .3 Charges for the cost of the ProCore software for the Project, but only to the extent the increased costs are due to this Project. Under no circumstances shall the total billed amount exceed 0.10% of the Project Budget.

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

OWNER

NEXUS

(Signature)

(Signature)

Sara Eischens, Board Chairperson

Michael J. David, President

(Signature)

Rich Schug, Board Clerk

§ 6.2 This Amendment shall further modify the Agreement as follows:

(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Amendment.)

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

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Michael David, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 18:38:54 ET on 12/19/2021 under Order No. 7082196928 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B144/ARCH-CM™ – 1993, Standard Form of Amendment for the Agreement Between Owner and Architect where the Architect Provides CONSTRUCTION MANAGEMENT Services as an Adviser to the Owner, 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)

Nexus Solutions, LLC
 2022 Labor Rates
 Confidential

EXHIBIT C
LABOR RATES

POSITION		Hourly Rate
<i>Energy Services</i>		
112	Senior Energy Engineer	\$ 185
114	Energy Engineer II	\$ 150
116	Energy Engineer I	\$ 125
118	Utility Analyst	\$ 70
<i>Project Development</i>		
122	Senior Project Development Engineer	\$ 200
124	Project Development Engineer II	\$ 165
126	Project Development Engineer I	\$ 130
<i>Design</i>		
130	Design Manager	\$ 200
132	Senior Design Engineer	\$ 170
133	Design Engineer II	\$ 140
134	Design Engineer I	\$ 125
136	Senior Design Technician	\$ 135
138	Design Technician	\$ 120
<i>Project Management</i>		
143	Senior Project Manager	\$ 200
144	Project Manager II	\$ 180
145	Project Manager I	\$ 155
146	Senior Site Superintendent	\$ 145
147	Site Superintendent II	\$ 135
148	Site Superintendent I	\$ 115
149	Project Coordinator	\$ 100
142	Project Engineer	\$ 90
<i>Commissioning</i>		
151	Director of Commissioning Services	\$ 200
152	Senior Commissioning Agent	\$ 160
154	Commissioning Agent	\$ 135
156	Commissioning Technician	\$ 110
<i>Administrative Support</i>		
108	Director of Finance & Accounting	\$ 195
172	Staff Accountant	\$ 125
174	Marketing/Communications Director	\$ 130
176	Sales & Marketing Administrator	\$ 90
<i>Program Management</i>		
121	Educational Planner	\$ 200
192	Program Manager	\$ 170

Hourly billing rates shall not be increased by more than 5% per year commencing January 1, 2023.

**Central School District #108
Project Scope of Work**

Exhibit A

Facility Improvement Measure (FIM) Description
Elementary School
Building Infrastructure
Replace 1981 Air Handling Units Serving Classrooms, Media Center, Gymnasium/Commons, Kitchen & Administration
Add Variable Air Volume Boxes to 1981 Air Distribution System (52 boxes)
Replace 1981 Exhaust Fans (8), Install Thermal Equalizers in Gymnasium, and Install Cooling to New Server Rooms Where Needed
Plumbing Improvements (Install a hand wash sink in kitchen restroom and replace the sanitary line below the boiler room floor).
Retrocommission Reused 2014 and 1981 HVAC Systems
Exterior Wall: Paint Steel Metal Panels on Roof of Clerestory; Tuckpoint 1980 Dark Brick and Sealant at Capstones; Replace Spalled and or Broken Dark Brick
Replace Leaking Clerestory Windows
Upgrade (3) Electrical Panels in the Mechanical Room of the Original 1981 Building and (1) in the Kitchen. Standardize Clocks at ES by Replacing Remaining Original Clocks with American Time Clocks Wireless Sync System
Technology Systems
Network Cabling Upgrade to Cat 6a and Finish the Fiber Backbone Upgrades (includes cabling for phones)
Replace WiFi Access Points and Relocate 3 Data Closets with New Switches & Patch Panels
Upgrade Phone System to Full VOIP, Replace Analog & Digital Handsets, New Phone POE Switches, Connect to Existing Paging System
Classroom Technology/Audio-Visual Systems
Safety, Security & ADA
Renovate the Elementary Toilet Rooms to Meet ADA Codes
Replace non-ADA Compliant Door Hardware
Install Emergency Power Generator with Transfer Switch (Connected Loads: IT Closets, Boiler Plant, Fire Alarm, Coolers & Freezers)
New Video Surveillance Software, Replace Existing Analog Cameras, Add Camera Coverage Where Needed. Add 1 Door Access Control Reader. Add Magnetic Door Hold-opens to 6 Sets of Doors for Security Zoning
Interior Finishes
Flooring Replacement in Majority of Classrooms and Support Spaces (see floorplan)
Replace Gym Flooring
Restore Terazzo Throughout Building
Ceiling Replacement in Classrooms/Support Spaces and Staff Offices
Gymnasium Ceiling Replacement & Lighting
Ceiling Replacement in Media Center
Repaint Door Frames and Replace Wall Base Trim. Paint glazed block base trim. Allowance to replace 50 interior doors.
Repair, Repaint and Refinish Interior Walls
Select Classroom Casework Replacement
Replace Existing Signage with Code Compliant and Add Signage for Improved Wayfinding
Replace Acoustical Treatments in the Cafeteria and Install New Treatments in Commons and Gymnasium
Asbestos Abatement Required due to Remodeling
Site Improvements
Loading Dock Concrete Repair. Replace Ball Field Back Stop Fabric & Fence Replacement. Replace South Trail Asphalt.
Educational Adequacy Improvements
Renovate the ES Kitchen with New Walk-in Cooler/freezer, Improve Layout and Production, Provide New Servery Equipment and Upgrade the Range and Add Double Stack Convection Oven.
Renovate Existing Media Center
Renovate Special Ed Area into SPED Suite and Maker Space
Remodel Early Childhood Area
Renovate Community Ed. Area, Wall off Kindergarten Wing
Demolish Raised Stage to Create Band Room and Additional Storage
Renovate Cafeteria Support Spaces, Restrooms and Music Space
New, Flexible Furniture for All Classrooms

**Central School District #108
Project Scope of Work**

Exhibit A

Facility Improvement Measure (FIM) Description
High School/Middle School
Building Infrastructure
Replace Steam Boilers with Hot Water & HS Domestic Hot Water Plant with Sealed Combustion (relocate existing HW heater to MS)
Install Kitchen Makeup Air Unit for Dehumidification
Upgrade Welding Hoods for Better Fume Capture, Add Exhaust for Small Engine Stations (3) & Add Thermal Equalizers in Gyms
Plumbing Improvements (Replace Column Shower Components & Art Room Wash Station). Create Individual Shower Stalls
Retrocommission HVAC Systems
Replace 1982 Built-up Roof of the original High School and Middle School with Fully Adhered EPDM
Replace EPDM Roof of the 1962, 1975, and 1994 Additions (20-25 yr. life: last replaced in 1994)
Exterior Wall Repairs including Replacing Joint Sealant on all Masonry Walls, Spot Tuckpointing of 1935 Chimneys and Masonry on Roof, along with 1952 & 1962 Additions and Brick Ledge of 1994 Addition
Replace Sealant around Doors, Windows, and Louvers and Repaint Lintels, Louvers and Metal Detailing except for the 2011 addition and the Windows of the 1952 Addition
Upgrade Auditorium Lighting Controls and Console, House Lights, Stage Lights, and Emergency Battery Lights. Replace Lighting in Locker Rooms, Lower Corridor & Remaining Exterior to LED
Upgrade Auditorium Audiovisuals including the Audio Console and Devices, Amplifiers, Projection System and Screen
Replace Switchboard and eight (8) electrical panels including Kitchen, Auditorium, Weight Room, Gym, Shop Classrooms and the Corridors outside of Rooms C123 and B211. Minor Code Corrections. Install American Time Clocks Wireless Sync System & Replace Remaining Original Clocks.
Technology Systems
Network Cabling Upgrade to Cat 6a and Finish the Fiber Backbone Upgrades (includes cabling for phones)
Replace WiFi Access Points and Relocate 3 Data Closets with New Switches & Patch Panels
Speakers
Classroom Technology/Audio-Visual Systems
Safety, Security & ADA
New Fire Alarm System with Voice Evacuation
Renovate the High School/Middle School Toilet Rooms to meet ADA codes, including New Plumbing Fixtures, Flooring, Ceilings, Wall Finishes, Partitions and Accessories.
Update Door Hardware to Life Safety and ADA
Update Auditorium to meet current ADA codes (Ramp to Stage, Viewing Area)
Refurbish the Elevator to Meet Codes
New Video Surveillance Software, Replace Existing Analog Cameras, Add Camera Coverage Where Needed. Add 3 Door Access Control Readers.
Interior Finishes
High Priority Flooring Replacement: Classrooms and Staff Offices. Restore Terrazzo Flooring.
Medium Priority Flooring Replacement: Corridors
High Priority Ceiling Replacement: Classrooms and Support Spaces
Medium Priority Ceiling Replacement: Offices and Stairwells
Repaint Interior Walls, Glazed Block, Interior Door Frames, and Base Trim. Allowance to Replace 20 Damaged Interior Doors
Select Classroom Casework Replacement (Including MS Science)
Replace skylights. Replace Window Treatments in all Exterior Classrooms and Labs
Remove or Replace Chalkboards in Select Rooms
Replace all Vinyl Covered Gypsum Board Walls and Metal/Upholstered Demountable Partitions with Painted Gypboard Walls
Replace Existing Signage with Code Compliant and Add Signage for Improved Wayfinding
Asbestos Abatement Required due to Remodeling

**Central School District #108
Project Scope of Work**

Exhibit A

Facility Improvement Measure (FIM) Description
High School/Middle School
Site Improvements
High Priority Concrete Repairs/Replacement
Medium Priority Concrete Repairs/Replacement
High School North Parking Lot Reconstruction & Security Lighting
High School South Parking Lot Reconstruction & Security Lighting
Stadium Drive Reconstruction
Reconstruct Athletic Track and Field Events, ADA Pathway, ADA Parking Stalls, Replace Fencing (SI-9 would be additive)
North Baseball Field (ADA Pathway, Reconstruct Concrete Maintenance Strip, Replace Fencing Fabric, Concrete Bleacher Slab)
Misc. Site Items (Reconstruct 4 Sets of South Exterior Stairs, Concrete Panels of North Loading Dock, Door 20 Concrete Stairs & Panels, Replace Damaged Sidewalk Sections)
Demo Old Bus Maintenance Bldg, Reconfigure & Rebuild North HS Lot
Educational Adequacy Improvements
Renovate the HS/MS Kitchen with Walk-in Cooler/Freezer, Improve Layout and Production, and Upgrade the Range and Add Double Stack Convection Oven.
Remodel Existing Weight Room into New MS STEM Lab, and Renovate Existing Locker Rooms to Create Restrooms, Storage, Training Room and Improve Circulation between Middle School and High School
Create New MS SPED Suite & Repurpose Old SPED Area into a Classroom
Create MS Open Study, Flex Space, Classroom Glass, Classroom Operable Walls. New MS Lockers
Repurpose Computer Labs into Classroom, Staff Collaboration, Storage & Custodial
Repurpose Lower West Computer Labs into Flex Space/Small Group & Remodel CTE Storage
Renovate & Relocate Music, Media, FACS Area and add Cafeteria Restrooms and Flex Classroom.
Repurpose Existing Cafeteria Restrooms into Unisex & Concessions, Enclose and Expand East Receiving Area. Construct outdoor
Remodel Existing HS Office into District Office, Staff Planning & Flex Space. Eliminate Current HS Entry/Stairtower. Create Secure Entry for New HS Office
New Façade on South & NE Entries, Upper level of Auditorium, East end of MS
New South Entry/Stair Tower/Elevator, Retaining Wall & Landscaping
Demolish Modular Classroom and Expand North Parking Lot Eastward
New, Flexible Furniture for All Classrooms
Phy. Ed./Athletics Improvements
2 New Locker Rooms (Boys & Girls), Weight Room and Fitness Center
New 1 Court Auxillary Phy. Ed./Multi-Sport Practice Gymnasium, Entrance, Lobby & Corridor
Added Cost to Expand Auxiliary Gym for 2nd Court
Added Cost to Expand 2-Court Auxiliary Gym with Ground Level Exercise Track and Isolation Curtains
New Wrestling Training Room Above New Locker Rooms
Create New Athletic Track/Football/Soccer Stadium with Concessions, Visitor Seating, Ticket Booth, Fencing & West Parking Lot. Equip Storage. Stadium & Parking Lighting. (Net addition to SI-6)
Option to Add Synthetic Field Turf to New Stadium (Net addition to SI-9 above)
Create Grass Practice Fields North of 7th Street
New softball field north of existing baseball. Add foul line & outfield fencing, enclose dugouts, 80 seat homeplate bleachers & concrete pad, 2 gravel parking lots, and irrigation to existing baseball fields. Allowance for concessions stand with electrical and water service (no sewer). Walking paths from parking to fields.



AIA[®] Document A232[™] – 2019

General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

for the following PROJECT:

(Name, and location or address)

THE CONSTRUCTION MANAGER:

(Name, legal status, and address)

Nexus Solutions, LLC
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

THE OWNER:

(Name, legal status, and address)

Independent School District 108
531 Morse Street
Norwood Young America, MN 55368

PROGRAM MANAGER:

(Name, legal status, and address)

Nexus Solutions, LLC
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

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 Documents A132[™]–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132[™]–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132[™]–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	OWNER
3	CONTRACTOR
4	NEXUS
5	SUBCONTRACTORS
6	CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
7	CHANGES IN THE WORK
8	TIME
9	PAYMENTS AND COMPLETION
10	PROTECTION OF PERSONS AND PROPERTY
11	INSURANCE AND BONDS
12	UNCOVERING AND CORRECTION OF WORK
13	MISCELLANEOUS PROVISIONS
14	TERMINATION OR SUSPENSION OF THE CONTRACT
15	CLAIMS AND DISPUTES
16	ADDITIONAL CONDITIONS

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 Nexus. The Contract Documents include all Documents which are part of and all forms required or specified in, this Project Manual. Including but not limited to: all Introductory Information, Bidding Requirements, Contract Forms, Conditions of the Contract, Addenda (as defined in the Instructions to Bidders), and all divisions comprising the Specification.

§ 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 Nexus or Nexus' consultants, (2) between the Owner and Nexus' consultants, (3) between the Contractor and Nexus or Nexus' consultants, (4) between the Owner and a Subcontractor or Sub-subcontractor, or (5) between any persons or entities other than the Owner and Contractor. Nexus and Nexus' Consultants shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their 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. Use of the words "produce", "provide", "furnish" or "install" where appropriate shall, also include "furnish and install".

§ 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 other Contractors, and by the Owner's own forces and Separate Contractors.

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by Nexus.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by Nexus.

§ 1.1.7 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.

§ 1.1.8 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.

§ 1.1.9 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 Nexus and Nexus' consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials. The Project Manual includes all Addenda (as defined in the Instructions to Bidders) properly issued by Nexus and Nexus' Consultants.

§ 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

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

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Execution of the Contract by the Contractor is a representation that the contractor has;

- (a) visited the site and investigated the nature and location of the Work, and the general and location conditions which can affect the Work or its cost.
- (b) examined the Bidding Documents in relation to each other and to the Project site, the structure and condition of the ground, the obstacles which may be encountered, and all other conditions having bearing upon the performance of the Work, supervision of the Work, existing conditions, time of completion, cost and all other relevant matters.
- (c) carefully studied and compared the Bidding Documents with each other and has obtained clarification for all inconsistencies, errors, omissions or other conditions having a bearing upon the performance of the Work, supervision of the Work, time of completion, costs and all other relevant matters.

§ 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. In the event of conflicts or discrepancies among the Contract Document, interpretations will be based on the following priorities;

- (a) the Agreement,
- (b) Change Order and supplementary instructions,
- (c) Addenda, with those of later date having precedence over those of earlier date,
- (d) General Conditions of the Contract for Construction,
- (e) Drawings and Specifications.

In the case of an inconsistency between Drawings and Specification or within either Document not clarified by addendum or supplementary instruction, the better quality or greater quantity of Work shall be provided in accordance with the Design Professionals interpretation.

§ 1.2.4 Wherever a provision of a Section of the Specifications conflicts with any agreements or regulations in force among members of a Trade Association, Union, or Council, which regulates or distinguishes what work shall or shall not be included in the work of any particular trade, the contractor shall make necessary arrangements to reconcile such conflicts without cost to the owner and without recourse to Nexus, or the Owner. Where the Specification has been divided into sections, it is for convenience in use. Nexus assumes no responsibility for proper placement of phases of the Work into the proper division or section or the arrangement of Work shown on the Drawings. Nexus shall not be obligated to enter into jurisdictional or other disputes as a result of the organization, arrangement or location of parts of the Work in Specifications or on Drawings, nor to serve as arbiter to establish subcontract limits. Unless otherwise specified, the scope of work of each section shall be to furnish labor, materials, equipment, skill, erection, installation, services and related items for the phase of work of that section, as required by the Drawings, as specified or as otherwise required to provide and complete the entire work of the section. Wherever a provision of a Section of the Specifications conflicts with any agreements or regulations in force among members of Trade Association, Union or Council, which regulates or distinguishes what work shall or shall not be included in the work of any particular trade, the Contractor shall make necessary arrangements to reconcile such conflicts without delay, damage or cost to the Owner and without recourse to Nexus or the Owner.

§ 1.2.5 The general character and scope of the Work is called for by the Contract Documents. Where a portion of the Work is fully drawn and the remainder is merely indicated, the portion fully drawn shall apply to all similar parts of the

Work. Drawings intended primarily as information for one trade may not necessarily show the work of other trades, which shall not be construed as there being no related materials or adjacent work.

§ 1.2.6 Figured dimensions shall be followed in preference to measurement by scale. In the event of discrepancies between Drawings, between Drawings and Specifications or between Specifications, the intent shall be interpreted by Nexus, which shall be binding on the Contractor. Where a dimension may be missing, the Work shall be accomplished in accordance with the directions and dimensions provided by the Design Professional. Dimensions on Drawings, as well as detail Drawings themselves, are subject in every case to measurements of existing, adjacent, incorporated and completed work which shall be taken by the Contractor before undertaking any work dependent upon such data. Dimensions pertaining to the Work shall be verified at site by Contractor.

§ 1.2.7 The Contract Documents generally do not set forth the basis for or the analysis of design. The Contractor is obligated to obtain or ascertain the intent where it is necessary for proper execution and satisfactory completion of the Work.

§ 1.2.8 Where Specifications are of the abbreviated or "streamlined" type, they shall be construed as complete sentences, as shall notes on the drawings. Omission of words such as "the", "the Contractor shall", and "as shown on the drawings" is intentional. The words "shall" or "shall be" are to be supplied by inference. Imperative or directive instructions, directions or specifications apply and refer to the Contractor. The words "symmetrical" and "similar" are used in the general sense and need not mean "identical".

§ 1.2.9 Where a number is specified (as for gauges, weights, temperatures, an amount of time, and similar references) and the specified number cannot be obtained, the number shall be interpreted as the next better, as available.

§ 1.2.10 Standard Specifications rules, codes, instructions, recommendations and references referred to in the Project Specifications shall be the latest edition unless a specific edition is specified. If standard specifications are revised prior to completion of any part of the work to which such revisions would pertain, the Contractor may, if approved by Nexus, perform such work in accordance with the revised specifications. Standard specifications, except as modified in the Project Specifications, shall have full force and effect as though included in the Project Specifications.

§ 1.2.11 Sections of Division 1 General Requirements govern the execution of all sections of the specifications.

§ 1.2.12 In case of conflict in or between drawings and specifications, the contractor will be deemed to have estimated on, and agreed to provide, the greater quantity or better quality of materials and work unless they shall have, before submission of bid, asked for and obtained written decision through addendum of the Design Professional as to which method or materials will be required.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

§ 1.5.1 Nexus and Nexus' 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 Nexus and Nexus' Consultants reserved rights.

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

§ 1.6 Notice

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

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

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

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The term "Owner" or "School District" Means:

INSERT DISTRICT SPECIFIC INFORMATION HERE
Independent School District 108
531 Morse Street
Norwood Young America, MN 55368

This includes designated representatives, successors and assigns. 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, Nexus does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner acts through the office of the Superintendent or authorized representative. Unless otherwise indicated, all papers and formal written notice required to be delivered to the Owner, shall be delivered to the Owners Construction Program Manager, Nexus Solutions, LLC.

(Paragraphs deleted)

§ 2.1.3 The Term "Construction Program Manager (CPM)" or "Construction Manager (CM)" or "Nexus" means:

Nexus Solutions, LLC.
6885 Sycamore Lane North, Suite 200
Maple Grove, MN 55369

§ 2.1.4 The Term "Design Professional" means:

Architect
Hay Dobbs
2324 University Avenue W., Suite 200
St. Paul, MN 55114

Structural Engineer
Sandman Engineering
10900 Noble Avenue North
Champlin, MN 55316

Civil Engineer
Larson Engineering
3524 Labore Road
White Bear Lake, MN 55110

Mechanical Engineer
Nexus Solutions, LLC.
6885 Sycamore Lane North, Suite 200
Maple Grove, MN 55369

Electrical Engineer
JB Electrical Design
6885 Sycamore Lane N., Suite 220
Maple Grove, MN 55369

Food Service Consultant
LJG Design, LLC
6451 Pleasant Park Dr.
Chanhassen, MN 55317

Building Envelope Restoration
Inspec
5801 Duluth Street
Minneapolis, MN 55422

Theater Lighting/Sound
Electronic Design Company
3225 East Hennepin Avenue
Minneapolis, MN 55413

§ 2.1.5 At the Commencement of the Work, Additional representatives of the School District will be identified to the Contractor by name, function, and authority with respect to the Project.

§ 2.3 Information and Services Required of the Owner

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

Init.

(Paragraphs deleted)

§ 2.3.5 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. Within 20 days of receipt, the Contractor is required to review any materials (such as surveys, soil borings, existing structures and conditions, locations of utilities, etc.) furnished by the Owner and notify the Owner of the discovery or any inaccuracy. The furnishing of this material by the Owner shall not relieve the Contractor of its responsibilities under the Contract Documents.

§ 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.7 Unless otherwise provided in the Contract Documents, the Contractor shall be furnished one copy of the Drawings and Project Manual. Additional sets will be furnished at the cost of reproduction, postage and handling to be paid by the Contractor.

§ 2.3.8 The Owner shall forward all communications to the Contractor through Nexus. Other communication shall be made as set forth in Section 4.2.6.

§ 2.3.8 The Plans and Specifications are subject to the approval of certain state agencies (eg. State Department of Education, State and/or Municipal Building Codes Division, etc.) Contractor is advised that approvals may occur after receipt of bids. Approval and Notice of Contract Award may be subject to final approval of state agencies.

§ 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 or Nexus 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 review by and prior approval of Nexus, and Nexus' Consultants 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 Nexus and Nexus' respective consultants' additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or Nexus, 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.

Init.

§ 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 Nexus or Nexus' Consultants in their 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, and 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 Construction Documents before commencing activities. The Contractor shall at once report to Nexus and Owner any errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner or Nexus for damages resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized, or should have recognized such error, inconsistency or omission and failed to report it to Nexus and the Owner. If the Contractor performs any construction activity involving such error, inconsistency, or omission in the Contract Documents without notice to Nexus and Owner, the Contractor shall assume responsibility for such performance and shall be liable for the amount of the attributable costs for correction and any other resulting damages.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, 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 Nexus any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to Nexus in such form as Nexus may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor shall perform the Work in Accordance with the Contract Documents, submittals accepted pursuant to Paragraph 3.12, the general design intent reasonably inferable from the Contract Documents, and all applicable laws, codes, ordinances, rules, regulations and industry standards.

§ 3.2.3.1 The Contractor shall review specified construction and installation procedures (including those recommended by manufacturers) prior to implementation and shall advise Nexus in writing (1) if the specified procedures deviate from good construction practice, (2) if following the procedures will affect warranties and (3) of any objections the Contractor may have to the procedures.

§ 3.2.3.2 If the Contractor is uncertain as to the interpretation or the design intent or the Construction Documents, the Contractor shall be responsible to request in writing an interpretation from Nexus, in accordance with Subparagraphs 4.2.11 and 4.2.12.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions Nexus issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Nexus for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures, complying with all applicable laws, codes, ordinances, rules, regulations, and

industry standards. 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 Nexus, and shall propose alternative means, methods, techniques, sequences, or procedures, complying with applicable laws, codes, ordinances, rules and regulations and industry standards. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Nexus shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless Nexus objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures, complying with all applicable laws, codes, ordinances, rules, regulations, and industry standards.

§ 3.3.1.1 Safety is solely the responsibility of the Contractor to possess/implement/monitor a safety program in accordance to public contract law along with OSHA rules and regulations. Although the Nexus advises the Owner, the Owner reserves the right to stop the work due to safety concerns.

§ 3.3.1.1 The Contractor and authorized representatives shall attend all meetings as requested and scheduled by the Nexus or the Owner.

§ 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 not be relieved of its obligations to perform the Work in accordance with the Contract Documents and all applicable laws, codes, ordinances, rules, regulations and industry standards, either by activities or duties of Nexus in administration of the contract, or by test, shop drawing reviews, inspections or approvals required or performed by persons other than the Contractor, or by any activities or duties of the Owner.

§ 3.3.4 In the event the scope of the Contractor's work involves installation of materials furnished by the Owner, the responsibilities of the parties shall be as follows; Contractor shall:

- (a) Inspect the materials upon delivery for damage, defect, quantity and conformance with the Contract Documents
- (b) Provide all labor, equipment and services, including hoisting and other material handling necessary to properly unload, handle, store and install all Owner furnished material
- (c) Provide Nexus with signed inventory sheets certifying that all products shipped were received. Contractor accepts liability for missing or damaged product should they fail to inventory shipment.

§ 3.3.5 Subject to the Contractor's inspection obligations under Clause 3.6.12, Owner shall be responsible for inherent defects in the materials, shall be solely responsible for pursuing the seller of the materials supplied by the Owner for replacement, damages, or other remedies.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by Nexus in accordance with Section 3.12.8 or ordered by Nexus in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by Nexus, in consultation with the Nexus' Consultants, 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.

§ 3.4.3.1 Nexus shall have authority to direct a Contractor to remove a worker from site if any worker or employee of Contractor is found to be unsatisfactory.

§ 3.4.4 Local custom and trade-union jurisdictional settlements do not control the scope of work included in each prime contract. When a potential jurisdictional dispute or similar interruption of construction activities is first identified or threatened, the affected contracts shall promptly negotiate a reasonable settlement to avoid or minimize the pending interruptions and its delay. The trade contractor shall be bound by the agreement establishing the impartial jurisdictional disputes board and/or its successors. The trade contractor agrees not to cause a work stoppage due to the jurisdictional assignment of work. The trade contractor agrees to maintain an adequate work force of experienced workers and the necessary materials, supplies, and equipment to meet the requirements of Nexus and other trades in order to maintain the construction schedule, In the event that their forces are, in the judgment of Nexus, inadequate to meet the established schedules during regular working hours, the trade contractor agrees to work sufficient overtime hours or increase their workforce to meet such schedules at no extra costs to Nexus or Owner.

§ 3.4.5 After the Contract has been executed; the Owner and Nexus will consider a formal request for the substitution of products in place of those specified only under the conditions set forth in the General Requirements (Division 1 of the Specifications). By making requests for substitutions based on this subparagraph, the Contractor:

- (a) Represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;
- (b) Represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;
- (c) Certifies that the cost data presented is complete and includes all related costs under this Contract but excludes costs under separate contracts and excludes Design Professional's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and
- (d) Will coordinate the installation of the accepted substitute, making such changes as may be required for the work to be complete in all respects.

§ 3.4.6 All work shall be performed in the best and most workmanlike manner to the highest standards for the work. Incompetent or careless workmanship shall not be permitted by the Contractor and will not be accepted.

§ 3.4.7 The Contractor, and all those working under its jurisdiction, shall conform to labor laws of the state and all other laws, ordinances and legal requirements affecting the Work. Prior to starting work, the Contractor shall become familiar with local labor and trade conditions, skilled and unskilled, and shall conform to local conditions. The Contractor shall consider the availability of labor in the area and import labor as may be required to meet the schedule for the Work.

§ 3.4.8 Unless otherwise provided in Contract Documents, all materials, equipment and other products shall be one of the brands, manufacturers or types specified. All like products for the Work shall be by the same manufacturer.

§ 3.4.9 Workmanship and Materials

- (a) No trade shall commence Work until conditions are right for carrying out the work properly and surfaces to be covered are suitable.
- (b) Manufacturer's printed instructions covering details of installation shall be followed where not in conflict with these specifications. If there is a conflict, notify Nexus for clarification before proceeding.
- (c) Completed work shall be left plumb, level, true to line or plane, anchored securely in place free from damage.
- (d) Unless otherwise called for, all pieces of material shall be a stock size as is in conformity with standard good practice of the trade.
- (e) Except where in conflict with these specifications, current manufacturer's printed specifications of herein specified proprietary products are made part of these specifications.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, and Nexus 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 all applicable laws, codes, ordinances, rules, regulations, and industry standards 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 Owner or Nexus, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.3 Manufacturer product warranty shall not relieve the Contractor of general warranty obligations imposed by applicable laws, codes, ordinances, rules, regulations, and industry standards, or otherwise assumed or agreed upon by the Contractor. Where a product is specified by manufacturer or brand name, such specification is used to establish minimum standards of quality required, and the published data, including manufacturer extended warranties, pertinent to the specified product shall be a requirement of the Contract Documents.

§ 3.6 Taxes

The Contractor shall be liable for and pay all federal, state and local sales, consumer, use and similar taxes for the Work or portions thereof 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. Applicable tax amounts shall be included in the Contract sum.

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

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by Nexus, shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.1.1 The Contractor shall provide and pay for all bonds that may be required to accomplish the work, including any bonds required by local municipalities.

§ 3.7.1.2 The Owner will pay SAC / WAC (Sewer and Water access charge) directly.

§ 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 or inspection of the Work. In any instance where requirements of the Contract Documents are in excess of, but not in conflict with or violation of, requirements of a public authority having jurisdiction, the provisions of the Contract Documents shall govern.

§ 3.7.3 If the Contractor performs Work that it knows, or reasonably should know to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and for damages incurred as a result of and shall bear the costs attributable to correction.

§ 3.7.4 **Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and Nexus before conditions are disturbed and in no event later than 14 days after first observance of the conditions. Nexus will promptly investigate such conditions and, if Nexus, in consultation with Nexus' Consultants, 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 Nexus, in consultation with Nexus' Consultants, 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, Nexus shall promptly notify the Owner and Contractor, stating the reasons. If the Owner or Contractor disputes Nexus' determination or recommendation, either 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 Nexus. 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;
- .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, except where installation is specified as part of the allowance in the General Requirements (Division 01 of the Specifications); 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.
- .4 The Supplier or Subcontractor for an allowance item is subject to acceptance of the Owner and Nexus. The Contractor's Purchase Order or Subcontractor Agreements shall bind the Supplier or Subcontractor to the requirements of the Contract Documents.

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

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Nexus has the authority to remove from the Project Site any employee (including superintendent) of the Contractor or any of its subcontractors. Upon oral or written direction of Nexus, Contractor shall replace designated personnel and maintain contract completion date.

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

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Nexus 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. Unless the Superintendent proves to be unsatisfactory to the Contractor and as a result ceases to be in the Contractor's employ.

§ 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 Nexus' information, and Nexus use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall be of Microsoft Project format and contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work (no work activity shall take longer than two calendar weeks). Procurement activities are permitted to take longer as all activities associated (submittals, etc.) are separate activities. Procurement ends the day the product arrives at the job site; and (4) include all successor and predecessor activities and resources. 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 (no greater than twice a month). The Contractor shall cooperate with Nexus in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 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 Nexus' approval. Nexus' approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow Nexus and Design Professional 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 participate with other contractors, Nexus, and the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by Nexus. The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by Nexus to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Nexus and incorporated into the approved Project schedule.

§ 3.10.5 The Contractors shall furnish to Nexus, upon request, substantiating documentation to confirm the status of all material deliveries. Such documentation could include, but is not limited to the following:

- .1 Copies of subcontractors or purchase orders.
- .2 Factory acknowledgements or orders, with scheduled dates of shipment.
- .3 Shipping tickets, pro numbers, etc. identifying actual dates of shipment.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to Nexus and Owner, and delivered to Nexus for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data, and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Design Professional and Nexus is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which Nexus and Design Professional are 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 Nexus or Design Professional without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, stamp approved, and submit to Nexus within seven days after the contract date, Shop Drawings, Product Data, Samples, and similar submittals

required by the Contract Documents, in accordance with the Project submittal schedule approved by Nexus or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Nexus in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Nexus and Design Professional, that the Contractor has (1) reviewed 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 reviewed by the Design Professional.

§ 3.12.8 The Work shall be in accordance with reviewed submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Design Professionals review of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified Nexus and Design Professional of such deviation at the time of submittal and (1) the Design Professional has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Design Professionals review 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 Nexus and the Design Professional on previous submittals. In the absence of such notice, the Design Professionals review 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 Design Professional 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 Nexus. The Owner, , and Nexus 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 Nexus have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, Nexus will review and 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. Nexus shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 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 Nexus at the time and in the form specified.

§ 3.12.11 Submit to Nexus one electronic copy, in PDF format, of each shop drawing, including fabrication, erection, layout and setting drawings and such other drawings as required under various sections of the specifications, until final

acceptance is obtained. If printed copies of shop drawings and/or submittals are determined to be necessary, the costs for the reproduction will be the responsibility of the Contractor. Nexus is responsible for obtaining and distributing required prints of shop drawings to the Separate Contractors. Where printed materials describe more than one product or model, clearly identify which is to be furnished.

§ 3.12.12 Manufacturer's Instructions: Where any item of Work is required by specifications to be furnished, installed, or performed in accordance with a specified product manufacturer's instructions, contractor shall procure and distribute the necessary copies of such instructions to all concerned parties through Nexus.

§ 3.13 Use of Site

§ 3.13.1 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.

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, Nexus before using any portion of the site.

§ 3.13.3 Site will be in use during the school term. Work must be coordinated with the School District for each individual school through Nexus. Care, custody and control of the site shall be vested in the Contractor, subject to the rights of the Owner. Schedule phasing of the work must not interfere with the program of each school. Shift work will be necessary. Delivery and storage of materials will be coordinated through Nexus.

§ 3.13.4 Before making a shipment of materials to the Project site, Contractors shall ascertain that the project site is in a condition to receive the shipment. If materials are delivered to the Project site and project is not in condition to receive the materials, the materials shall be removed from the site and properly stored off-site at the expense of the Contractor or his Subcontractor. Deliveries must be coordinated through Nexus.

§ 3.13.5 The Contractor shall return all improvements on or about the site, streets and adjacent property which are not shown to be altered, removed or otherwise changed, to the conditions which existed previously. The Contractor shall protect existing structures or other features from damage by any operation in connection with this Contract.

§ 3.13.6 Utilities or other services which are shown, or not shown but encountered or otherwise found, shall be protected by the Contractor from any damage from excavation or other work and operations of this Contract, unless or until they are abandoned. If the utilities or services are not abandoned, or to be abandoned, the Contractor shall immediately restore any damage from its work or operations to place the utilities and service in an equal or better condition to that which existed. Where utilities or services are shown to be abandoned or moved, they shall remain in service, and be protected by the Contractor, until new utilities and services have been provided, tested and ready for use.

§ 3.13.7 If the Contractors cannot control noise, odors, water, dust, security, access, safety egress, etc. in a manner acceptable to the building occupants, then this Contractor will be required to perform his work at times of very low or no occupancy.

§ 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, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of Nexus, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.14.3 Altering or cutting of structural members will not be allowed without the written approval of Nexus.

§ 3.14.4 Any contractor requiring cutting into the work of another contractor shall do such cutting and shall properly repair such work to the satisfaction of Nexus. Such cutting, fitting, and patching shall not endanger any work or otherwise alter the work or any part of it, and it shall be done by craftsmen skilled and experienced in the trade or craft that installed or furnished the original work. Repairs shall be equal in quality and appearance to similar adjacent work and shall not be obviously apparent as a patch or repair. Work that cannot be satisfactorily repaired shall be removed and replaced.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor and its Subcontractors, Sub-subcontractors, Separate Contractors, or other Contractors shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract and keep the premises clean and free from fire hazards and maintain its work neat and orderly throughout the construction period, including broom cleaning and vacuum of the floors. All packing/crating materials from goods installed will be removed from the site by the contractor responsible for the packaged materials. The contractor responsible for taking delivery of Owner furnished materials will be responsible for packing/crating of goods delivered. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor or its subcontractors fail to clean up, or if a dispute arises between Separate Contractors as to their responsibility for clean up as required by section 3.15 or as provided in the Contract Documents, the Owner, or Nexus with the Owner's approval, may do so and equitably charge the cost thereof to the several responsible Contractors as determined by Nexus.

§ 3.15.3 All matter (snow, water, dirt, dust or other debris) accumulated in a designated work area are the responsibility of the contractor to remove.

§ 3.15.5 If a Contractor fails to maintain the premises or clean up as specified, Nexus may do so after 2 days' notice, with the cost paid for by the Contractor.

§ 3.15.5 All Contractors and their Subcontractors/Material Suppliers are responsible for clean-up of debris created by Work of their contract, including but not limited to, broom cleaning and a final cleaning of working areas. Nexus may elect to have all Contractors on site participate, at no additional compensation to the Contractor, in weekly jobsite clean-up services. Participation will be required by all Contractors working onsite during that during that time.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Nexus 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, Design Professional, and Nexus 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, Design Professional, or Nexus. 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 Nexus.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Nexus, and Nexus' 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 including loss of use therefrom, but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18. The

Contractors obligations set forth in this Paragraph shall apply to any claim by the Owner against the Contractor, a Subcontractor, or anyone else directly or indirectly employed by the Contractor or a Subcontractor, or against anyone for whose acts the Contractor, Subcontractor may be liable.

§ 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.

§ 3.19 Field Conditions

§ 3.19.1 Each Contractor shall take field measurements of materials supplied under their Contract and verify field conditions with the Contract Documents and final Shop Drawings before commencing any Work. Report errors, inconsistencies, or omissions to Nexus at once.

§ 3.19.2 No change to the Contract Sum will be allowed on account of minor differences between actual field conditions and the Contract Documents.

§ 3.19.3 The need to obtain accurate field dimensions in ample time to permit fabrication of long lead materials and equipment, for delivery and installation in accordance with the schedule, shall be recognized. Each Contractor and all sub-contractors shall cooperate in completing work phases to accommodate the schedule for obtaining dimensions and to prevent fabrication delay. In the event it is impractical to have work in place to permit field dimensions, the responsible Contractor shall guarantee necessary dimensions, before construction, to the various fabricators and be responsible to insure the dimensions.

ARTICLE 4 NEXUS

§ 4.1 General

§ 4.1.1 Nexus 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 Nexus is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of Nexus as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Nexus and Contractor. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 Nexus will provide administration of the Contract as described in the Contract Documents and will be the Owner's representatives during construction until the date Nexus issues the final Certificate for Payment. Nexus will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Design Professionals will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with Nexus, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Design Professional 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 the site visits, Nexus will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.3 Nexus shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. Nexus will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

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§ 4.2.4 Nexus will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 Nexus, except to the extent required by Section 4.2.4, and Design Professional will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither Nexus nor the Design Professional will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 **Communications.** The Owner shall communicate with the Contractor and Nexus' consultants through Nexus about matters arising out of or relating to the Contract Documents. The Owner and Nexus shall include Nexus' Consultants in all communications that relate to or affect their services or professional responsibilities. The Owner shall promptly notify Nexus of the substance of any direct communications between the Owner and Nexus otherwise relating to the Project. Communications by and with Nexus' consultants shall be through Nexus. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors and Separate Contractors shall be through Nexus. Communications by and with the Owner's own forces shall be through the Owner. Direct communications between Nexus and the Contractor that affect the performance or administration of the Work shall be made or confirmed in writing. The Contract Documents may specify other communication protocols.

§ 4.2.7 Nexus will review all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

§ 4.2.8 Nexus has the authority to reject Work that does not conform to the Contract Documents. Whenever Nexus considers it necessary or advisable, Nexus will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of Nexus will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of Nexus' Consultants. However, neither Nexus' Consultants nor Nexus' authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of Nexus' Consultants or Nexus to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, Nexus shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, Nexus' Consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of Nexus. The Project submittal schedule and any revisions shall be submitted to Nexus for approval.

§ 4.2.10 Nexus will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, Nexus will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to Nexus' Consultants those recommended for review. By submitting Shop Drawings, Product Data, Samples, and similar submittals, Nexus represents to the Owner and Nexus' Consultants that Nexus has reviewed and recommended them for review. Nexus' actions will be taken in accordance with the Project submittal schedule with reasonable promptness while allowing sufficient time to permit adequate review by Nexus' Consultants.

§ 4.2.11 Nexus' Consultants will review 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 Consultants action will be taken in accordance with the submittal schedule with reasonable promptness while allowing sufficient time in the Consultants professional judgment to permit adequate review. Upon the Consultants completed review, the Consultant shall transmit its submittal review to Nexus.

§ 4.2.12 Review of the Contractor's submittals by Nexus and Nexus' Consultant 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. Nexus and Nexus' Consultants review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. Nexus and Nexus' Consultants review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Consultants review of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.13 Nexus will prepare Change Orders and Construction Change Directives.

§ 4.2.14 Nexus will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and Nexus will have authority to order minor changes in the Work as provided in Section 7.4. Nexus, in consultation with the Owner, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.15 Utilizing the documents provided by the Contractor, Nexus will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 Nexus will assist Nexus' Consultants in conducting 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; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. Nexus will forward to the Owner a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and Nexus agree, Nexus will provide one or more Project representatives to assist in carrying out Nexus' responsibilities at the site. The Owner shall notify Nexus of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.18 Nexus will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Owner, or Contractor. Nexus response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.19 Interpretations and decisions of Nexus 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, Nexus 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.

§ 4.2.20 Nexus decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.21 Nexus will receive and review requests for information from the Contractor, and forward each request for information to Nexus' Consultants. Nexus' Consultant will review and respond in writing, through Nexus, to requests for information about the Contract Documents. Nexus recommendation and Nexus' Consultants response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, Nexus' Consultant 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 other Contractors or Separate Contractors or the subcontractors of other Contractors or Separate Contractors.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, within 14 days after the award of the Contract, the Letter of Intent to Award has been issued, Notice to Proceed has been issued or execution of the Contract (whichever occurs first), The Contractor, shall notify Nexus, for review by the Owner, and Nexus, 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, Nexus may notify the Contractor whether the Owner, (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of Nexus to provide notice within the 14-day period shall constitute notice of no reasonable objection. If the Owner or Nexus objects to a proposed Subcontractor or sub-Subcontractor, such objection shall be deemed reasonable if in the opinion of the Owner or Nexus the objectionable 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 workmanship;
- .3 lacks experience appropriate to the proper execution and completion for that part of the Work for which the 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 is proposed within the time schedule, due to financial status, size of organization, existing work load, or other considerations;
- .6 cannot demonstrate the ability, through examples of representative work, to perform the part of the Work for which the Subcontractor is being considered;
- .7 is of questionable integrity;
- .8 exhibits other factors bearing on the probability of unsatisfactory performance; or
- .9 is otherwise not qualified or is reasonably objectionable.

If adequate data on a proposed manufacturer or an installer is not available, Nexus may state that action will be deferred until the Contractor provides further data.

Failure to object to a manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufactures must conform to such requirements.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, or Nexus has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner, or Nexus has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, or Nexus has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, or Nexus makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

§ 5.3.1 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 Nexus. Each subcontract agreement shall preserve and protect the rights of the Owner, and Nexus under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor shall supply copies of each subcontract agreement to the Owner and Nexus before the Subcontractor is permitted to commence Work.

§ 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 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, due to unreasonable delays attributed to the Owner, 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 with Own Forces and to Award Other Contracts

§ 6.1.1 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 the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them.

§ 6.1.3 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 and Subcontractors shall cooperate with and coordinate their work with all other contractors and the Owner to facilitate the general progress of the Project and to prevent delaying the progress of other contractors. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate Contractor's Work with theirs as required by the Contract Documents. Each contractor and subcontractors shall obtain layout drawings, roughing-in

detail sheets and other pertinent information directly from each other (not from Nexus) to coordinate all phases of the Work. For coordination with the Owner's equipment or materials, information shall be requested from Nexus. After timely notification by the Contractor of the need to accomplish a particular phase or element of the Work, the other contractors shall, within a reasonable time, perform their work so as not to delay or impede the Contractor.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify Nexus of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify Nexus of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' 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 Contractors or other Contractors that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs, including costs that are payable to a Separate Contractors or to other Contractors, 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 delays, improperly timed activities, damage to the Work or defective construction by the Owner's own forces, Separate Contractors, or other Contractors.

§ 6.2.3.1 Time being an essential element of the contract, it is hereby agreed that the Owner shall be entitled to damages for failure on the part of the Contractor to complete the work within the contract period, as amended by an extension. Such actual damages shall include, but not be limited to the following:

- .1 Additional fees incurred by the Design Consultants.
- .2 Additional fees incurred by Nexus
- .3 Increased cost of relocating, including moving from existing building to temporary location(s).
- .4 Increased cost of extended and additional rental space.
- .5 Lost revenue from operations of the building.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, or other Contractors.

§ 6.2.5 The Owner, Separate Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.2.6 If a Contractor has a claim for additional cost due to the action or inaction of separate Contractors, the Contractors shall resolve the claim directly with the responsible party or parties. If resolution cannot be obtained directly, and Contractor sues, or initiates arbitration against the Owner or Nexus on account of any damage alleged to have been so sustained, the Owner shall notify the separate Contractor, who shall defend such proceeding at the Contractor's expense, and if any judgment or award against the Owner or Nexus arises there from, the separate Contractor shall pay or satisfy it.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and Nexus, with notice to the Owner, will allocate the cost among those responsible.

§ 6.4 Cutting and Patching Under Separate Contracts

The Contractor shall be responsible for any cutting, fitting, and patching that may be required to complete its work except as otherwise specifically provided in the Contract Documents. The Contractor shall not endanger any work of any other contractors or Subcontractors by cutting, excavating, or otherwise altering any work, and shall not cut or

alter the work of any other contractor except with the written consent of Nexus, after timely notice, and upon appropriate consultation with the other parties whose work is affected or involved.

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, Nexus and Contractor. A Construction Change Directive requires agreement by the Owner, and Nexus and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by Nexus alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The Owner or Nexus are not responsible to give Notice of Changes Orders to the Surety (if any).

§ 7.2 Change Orders

A Change Order is a written instrument prepared by Nexus and signed by the Owner, Nexus, Design Professional, and Contractor, stating their agreement upon all, or a combination of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by Nexus, 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, Nexus 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 Nexus may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by Nexus;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise Nexus 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 In order to obtain a Contract Sum Adjustment for any Change Directive, Contractor must first submit a written notice to the CM stating its proposed Contract Sum adjustment and basis for adjustment. This notice must be submitted within seventy-two (72) hours of receipt of the written Change Directive and prior to commencement of the changed work. If Contractor fails to comply with these notice requirements Contractor shall be deemed to have waived its rights to dispute or contest the CM's determination as to the Change Adjustment, the CM shall include overhead, bond, insurance, field supervision and profit in accordance with the limits established by paragraph 7.3.10.. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by Nexus. 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. Nexus will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that Nexus determine to be reasonably justified. The 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 Nexus concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and Nexus shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive. For proposed changes in the work on the lump sum or time and material methods under Clause 7.3.3.1 and 7.3.3.4 above, the costs shall be determined as provided under this subparagraph 7.3.10. The contractor shall submit an itemized list of quantities with the applicable unit costs and extended prices for each, in such form and detail as required by Nexus.

- .1 As a minimum the detailed breakdown shall include and indicate the items enumerated below. Items (a) and (b) constitute the cost of the labor, and items (a), (b), (c), and (d) constitute the basic costs referred to under this Article 7.
 - a. Labor costs, itemized by each trade involved, showing the hourly rates for each and the hours required for the change. Labor rates shall be the same for extra and credit computations and shall be the actual rate paid workmen in accordance with the established management labor agreement.
 - b. Burden on labor, which shall be only the actual costs of mandatory fringe benefits required by established agreements, taxes on labor, worker's or workmen's compensation, insurance on labor as affected by payroll, unemployment taxes and insurance, including FICA and FUTA.
 - c. Quantities of materials, equipment and supplies, at their actual cost, with unit costs indicated.
 - d. The cost of subcontract work, computed in the same way as provided for under this subparagraph 7.3.10.
 - e. Overhead, profit or commission.
 - f. Applicable sales tax on material, added after the above computations are complete.

- .2 The maximum that will be allowed for overhead and profit, or commission, shall be as follows, expressed as a percentage of the basis cost of the change. The maximum allowable percentages for profit, overhead and commission may be less, depending on the nature, extend or complexity of the change, where the percentage is not commensurate with the responsibility and administration involved, (such as the contractor merely processing a substantial change order to a subcontractor) but in no event shall they exceed the following:
 - a. To the contractor and/or subcontractor for work performed with their own forces. (Overhead - 10%, Profit - 5%).
 - b. To the contractor for work performed by others than its own forces. (Commission - 5%).
- .3 Not more than three percentages for overhead, profit and commission will be allowed. The markup on any part of the work a subcontractor subcontracts will be limited to one overhead figure and one profit figure, in addition to the Contractor's commission. The subcontractor and sub-subcontractor may divide the overhead and profit amount as they agree upon.
- .4 The burden on labor may be indicated as a dollar cents addition to the hourly rate or may be expressed as a percentage of the extended hourly rate costs. If required by the owner or Nexus, the contractor shall provide a detailed breakdown to justify the labor inconsistent with other similar contracts or where the cost of fringe benefits are in excess of established labor agreements. The burden on labor shall not include any costs noted as general overhead.
- .5 Material, equipment and supply costs shall be quoted at the actual cost to the contractor, or subcontractor. Upon request, the contractor (or subcontractor) shall submit evidence to substantiate the costs. Said costs shall be quoted at trade discount prices, with quantity discounts also applied where the quantities warrant. Cash or prompt payment discounts need not be credited. In any proposal with material, equipment and supply credits, the credit shall be based on the actual contract cost of the material (including trade and quantity discount) less any charges actually incurred for handling or returning a material which has been delivered. No cancellation, restocking or similar charge will be allowed unless actually incurred by the purchaser and generally will not be allowed when the product has not been shipped.
- .6 The percentages allowed for overhead, profit or commission under clause 7.3.10.2 shall be deemed to include, and no further addition for:
 - a. Field and office supervision and administration, including the superintendent/foreman;
 - b. General insurance, except that listed as labor burden;
 - c. Use or replacement of tools;
 - d. Shop burden;
 - e. Equipment rental (other than specifically required additional hoisting equipment, required excavating equipment or similar necessary solely as a result of the change);
 - f. Engineering and estimating costs;
 - g. Performance (guaranty) bond;
 - h. Cost of safety measures (including those imposed by OSHA);
 - i. Shipping, drayage and demurrage;
 - j. Parking charges;
 - k. Clean up and debris removal;
 - l. Testing;
 - m. Permits, unless a new permit type is required;
 - n. Or any other costs except those under clause 7.3.10.1.
- .7 Cost changes shall be computed by determining the basic costs enumerated under clause 7.3.10.1 (as further specified under this subparagraph) to which the overhead may be added, than the profit figure may be added and finally adding the sales tax on materials.
- .8 Subcontractors (or sub-subcontractors) shall compute their costs the same way by and are subject to the same conditions of what may be included in the cost and the same maximum percentages for overhead and profit. To the subcontractor's price, the contractor may add up to 5% commission.

- .9 For changes involving work of the contractor with its own forces and work by a subcontractor (or sub-subcontractors), the commission shall be applied directly to the subcontractor's price. With the overhead and profit figure applied only to the work the contractor performs with its own forces.
- .10 For charges involving both extra and credit amounts, the overhead and profit, or commission shall be applied only to net difference where the extra exceeds the credit.
- .11 For change resulting in a credit in the basis costs, a reasonable allowance for overhead, profit or commission may be required to be credited to the owner, as approved by Nexus. In general, no credits for overhead, profits or commission will be required where the net change credit is minor or where the change in work indicates it is reasonable that no credit be allowed to the owner due to the effort, cost or responsibility of the contractor. In the event of a substantial subcontract credits, or for work not performed by the contractor, a reasonable overhead, profit or commission credit shall be allowed to the owner.

§ 7.4 Minor Changes in the Work

Nexus 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. Nexus' order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify Nexus and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in Nexus' order for a minor change without prior notice to Nexus 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.

§ 7.5 Owners Right to Perform Changes in the Work

If the Owner does not agree to a proposal of the Contractor for additional Work or changes in the Work, or if the Owner does not deem it advisable or expedient to proceed on the basis of the Contractor's proposal, the Owner reserves the right to perform additional work or changes in the Work with its own personnel or to employ others for changes in the Work.

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 Contract Time is the date of the Owners Notice to Proceed or is the date established in the Agreement, whichever is the earliest date.

§ 8.1.3 The date of Substantial Completion is the date certified by Nexus in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.2.1 If a Contract is awarded, construction at the site may commence upon, but not before, (1) Contractor's receipt of a Notice to Proceed from the Owner, and (2) Owner's receipt of Contractor's insurance certificates and Subcontractors list.

§ 8.2.3 After award of the Contract it shall be the responsibility of the Contractor upon notification by Nexus to begin the Work immediately and to thereafter proceed expeditiously with adequate qualified forces and shall achieve

Substantial Completion at the earliest possible date, but in no case later than within the Contract Time identified in the Contract Documents.

§ 8.2.4 Progress and supervision of the Work shall be the responsibility of the Contractor to supervise the operations of subcontractors responsible to the Contractor so as not to delay the Work.

§ 8.2.5 The progress of the Work shall conform to the Project Construction Schedule prepared by Nexus. The Contractors shall be responsible for damages incurred by the Owner and 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 conform to the Project Construction Schedule.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner, Nexus, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts and Nexus determines justify delay, then the Contract Time shall be extended for such reasonable time as Nexus may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not exclude the Owner's recovery of damages for delay under other provisions of the Contract Documents.

§ 8.3.4 Contractor shall anticipate a reasonable amount of delays due to minor changes in the work, concealed and other field conditions, whether or not specifically identified in the Contract Documents. No extension of time will be allowed for work performed under change orders up to an additional 10 percent of labor hours included in the contract.

§ 8.3.5 Upon request of Nexus, the Contractor shall submit and implement a written plan to recover the overall contract schedule.

§ 8.3.6 Upon receipt of Notice to Proceed, the Contractor shall begin construction operations and continuously and effectively prosecute the work with the least possible delay, so as to complete all contract work and all clean up within the Contract Time, taking into consideration all restrictions or limitations to construction procedures hereinafter specified.

§ 8.3.7 The Contractor shall be responsible for damages incurred by the Owner and separate Contractors for delay resulting from the Contractor's failure to complete the work within the Contract time indicated in the Agreement. Losses may include additional administrative costs, rental costs for required off-site classroom space, additional custodial costs and professional fees.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

§ 9.2.1 Where the Contract is based on a Stipulated Sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to Nexus, at least 10 days before the first Application for Payment, or in conjunction with the Contractor's submission of its construction schedule, whichever is earlier, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to

substantiate its accuracy, required by Nexus. This schedule, unless objected to by Nexus, shall be used as a basis for reviewing the Contractor's Applications for Payment. Nexus shall forward to the Owner the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to Nexus and supported by such data to substantiate its accuracy as Nexus and the Owner may require, and unless objected to, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.2.2 Update and resubmit the Schedule of Values when Change Orders result in a change in the contract sum. List Change Orders separately on the Schedule of Values.

§ 9.2.3 The Schedule of Values shall include separate mandatory line items titled "housekeeping", "bonds", "insurance", and "shop drawings" for any contractor who provides labor and/or materials as part of their contract. The value of the "housekeeping" line item shall be at least 2% of the contract, but not less than \$500. The value of "shop drawings" shall be at least 1/2% of the contract, but not less than \$500. The actual costs of bonds and insurance shall be used as cost items on the Schedule of Values. These shall serve as a form of retainage to ensure that each contractor cleans up properly and provides the required documents. Monthly billings can be made to "housekeeping" and will be approved based on contractor performance in this area of responsibility. This provision shall not limit the Owner's right to clean-up and recover associated costs, as specified in other sections of this specification. The Owner reserves the right to withhold payment for individual line items until the contractor's work on site is complete or within conformance.

§ 9.2.4 Upon request of the Owner or Nexus, the Contractor shall furnish a schedule of estimated periodic requests for payment for the Owner's financial planning guidance. The schedule shall indicate the anticipated amount that will be requested each month, taking into consideration the work schedule, expected deliveries, and the retained amount. The Contractor will not be bound to the estimated amounts, but should the actual requested amounts tend to vary substantially from the estimates, the Contractor shall revise the schedule at the request of the Owner.

§ 9.3 Applications for Payment

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Nexus an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner, or Nexus require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents. The Contractor shall indicate the percentage of completion of each portion of the Work (as defined by the schedule of values) as of the end of the period covered by the Application for Payment. Application for Payment shall be made on AIA Document G732 2019 CMA Edition and G703 1992 and shall not be made more frequently than once per month.

§ 9.3.1.1 Applications shall submit a maximum of one (1) request for payment per month to Nexus by the date noted in the Construction Documents with costs forecasted through the end of the month. Application will include all items incorporated into the project or stored (in a secure manner) on-site. This also includes updating of record drawings on a monthly basis. Applications will not be process for the month until record documents are updated.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Applications for Payment will delineate retention in the amount of five (5) percent for each line item and in total for the project through completion.

§ 9.3.1.4 Until substantial completion, the Owner shall pay ninety five (95) percent of the amount of progress payments. The Owner, in making partial payment, will retain five (5) percent of the duly approved value of the work performed under the contract as of the date of the Application for Payment until substantial completion. Within 60 days after Substantial Completion, the Owner will pay to the Contractor all the retainage less two hundred fifty (250) percent of the cost to complete the punchlist and/or repair any defective work and less one (1) percent of the final contract value which shall be released upon receipt of all final paperwork required under the specifications. The Contractor will not be paid interest on retainage amounts.

§ 9.3.1.5 An Application for Payment shall not be considered acceptance or approval of any work or waiver of any defect therein.

§ 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 and Nexus, 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 and Nexus 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. Proof of delivery and certificate of insurance covering materials and equipment stored off site shall be required to be submitted with the Application for Payment. Any application for payment not including such documentation will be rejected and resubmitted the following month upon receipt of proof of deliver and certificate of insurance.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials and equipment relating to the Work.

§ 9.3.4 Nexus shall have the right to require signed material lien waivers from all contractors' major suppliers. Names of major suppliers and the amounts due to them shall be provided at pre-award interview by all contractors."

§ 9.3.5 The contractor shall be required to submit certified wages to the Owner through Nexus with each progress pay application. Failure to submit certification will deem the application incomplete and the application will be returned to the contractor without further processing.

§ 9.4 Certificates for Payment

§ 9.4.1 Where there is only one Contractor, Nexus will, within seven days after receipt of the Contractor's Application for Payment, review the Application and the amount determined is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Owner. Within seven days after Nexus receives the Contractor's Application for Payment, Nexus will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment; or (2) issue to the Owner a Certificate for Payment for such amount as Nexus determines is properly due, and notify the Owner of Nexus' 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 Owner of Nexus' reason for withholding certification in whole as provided in Section 9.5.1. Nexus will promptly forward to the Contractor Nexus' notice of withholding certification.

§ 9.4.2 Where there is more than one Contractor performing portions of the Project, Nexus will, within seven days after Nexus receives all of the Contractors' Applications for Payment: (1) review the Applications and review the amount Nexus determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) review the amount Nexus determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Owner.

§ 9.4.2.1 Within seven days after Nexus compiles the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment Nexus will either (1) issue to the Owner a Project Certificate for Payment; or (2) issue to the Owner a Project Certificate for Payment for such amount as Nexus determines is properly due, and notify the Owner of Nexus' reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Owner of Nexus' reason for withholding certification in whole as provided in Section 9.5.1. Nexus will promptly forward notice of withholding certification to the Contractors.

§ 9.4.3 Nexus' review of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon Nexus' evaluation of the Work and the data in the Application or

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Applications for Payment. Nexus' review will constitute a representation that, to the best of Nexus' 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, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 Nexus' issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon Nexus' evaluation of the Work, and data in the Application for Payment or Project Application for Payment. Nexus' review will constitute a representation that, to the best of Nexus' 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, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 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 Nexus.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that Nexus 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 Nexus may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in Nexus' opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If Nexus is unable to certify payment in the amount of the Application, Nexus will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the Contractor and Nexus cannot agree on a revised amount, Nexus will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which Nexus is able to make such representations to the Owner. Nexus 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 or Project Certificate for Payment previously issued, to such extent as may be necessary in Nexus' opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the 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 or other 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 Nexus' decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If Nexus withholds certification for payment under Section 9.5.1, 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 Nexus, and both will reflect such payment on the next Certificate for Payment.

§ 9.5.5 If contractor defaults or neglects to carry out the work in accordance with the contract documents or fails to perform any provision thereof, Nexus may, after three (3) calendar days written notice to the contractor and without

prejudice to any other remedy it may have, make good such deficiencies. Nexus shall adjust the total contract price by reducing the amount thereof by the cost of making good such deficiencies.

§ 9.6 Progress Payments

§ 9.6.1 After Nexus has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify Nexus.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 Nexus 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 Owner, and Nexus 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 Nexus shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents. The Contractor and its Surety agree any issuance of a Contractor's Application and Certificate for Payment by the Owner, payment on the Contract Sum or in reducing any retained amount, or any use or occupancy of the Work will in no way relieve them of the obligation to completely fulfill or accomplish all obligations of the Contract, including warranty of the Work, and that they waive any actual or alleged rights of subrogation or action against the Owner or Nexus as a result of any such issuance of a Contractor's Application and Certificate for Payment, payment, or use or occupancy. At any time, the Surety, shall have the right to examine the status of the Work, as well as any payments, and may request the Owner to withhold additional sums as it considers appropriate to protect its interests.

§ 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. Where there is limited storage area on the Project Site, the Owner will consider making payment for certain materials and equipment which are stored off the site if such action will improve or benefit the progress of the Work. The Owner shall be the sole judge as to the types of materials and equipment it will pay for while in off-site storage and the conditions for the payment. Notwithstanding anything herein to the contrary, the Owner will not pay for items in off-site storage which are:

- .1 damaged or otherwise defective;
- .2 off-the-shelf type materials;
- .3 held at the producer's plant; or
- .4 produced over a period of time and normally would be installed to a schedule over a period of time as they are delivered, unless the Owner has caused a significant change in the schedule.

For consideration of payment for items stored off-site, at the start of the Work the Contractor shall submit a proposed list to Nexus for review and concurrence, state the reasons for each, the proposed storage locations and the anticipated delivery time. The list shall include:

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- .1 The item;
- .2 proposed storage location; and
- .3 anticipated delivery time to the off-site storage.

To qualify for consideration, the material or equipment shall be:

- .1 a major item;
- .2 specially fabricated or produced for the Work of this Contract and shall be in accordance with the Contract Documents;
- .3 a critical material which is in short supply or which has an uncertain long lead time delivery schedule;
- .4 properly stored and protected, as required by 9.3.3, and approved by the Owner, including marking with the Project name;
- .5 certified by the contractor, Subcontractor or supplier to be in storage and immediately available (when required);
- .6 examined by Nexus at the place of storage;
- .7 furnished at no additional cost or expense to the Owner except the time required to examine the items, unless otherwise authorized by the Owner; and
- .8 insured to the satisfaction of the Owner.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If Nexus does not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen (14) days after Nexus' receipt of the Contractor's Application for Payment, provided it has been properly submitted as specified, or if the Owner does not pay the Contractor within fourteen (14) days after the date established in the Contract Documents, the amount certified by Nexus or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner, and Nexus, 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, excluding interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 The date of substantial completion of the work of designated portion thereof is the date when construction is sufficiently complete, in accordance with the contract documents, so the Owner can occupy or utilize the work or designated portion thereof for the use for which it is intended. Minor corrective work and the replacement of defective work or materials, and the adjustment of control apparatus will not delay the determination that the Contract is substantially complete.

§ 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 notify Nexus, and Nexus and the Design Professionals shall jointly prepare and submit a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.2.1 All warranties and closeout documentation as noted in the Contract Documents must be complete, submitted and approved by Nexus prior to the Certificate of Substantial Completion being released.

§ 9.8.3 Upon receipt of the list, Nexus, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If Nexus' inspection discloses any item, whether or not included on the 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 Nexus. In such case, the Contractor shall then submit a request for another inspection by Nexus, to determine Substantial Completion.

§ 9.8.4 When Nexus, determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, Nexus will prepare, and shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be made no more than 60 days after Substantial Completion. Owner may retain either 1% of the contract value or 250% of the cost of the remaining punch list work, whichever is greater to assure completion of the punch list.

§ 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 and Nexus shall jointly prepare a list 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 Nexus.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Nexus 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 and all applicable laws, codes, ordinances, rules, regulations, and industry standards.

§ 9.9.3 The Owner reserves the right to enter into the Project at all times and make installations of equipment as work progresses and to install furnishings as space becomes substantially complete. The Contractor shall cooperate and coordinate work with the Owners own forces.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon completion of the Work, the Contractor shall forward to Nexus a notice that the Work is ready for final inspection and acceptance, and shall also forward to Nexus a final Contractor's Application for Payment. Upon receipt, Nexus shall perform an inspection to confirm the completion of Work of the Contractor. When Nexus finds the Work acceptable under the Contract Documents and the Contract fully performed, Nexus will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their 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. Nexus' final Certificate for Payment or Project 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 Nexus (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor

knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

- .1 Contractor's Affidavit of Payment of Debts and Claims, AIA Document G706;
- .2 Contractor's lien waiver in the full amount of the Contract Sum AIA Document G706a;
- .3 Lien waivers from all Subcontractors, Sub-subcontractors, and major material suppliers who have furnished material for the Work under Contract with the Contractor or a Subcontractor. The lien waivers shall be in the full amount of the contract involved;
- .4 Consent of Surety Company to Final Payment on AIA Document G707;
- .5 IC134, Withholding Affidavit for Contractor and Subcontractors and Sub-subcontractors who have Work under Contract with the Contractor.

§ 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 Nexus so confirms, the Owner shall, upon application by the Contractor, 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 Owner through Nexus 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 not constitute a waiver of Claims by the Owner, Legal or equitable rights, remedies or redress, 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.

§ 9.10.6 Contractor shall, at its own cost, defend, indemnify, and hold harmless Nexus and the Owner, its officers, agents, employees, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including attorney's fees and expenses, or any of them, arising from or attributable to a lien or stop notice filed and/or served in connection with the work.

§ 9.10.7 The Contractor and any of its Subcontractors and Sub-Subcontractors, upon completion of the project, shall fill out the Form IC-134 and send it to the Minnesota Department of Revenue for certification. The Department of Revenue will verify that the contractor has complied with all the applicable withholding laws, and if compliant, will certify the form with an official stamp, and return the form to the contractor. The contractor must submit this certified form along with the Contractors final Application for Payment to Nexus for final approval.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Nexus for review and coordination with the safety programs of other Contractors. Nexus'

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responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by Nexus.

§ 10.1.2 Each Contractor is responsible to provide an overview of its safety program, including a policy statement, description of its methods of implementing and enforcing safety measures, and its procedures for identifying/controlling hazards. Prior to first application for payment, Contractor shall provide:

- .1 A written inventory of all hazardous materials it will have on the Project Site;
- .2 A material Safety Data Sheet (MSDS) for each of the hazardous materials;
- .3 A statement on its letterhead confirming that its workers have received proper training in the handling of those hazardous materials.

§ 10.1.2 Nexus and its Design Consultants shall have no duty to discover, detect or investigate the presence of any Hazardous Materials at or near the site of the Project at any time prior to, during or after design or construction of the Project. Should the Contractor know, detect, or suspect the presence of Hazardous Materials at or near the site, the Contractor shall immediately disclose such information to the Owner and Nexus for appropriate action by the Owner, including, but not limited to, verification of the presence of hazardous materials and proper measure to deal with the Hazardous Materials.

§ 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

- .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;
- .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; and
- .4 construction or operations by the Owner, Separate Contractors, or other Contractors.

§ 10.2.2 The Contractor shall comply with, and give notices in all respects to the Contract Documents, applicable laws, statutes, ordinances, codes, rules and regulations, industry standards, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss. The Contractor shall be directly responsible to and shall reimburse and compensate any person or entity, including the Owner, for any damage, injury or loss caused by any actions or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable in failing to comply with 10.2.

§ 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 and shall give to the Owner and Nexus reasonable advanced notice of such activities.

§ 10.2.5 The Contractor shall promptly remedy damage and loss to property referred to in Paragraph 10.2 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 Paragraph 10.2. 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 Nexus or anyone directly or indirectly employed by either of them, or by anyone for whose acts any 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 Nexus.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.2.9 The Contractors shall send written notices, make necessary arrangements, and provide services required for the care of gas mains, water pipes, steam pipes, sewer pipes, telephone and telegraph conduits, cables and other equipment or property, assuming responsibility and paying costs for which the Owner may be liable. The Contractor shall consult the Public Service Companies' records to determine the locations and extent of utilities. Existing services shall be maintained without interruption unless new services are provided.

§ 10.2.10 Contractor shall, at all times, protect the excavation trenches, and the building from damage from rainwater, spring water, ground water, backing up of drains and sewers, and all other sources of water. The Contractor shall provide all pumps and other equipment and bail out all water and all enclosures to provide this protection. Contractor shall construct and maintain all necessary temporary drainage and do all pumping necessary to keep the excavation and basement free of water. Pumping of other than the building excavations shall be the responsibility of the Contractor doing the Work.

§ 10.3 Hazardous Materials

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Nexus of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Nexus 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 Nexus will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor or Nexus has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and Nexus have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Nexus, their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

§ 10.5 Miscellaneous General Provisions

§ 10.5.1 The requirements under 10.5, Miscellaneous General Provisions, shall be considered as minimum requirements and shall not be construed to limit the amount of protection required to safeguard all persons and property, nor construed as directing or establishing the Contractor's methods or responsibilities.

§ 10.5.2 Each Contractor shall provide and maintain adequate fire extinguishers in and around the construction area, available to all workers, but shall not use extinguishers that are to be installed in the Work.

§ 10.5.3 The Contractor shall provide visual barrier at installed glass which conceivably could be walked into or otherwise damaged. After removal of the visual barrier the Contractor shall clean all glass and replace any glass that has been scratched or otherwise damaged.

§ 10.5.4 The Contractor shall provide and maintain guard lights at barricades, railings, obstructions in streets, roads or sidewalks and at trenches or pits, including at those adjacent to existing buildings, public roads, walks, and similar locations where a hazard may exist. The Contractor shall provide and maintain suitable barricades or fences around excavations, including trench excavations, excavated by contractor or subcontractors.

§ 10.5.5 As may be applicable to the Project and to the Work, the Contractor shall provide and be responsible for:

- .1 protection of equipment, materials, supplies and Work to prevent any damage, including from freezing, thermal shock, heat, water and other damaging elements;
- .2 providing proper and adequate drainage (temporary and permanent) of the site in connection with work of this Contract; damage to property as a result of work or operations under this Contract, including but not restricted to:
 - a. damage from water, excavation, underpinning, removal or changing of structural supports; collapse or other failure to the Project resulting from the Contractor's acts, operations or work, including water undermining or creating pressure on the construction;
 - b. pumping of water from work areas and excavations of this Contract, and spaces built, constructed or opened up under the Contract.
- .3 If necessary, installing temporary heat or dehumidification to keep the spaces dry;
- .4 Providing protection and planking on finished floors and other finished surfaces where work is being done by the Contractor or subcontractors;
- .5 Closing and protecting all holes or openings through walls, floors and roofs that are cut or built by the Contractor or its subcontractors, and which will admit water to interior spaces during the construction period or will create a potential safety hazard;
- .6 Removal of snow to accomplish the Work;
- .7 Keeping premises in neat and orderly condition;
- .8 Eliminating fire hazards.

§ 10.5.6 As may be applicable to the Project and to the Work, the Contractor shall be responsible for the following;

- .1 providing safe and adequate stairways (temporary and permanent) for the use of all trades;
- .2 maintaining access to the site;
- .3 proper protection by heating of an enclosed building during cold weather;
- .4 ventilation of an enclosed building to remove humidity;
- .5 protection for trees and other similar features, which are to remain, from damage from operations in connection with Project, by boxing tree trunks and setting up barricades at sufficient distance to prevent damage to branches;
- .6 complete water integrity of the Project and particularly roof areas, including watching operations of others to insure no damage to the water integrity;
- .7 after the roof deck is placed, the removal of accumulated snow and ice within a building, which generally shall be hauled out (not melted), unless it is a minor amount, as approved by Nexus.

§ 10.5.7 Any work on the roof, after roofing has been installed, shall be done over planking, plywood or other suitable protection, to spread loads under roof walkways and at all work areas, including around ventilating bases with protection provided by the Contractor.

§ 10.5.8 The Contractor and each subcontractor shall provide storage and enclosures to protect and preserve the materials stored at and off the site. Materials such as wood, metal, cement, masonry materials, equipment of any type, conduit and similar materials, shall not be set directly on ground. Coverings shall be durable, watertight, fully cover sides as well as top, substantial and well anchored to prevent blowing away. Shed type of enclosures shall be provided for easily damaged and small items. Any protection which becomes damaged shall be replaced immediately.

§ 10.5.9 Without exception, fan units and all other equipment with bearings or similar working parts shall be set on supports above the ground and snow and shall be enclosed with substantial well secured waterproof protection.

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. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) Nexus, Nexus' Design Consultants, and the Owner, 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 during the Contractor's completed operations.

§ 11.1.1.1 The Contractor shall purchase such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.
- .9 Liability Insurance shall include all major divisions of coverage and be on a comprehensive basis including:

- a. General Liability Insurance for Bodily Injury and Property Damage.
- b. Products and Completed Operations
- c. Personal Injury and Employee Benefits Injury.
- d. Owner, non-owned and hire motor vehicles.
- e. Umbrella/Excess Liability.
- f. Pollution Liability.

§ 11.1.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment and, with respect to the Contractor’s completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. The insurance required by Subparagraph 11.1.1 shall be written for not less than the following, or greater if required by law:

WORKMANS COMPENSATION:	
State	Statutory
Applicable Federal (ie. Longshoreman’s)	Statutory
EMPLOYERS LIABILITY	
Bodily Injury by Accident	\$ 1,000,000.00
Bodily Injury by Disease Policy Limit	\$ 1,000,000.00
Bodily Injury by Disease - Each Employee	\$ 500,000.00

Comprehensive General Liability written on an occurrence basis (including Premises-Operations; Independent Contractor’s protective; Products and Completed Operations; Broad Form Property Damage):

COMPREHENSIVE GENERAL LIABILITY	
General Aggregate	\$ 2,000,000.00
Products/Completed Operations Aggregate	\$ 2,000,000.00
Personal Injury & Advertising Injury	\$ 1,000,000.00
Each Occurrence	\$ 1,000,000.00
Fire Damage Limit	\$ 50,000.00
Medical Payment	\$ 5,000.00

Property Damage Liability insurance will provide explosion, collapse and underground coverage’s where applicable.

CONTRACTUAL LIABILITY	
General Aggregate	\$ 1,000,000.00
Products/Completed Operations Aggregate	\$ 1,000,000.00
Personal Injury & Advertising Injury	\$ 1,000,000.00
Each Occurrence	\$ 1,000,000.00
Fire Damage Limit	\$ 50,000.00
Medical Payment	\$ 5,000.00
PERSONAL INJURY	
Each occurrence	\$ 1,000,000.00
COMPREHENSIVE AUTOMOBILE LIABILITY	
Combined Single Limit	\$ 2,000,000.00
COMMERCIAL UMBRELLA	
Minimum Limit	\$ 5,000,000.00
PROFESSIONAL LIABILITY	

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Per Occurrence	\$ 3,000,000.00
Aggregate	\$ 3,000,000.00
CONTRACTORS POLLUTION LIABILITY	
Per Occurrence	\$ 1,000,000.00
Aggregate	\$ 2,000,000.00

§ 11.1.1.3 Certificates of insurance acceptable to the Owner shall be submitted to Nexus for transmittal to the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.1.2. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness. The form of the Certificate shall be ACORD Form - current edition. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage or limits.

§ 11.1.1.4 The insurance set forth in these documents is the minimum insurance required. Any additional coverages that may be necessary to further protect the contractor are the sole responsibility of the contractor.

§ 11.1.2 Performance Bond and Payment Bond

§ 11.1.2.1 The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising hereunder. Bonds must be obtained through a corporate surety authorized in the state of Minnesota and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to 100% of the Contract Sum. The form of the bond shall be AIA document A312. The standard language of this document shall be altered to be consistent with the notification requirements in regards to termination of contract or correction of work.

§ 11.1.2.2 For contracts exceeding \$10,000 in value (excluding materials only suppliers) the Contractor shall furnish the specified bonds. Separate performance and labor and material payment bonds shall be provided.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice directly to the Owner, and Nexus, of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act 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 the Owners usual liability insurance. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Property Insurance

§ 11.2.2.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered,

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whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project. The deductible on the policy shall be \$25,000 and the Contractor shall pay all cost not covered because of such deductible. Owner will carry All-Risk Builder's Risk Insurance. If "All-Risk" Builders Risk Policy and endorsements carry deductible features, such deductions shall be guaranteed by the Owner to the Co-Insured's. "Integral" shall be interpreted to mean that which is necessary to complete. Policies shall carry "permission to occupy" endorsements. Owner's All-Risk Builder's Risk insurance will allow for payment of materials stored off-site up to, but not exceeding, \$25,000

§ 11.2.2.2 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Nexus' services and expenses required as a result of such insured loss.

§ 11.2.2.3 Such Builders Risk policy shall allow for partial occupancy by the owner prior to completion of the project. Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.2.2.4 The Owner and all contractors agree to waive all rights of subrogation against each other for all losses covered by the Builders Risk coverage.

§ 11.2.2.5 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.2.2.6 The insurance set forth in these documents is the minimum insurance required. Any additional coverages that may be necessary to further protect the contractor are the sole responsibility of the contractor.

§ 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 directly to the Contractor, and separately to Nexus, 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 the Subcontractors, agents and employees each of the other, and (2) the Design Professionals, its consultants and separate contractors, and (3) Nexus, its consultants and separate contractors if any, and any of their sub-contractors, sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by insurance obtained pursuant to this Paragraph 11.3 or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance held by the Owner as trustees. The Owner or the Contractor, as appropriate, shall require of separate contractors, Sub-contractors and Sub-subcontractors by appropriate agreements, written where legally required for validity, similar waivers, each in favor of all other parties enumerated in this Subparagraph 11.3.1

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment

property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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, Nexus and Nexus' Consultants 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 Nexus, and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Nexus, and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.5.3 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.5.4 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or distribution of insurance proceeds in accordance with the direction of the arbitrators.

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 Nexus' request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their 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 Nexus has not specifically requested to examine prior to its being covered, Nexus may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract

Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by Nexus or Nexus' Consultants or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for Nexus and Nexus's Consultants services and expenses made necessary thereby, shall be at the Contractor's expense. The corrective work shall conform in the aspects with the original intent of the Contract Documents

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition.

During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, or Nexus, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner, Separate Contractors, or other Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the substantive and procedural laws of the State of Minnesota and all forums for the resolution of claims or disputes shall be Minnesota forums.

§ 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, Nexus, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give Nexus timely notice of when and where tests and inspections are to be made so that Nexus Design Professional may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If Nexus, Design Professional, 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, Nexus will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to Nexus of when and where tests and inspections are to be made so that Nexus may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for Nexus' and Design Professionals 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 Nexus.

§ 13.4.5 If Nexus or Design Professional is to observe tests, inspections, or approvals required by the Contract Documents, Nexus or Design Professional 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 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity or to an officer of the corporation for which it was intended; or if delivered at or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving

notice. All written notices shall also be delivered via electronic mail to the electronic mail address designated by the parties representative.

§ 13.6 Time Limits on Claims

The Owner and the Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law. The Owner and the Contractor waive all claims and causes of action not commenced in accordance with this Section 13.6.

§ 13.7 Equal Opportunity

Pursuant to Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, you are advised that under the provisions of government contracting and in accordance with these laws, contractors and subcontractors are obliged to take affirmative action to provide equal employment opportunity without regard to race, color, religion, national origin, age, sex, physical or mental disability, or status as a special disabled veteran or veteran of the Vietnam era.

§ 13.8 Out of State Contractor

Out-of-State Contractor with contract greater than \$100,000 shall file a Form SD-E (Exemption from Surety Deposits for Out-of-State Contractors with the Minnesota Department of Revenue). If no exemption is given eight (8) percent of each application for payment will be withheld as surety and deposited with the Department of Revenue.

§ 13.9 Owner Use or Occupancy of the Premises

§ 13.9.1 The Owner reserves the right to jointly use the premises with the Contractor in the performance of its duties and functions as set forth in the Contract Documents. The Owner reserves the right reasonably to:

- .1 enter into the Project and premises at all times;
- .2 make installations of materials and equipment at appropriate times as the Work progresses;
- .3 store property in essentially completed areas;
- .4 install furniture and furnishings when spaces are at appropriate stages of completion; and
- .5 use the premises for other similar activities.

The Contractor and Owner shall coordinate the Work with the work of the Owner and other contractors and shall cooperate so as not to unduly interfere with one another. Such activities shall not be construed as occupancy.

§ 13.9.2 If any part, unit, or the entire Work or Project is Substantially Complete or ready for occupancy, the Owner may, upon reasonable notice to the Contractor, enter into and make use of the Work that is Substantially Complete or otherwise suitable for the Owner's purposes.

§ 13.9.3 If the Work is not complete at the time required by the Contract, but the Work is to a state of readiness to permit partial or full use or occupancy by the Owner, the Owner reserves the right, upon reasonable notice to the Contractor, to enter into and make use of those parts that are suitable for its needs. The Contractor shall cooperate with and coordinate its operations in completing the Work with the Owner to minimize disturbance of the Owner's programs and functions.

§ 13.9.4 The Owner's beneficial use or occupancy, as provided for in 9.8.1 through 9.9.1, shall not be construed as acceptance of the Work or of any of its materials or equipment. Such use and occupancy shall be subject to any corrections, deficiencies, damage, or omissions noted. Damage occurring after occupancy, not caused by the Contractor, will be the responsibility of the Owner or other contractor causing the damage.

§ 13.9.5 Upon substantial completion and occupancy by the Owner, complete and usable facilities of light, power, exits, heat, ventilation, air conditioning, utilities, toilets, and similar facilities necessary for safety, comfort, and Owner's functions shall be available at all times, so the Work can be used without hazard, discomfort, or inconvenience. After such occupancy by the Owner, its programs, functions, or normal use shall not be unnecessarily interrupted or interfered with, and unnecessary inconvenience will not be permitted. The Contractor shall schedule and arrange the Work with the Owner to accomplish this objective.

§ 13.9.6 If the Work is not completed within the Contract Time and the Owner does occupy as permitted by subparagraph 13.8.3, that work which would interfere with occupancy shall be scheduled on weekends, or other times

when the Work is not in use without additional cost to the Owner. The Contractor will be allowed reasonable access to the areas as necessary to complete the Work. All operations and activities relating to electrical, heating, air conditioning, ventilation, plumbing services, and phases shall be accomplished in accordance with a sequence schedule planned with the Owner so that complete facilities are maintained.

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 Nexus 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, 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 fourteen (14) days' notice to the Owner and Nexus, 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 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 Nexus, 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.
- .5 fails to make satisfactory progress in performing all of the Work for a period of three (3) business days
- .6 Becomes insolvent, files a petition in Bankruptcy, shall be adjudicated bankrupt, shall make a general assignment to the benefit of its creditors, or shall be unable to pay its debts as they generally become due.
- .7 suspends its business operations or otherwise fails to operate its business in the ordinary course.
- .8 files a bankruptcy petition or has a bankruptcy action commenced against it that is not discharged within 30 days of commencement of same, makes an assignment for the benefit of its creditors, has a receiver appointed to manage the Contractor's assets or otherwise is or becomes insolvent.
- .9 fails to maintain schedules as required by the Contract Documents, or fails to comply in a material way with design requirements of the Contract Documents, or persistently fails to perform the work in accordance with the Contract Documents.
- .10 Subcontractors or Sub-subcontractor fails to perform or to maintain the progress schedule. Owner reserves the right to remove any and all Contractors, Subcontractors or Sub-subcontractors for failure to perform work the requirements of the construction schedule. Contractor will be provided one (1)

three-day notice to correct Subcontractor performance, after such time the Contractor must either terminate the non-performing Subcontractor or Sub-subcontractor and replace with another Subcontractor or Sub-subcontractor or the Contractor will be considered in default. Owner reserves the right, through Nexus, to terminate and/or supplement not performing Contractors, Subcontractors, and Sub-Subcontractors at the expense of the Contractor, after proper notice has been served.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with Nexus that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds the direct and indirect consequential cost of completing the Work (including but not limited to fees and charges of Nexus, Nexus' Consultants, attorneys and other professionals and court and arbitration costs) 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. When exercising any rights or remedies under this paragraph, the Owner shall not be required to obtain the lowest price for the Work performed. 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 the Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent:

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of this 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. Termination by Owner under the Paragraph shall be by written notice give to Contractor, specifying the extent of termination and the effective date.

§ 14.4.2 Upon receipt of written 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 Place no further orders and enter into no further subcontracts for materials, labor, services or facilities to the extent that they relate to terminated Work;
- .3 Unless otherwise specified, terminate all subcontracts and orders to the extent that they relate to Work so terminated;
- .4 Complete the performance of Work not terminated; and
- .5 Take such other actions as may be necessary or requested by Owner for the protection and preservation of the terminated Work

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to Nexus, if Nexus is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. Nexus will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 **Claims for Additional Cost.** If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

(Paragraphs deleted)

§ 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. Nexus will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties, and Nexus, , if Nexus is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days of receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation. 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.

(Paragraphs deleted)

ARTICLE 16 ADDITIONAL DEFINITION

§ 16.1 Additional Definitions

(Paragraph deleted)

§ 16.1.1 Reviewed, accepted, approved, satisfactory, equal to, proper, as directed and similar terms: These shall mean the decision rests with Design Professional, whose decision shall be final and binding upon the Contractor and Subcontractors.

(Paragraph deleted)

§ 16.1.1 Project, Work, Job: In the technical sections or on the drawings, these terms may be used interchangeably and are synonymous. They shall mean the facility, construction and/or improvement within the intent and scope of the Contract Documents. The terms shall mean the entire facility, or separable parts as appropriate to the use of the term, including that under subcontract where applicable, and includes labor, materials, equipment, services and skill.

§ 16.1.1 Notice to Proceed: This shall mean verbal or written notice by the Owner or Nexus to the Contractor to commence Work of the Contract, issued either before or after execution of the Contract. If verbally given, and the Contractor requests, the notice shall be confirmed in writing. In issuing the Notice, stipulations may be included as to time and other requirements that may condition commencement of the Work.

(Paragraph deleted)

§ 16.2 Use of Drawings and Specifications

(Paragraph deleted)

§ 16.2.1 During construction, the Contractor shall examine and use all Specifications and Drawings for the Project, including those that may primarily pertain to other work the Contractor normally does not perform with his own forces. The Contractor shall use all of the Project Drawings and Specifications: for a complete understanding of the Project and the Work; to determine the type of construction and systems; for coordination; to determine what other work may be involved in various parts or phases; to anticipate and notify others when work will be required; and all other relevant matters related to the Project. The Contractor shall also be bound by all the requirements to complete his Work, that are applicable to, pertain to, or affect the Work, as may be shown or inferred by the entire set of Drawings and Specifications.

§ 16.3 Periodic Payment Estimate

(Paragraph deleted)

§ 16.3.1 When required by the Owner to establish a schedule of money available to make payment of periodic Applications for Payment, the Contractor shall provide an estimate, by months, of the anticipated amounts for each periodic payment. The retained percentage shall be considered in the estimate schedule, as well as anticipated job progress and materials delivery. The schedule will be deemed an estimate only, for financial planning purposes, and the Contractor shall not be bound to conform to the schedule. The schedule may be required by the Contract Documents or requested by the Owner after Contract execution.

§ 16.4 Layout of the Work

§ 16.4.1 The Contractor shall employ a qualified engineer or registered surveyor to stake out and locate the construction, locate property markers and other points as needed to properly locate the Work under this Contract, locate all significant corners of each unit, roads and parking areas, locate pertinent features of the site and establish necessary references and bench marks, all of which the Contractor shall preserve.

(Paragraph deleted)

§ 16.4.2 The Contractor shall recognize that the drawings necessarily are diagrammatic, in many instances. All work and in particular, exposed piping, ducts, conduit and similar items shall be neatly and carefully laid out to provide the most useful space utilization and the most orderly appearance. Except as otherwise indicated or directed, piping and similar work shall be installed as close to ceilings and walls as conditions permit, located to prevent interference with other work or with the use of the spaces in the manner required by the functions of the room and the Owner. Valves shall be located in inconspicuous but accessible places. Before proceeding with any work, particularly where exposed, the Contractor shall carefully plan the layout and review it with Nexus for acceptability of location

§ 16.4.3 The Contractor shall verify grades, lines, levels and dimensions shown on drawings and report any errors or inconsistencies to Nexus for decision before commencing work. The Contractor and Subcontractor shall be responsible for the correct location, dimensions and elevations of his Work. As the Work progresses, the Contractor shall be responsible for the layout of the exact location of all partitions and similar features, as guide to all trades.

§ 16.5 General Quality of Work, Installation and Operation

§ 16.5.1 All of the Work shall be strictly first quality, in materials, erection, installation and workmanship.

§ 16.5.2 The Contractor shall request interpretations from The Design Professionals through Nexus for the following: Work indicated on the Drawings or specified in such a manner as to make it impossible to produce Work of the highest quality within the space shown; possibilities of damaging effects of expansion and contraction; discrepancies found between Drawings or between Drawings and Specifications. If the Contractor does not request such interpretation, no excuse will be entertained thereafter for failure to carry out and guarantee the Work in a satisfactory manner. Elements of the Work intended to protect against the weather shall be guaranteed weatherproof and watertight.

§ 16.5.3 Proper performance of the Contract shall imply correct and proper placement, proper or published results for products and equipment, fitting and operation of fixed or movable and operating parts of the Work, including doors, windows, hardware and all systems and equipment. Materials and equipment shall be complete in every respect, with parts, connections, anchors, devices, backing, fittings and other necessary items, and shall be completely installed, anchored, fitted and placed in operating condition. Before buying, constructing or installing work, the Contractor shall notify Nexus of conditions which exist in the Contract Documents which will adversely affect proper operation or first quality installation.

§ 16.5.4 Throughout Project, accommodate various materials and pieces of equipment that are fitted to other materials and equipment and various materials that are applied to which other materials attach. Take all reasonable precautions to ensure materials, devices, items, equipment or other products can be satisfactorily applied or installed to each other or work of others and make necessary adjustments during preparation of shop drawings or in advance of field or shop work to accommodate other work.

§ 16.5.5 Materials or equipment shall be installed or applied according to directions of the manufacturer or recommendations of an association dealing primarily with materials, unless specifically designated otherwise. In no case shall installation, including any temporary work necessary (e.g. shoring), be below standard recommended by manufacturer. Where specified requirements exceed the manufacturer's standards, the specification shall govern. Fabrication (including reinforcing and accessories) and installation shall be provided to ensure proper placement and use of the item or material under the location, use, condition and available space to serve intended function and to meet code requirements. Equipment and devices shall be provided and installed to "fail safe" under normal operating conditions and it shall be Contractor's obligation to provide and install work in such manner.

§ 16.6 General Fire Safety

§ 16.6.1 The Contractor shall exercise extreme care to maintain and exercise adequate fire safety precautions throughout construction. This shall include providing sufficient devices, watchmen, standby helpers or other precautions during construction, in use of temporary heat, welding, brazing, sweating, testing or other phases or work.

Init.

Welding, brazing, cutting and sweating operations performed in vicinity of, or accessible to, combustible materials shall be adequately protected to make certain that sparks or hot slag do not reach the combustible materials and start a fire. Glass and glazed material shall be masked from splatter. When necessary to do cutting, welding, brazing, sweating, in vicinity of wood, or combustible material (and the combustible material cannot be removed), the materials shall be adequately protected with fireproof coverings. In addition, a helper shall be stationed nearby with proper fire extinguishers to guard against sparks and fire.

§ 16.6.2 Whenever combustible materials have been exposed to sparks, molten metal, hot slag or splatter, a person shall be kept at the place of work for at least two hours after completion to make sure that smoldering fires have not been started. Whenever cutting or welding operations are carried on in a vertical pipe shaft, a man to act as a fire guard shall be employed to examine floors below the point of cutting or welding. This fire guard shall be kept on duty at least two hours after completion or work to guard against fires and he shall examine each level after this time, prior to leaving.

Additions and Deletions Report for AIA[®] Document A232[™] – 2019

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PAGE 1

Nexus Solutions, LLC
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

...

(Name, legal status, and address)

Independent School District 108
531 Morse Street
Norwood Young America, MN 55368

...

THE ARCHITECT: PROGRAM MANAGER:

...

Nexus Solutions, LLC
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

PAGE 2

4 **ARCHITECT AND CONSTRUCTION MANAGER****NEXUS**

...

15 **CLAIMS AND DISPUTES**

16 **ADDITIONAL CONDITIONS**

PAGE 3

§ 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. Nexus. The Contract Documents include all Documents which are part of and all forms required or specified in, this Project Manual. Including but not limited to: all Introductory Information, Bidding Requirements, Contract Forms, Conditions of the Contract, Addenda (as defined in the Instructions to Bidders), and all divisions comprising the Specification.

§ 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 Nexus or Nexus' consultants,~~ (2) between the Owner and ~~the Construction Manager or the Construction Manager's consultants,~~ (3) ~~between the Owner and the Architect or the Architect's consultants,~~ (4) ~~between the Contractor and the Construction Manager or the Construction Manager's consultants,~~ (5) Nexus' consultants, (3) between the Contractor and Nexus or Nexus' consultants, (4) between the Owner and a Subcontractor or Sub-subcontractor (6) ~~between the Construction Manager and the Architect, or~~ (7) Sub-subcontractor, or (5) between any persons or entities other than the Owner and Contractor. ~~The Construction Manager and Architect Nexus and Nexus' Consultants shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their 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. Use of the words "produce", "provide", "furnish" or "install" where appropriate shall, also include "furnish and install".

...

§ 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by ~~the Architect and Construction Manager.~~ Nexus.

§ 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by ~~the Architect and Construction Manager.~~ Nexus.

...

§ 1.1.9 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 Nexus and Nexus' consultants~~ under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials. The Project Manual includes all Addenda (as defined in the Instructions to Bidders) properly issued by Nexus and Nexus' Consultants.

PAGE 4

§ 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. Execution of the Contract by the Contractor is a representation that the contractor has:

- (a) visited the site and investigated the nature and location of the Work, and the general and location conditions which can affect the Work or its cost.
- (b) examined the Bidding Documents in relation to each other and to the Project site, the structure and condition of the ground, the obstacles which may be encountered, and all other conditions having bearing upon the performance of the Work, supervision of the Work, existing conditions, time of completion, cost and all other relevant matters.

- (c) carefully studied and compared the Bidding Documents with each other and has obtained clarification for all inconsistencies, errors, omissions or other conditions having a bearing upon the performance of the Work, supervision of the Work, time of completion, costs and all other relevant matters.

§ 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. In the event of conflicts or discrepancies among the Contract Document, interpretations will be based on the following priorities;

- (a) the Agreement,
(b) Change Order and supplementary instructions,
(c) Addenda, with those of later date having precedence over those of earlier date,
(d) General Conditions of the Contract for Construction,
(e) Drawings and Specifications.

In the case of an inconsistency between Drawings and Specification or within either Document not clarified by addendum or supplementary instruction, the better quality or greater quantity of Work shall be provided in accordance with the Design Professionals interpretation.

§ 1.2.4 Wherever a provision of a Section of the Specifications conflicts with any agreements or regulations in force among members of a Trade Association, Union, or Council, which regulates or distinguishes what work shall or shall not be included in the work of any particular trade, the contractor shall make necessary arrangements to reconcile such conflicts without cost to the owner and without recourse to Nexus, or the Owner. Where the Specification has been divided into sections, it is for convenience in use. Nexus assumes no responsibility for proper placement of phases of the Work into the proper division or section or the arrangement of Work shown on the Drawings. Nexus shall not be obligated to enter into jurisdictional or other disputes as a result of the organization, arrangement or location of parts of the Work in Specifications or on Drawings, nor to serve as arbiter to establish subcontract limits. Unless otherwise specified, the scope of work of each section shall be to furnish labor, materials, equipment, skill, erection, installation, services and related items for the phase of work of that section, as required by the Drawings, as specified or as otherwise required to provide and complete the entire work of the section. Wherever a provision of a Section of the Specifications conflicts with any agreements or regulations in force among members of Trade Association, Union or Council, which regulates or distinguishes what work shall or shall not be included in the work of any particular trade, the Contractor shall make necessary arrangements to reconcile such conflicts without delay, damage or cost to the Owner and without recourse to Nexus or the Owner.

§ 1.2.5 The general character and scope of the Work is called for by the Contract Documents. Where a portion of the Work is fully drawn and the remainder is merely indicated, the portion fully drawn shall apply to all similar parts of the Work. Drawings intended primarily as information for one trade may not necessarily show the work of other trades, which shall not be construed as there being no related materials or adjacent work.

§ 1.2.6 Figured dimensions shall be followed in preference to measurement by scale. In the event of discrepancies between Drawings, between Drawings and Specifications or between Specifications, the intent shall be interpreted by Nexus, which shall be binding on the Contractor. Where a dimension may be missing, the Work shall be accomplished in accordance with the directions and dimensions provided by the Design Professional. Dimensions on Drawings, as well as detail Drawings themselves, are subject in every case to measurements of existing, adjacent, incorporated and completed work which shall be taken by the Contractor before undertaking any work dependent upon such data. Dimensions pertaining to the Work shall be verified at site by Contractor.

§ 1.2.7 The Contract Documents generally do not set forth the basis for or the analysis of design. The Contractor is obligated to obtain or ascertain the intent where it is necessary for proper execution and satisfactory completion of the Work.

§ 1.2.8 Where Specifications are of the abbreviated or "streamlined" type, they shall be construed as complete sentences, as shall notes on the drawings. Omission of words such as "the", "the Contractor shall", and "as shown on the drawings" is intentional. The words "shall" or "shall be" are to be supplied by inference. Imperative or directive

instructions, directions or specifications apply and refer to the Contractor. The words "symmetrical" and "similar" are used in the general sense and need not mean "identical".

§ 1.2.9 Where a number is specified (as for gauges, weights, temperatures, an amount of time, and similar references) and the specified number cannot be obtained, the number shall be interpreted as the next better, as available.

§ 1.2.10 Standard Specifications rules, codes, instructions, recommendations and references referred to in the Project Specifications shall be the latest edition unless a specific edition is specified. If standard specifications are revised prior to completion of any part of the work to which such revisions would pertain, the Contractor may, if approved by Nexus, perform such work in accordance with the revised specifications. Standard specifications, except as modified in the Project Specifications, shall have full force and effect as though included in the Project Specifications.

§ 1.2.11 Sections of Division 1 General Requirements govern the execution of all sections of the specifications.

§ 1.2.12 In case of conflict in or between drawings and specifications, the contractor will be deemed to have estimated on, and agreed to provide, the greater quantity or better quality of materials and work unless they shall have, before submission of bid, asked for and obtained written decision through addendum of the Design Professional as to which method or materials will be required.

PAGE 5

§ 1.5.1 The Architect and the Architect's Nexus and Nexus' 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' Nexus and Nexus' Consultants reserved rights.

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

PAGE 6

§ 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. term "Owner" or "School District" Means:

INSERT DISTRICT SPECIFIC INFORMATION HEREIndependent School District 108
531 Morse Street
Norwood Young America, MN 55368

This includes designated representatives, successors and assigns. 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 Construction Manager and the Architect ~~do~~ Nexus does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

authorized representative. Unless otherwise indicated, all papers and formal written notice required to be delivered to the Owner, shall be delivered to the Owners Construction Program Manager, Nexus Solutions, LLC.

§ 2.2 Evidence of the Owner's Financial Arrangements

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

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

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

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

§ 2.1.3 The Term "Construction Program Manager (CPM)" or "Construction Manager (CM) or "Nexus" means:

Nexus Solutions, LLC.

6885 Sycamore Lane North, Suite 200

Maple Grove, MN 55369

§ 2.1.4 The Term "Design Professional" means:

Architect

Hay Dobbs

2324 University Avenue W., Suite 200

St. Paul, MN 55114

Structural Engineer

Sandman Engineering

10900 Noble Avenue North

Champlin, MN 55316

Civil Engineer

Larson Engineering

3524 Labore Road

White Bear Lake, MN 55110

Mechanical Engineer
Nexus Solutions, LLC.
6885 Sycamore Lane North, Suite 200
Maple Grove, MN 55369

Electrical Engineer
JB Electrical Design
6885 Sycamore Lane N., Suite 220
Maple Grove, MN 55369

Food Service Consultant
LJG Design, LLC
6451 Pleasant Park Dr.
Chanhassen, MN 55317

Building Envelope Restoration
Inspec
5801 Duluth Street
Minneapolis, MN 55422

Theater Lighting/Sound
Electronic Design Company
3225 East Hennepin Avenue
Minneapolis, MN 55413

§ 2.1.5 At the Commencement of the Work, Additional representatives of the School District will be identified to the Contractor by name, function, and authority with respect to the Project.

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Unless otherwise provided under the Contract Documents, the Owner, assisted by the Construction Manager, shall secure and pay for the building permit.

§ 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 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.

§ 2.3.5 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. Within 20 days of receipt, the Contractor is required to review any materials (such as surveys, soil borings, existing structures and conditions, locations of utilities, etc.) furnished by the Owner and notify the Owner of the discovery or any

inaccuracy. The furnishing of this material by the Owner shall not relieve the Contractor of its responsibilities under the Contract Documents.

PAGE 8

§ 2.3.7 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. Contractor shall be furnished one copy of the Drawings and Project Manual. Additional sets will be furnished at the cost of reproduction, postage and handling to be paid by the Contractor.

§ 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager, Nexus. Other communication shall be made as set forth in Section 4.2.6.

§ 2.3.8 The Plans and Specifications are subject to the approval of certain state agencies (eg. State Department of Education, State and/or Municipal Building Codes Division, etc.) Contractor is advised that approvals may occur after receipt of bids. Approval and Notice of Contract Award may be subject to final approval of state agencies.

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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 or Nexus 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 review by ~~the Construction Manager and prior approval of the Architect, and the Construction Manager or Architect and prior approval of Nexus, and Nexus' Consultants~~ 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 Construction Manager's and Architect's and their Nexus and Nexus' respective consultants' additional services~~ made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or ~~the Architect, Nexus,~~ or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

PAGE 9

§ 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 Construction Manager or Architect Nexus or Nexus' Consultants in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

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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 shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner, and 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 Construction Documents before commencing activities. The Contractor shall at once report to Nexus and Owner any errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner or Nexus for damages resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized, or should have recognized such error, inconsistency or omission and failed to report it to Nexus and the Owner. If the Contractor performs any construction activity involving such error, inconsistency, or omission in the Contract Documents without notice to Nexus and Owner, the Contractor shall assume responsibility for such performance and shall be liable for the amount of the attributable costs for correction and any other resulting damages.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.5, 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 Construction Manager and Architect~~ Nexus any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information submitted to ~~the Construction Manager~~ Nexus in such form as ~~the Construction Manager and Architect~~ Nexus may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 ~~The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Construction Manager and Architect any nonconformity discovered by or made known to the Contractor as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require.~~ shall perform the Work in Accordance with the Contract Documents, submittals accepted pursuant to Paragraph 3.12, the general design intent reasonably inferable from the Contract Documents, and all applicable laws, codes, ordinances, rules, regulations and industry standards.

§ 3.2.3.1 The Contractor shall review specified construction and installation procedures (including those recommended by manufacturers) prior to implementation and shall advise Nexus in writing (1) if the specified procedures deviate from good construction practice, (2) if following the procedures will affect warranties and (3) of any objections the Contractor may have to the procedures.

§ 3.2.3.2 If the Contractor is uncertain as to the interpretation or the design intent or the Construction Documents, the Contractor shall be responsible to request in writing an interpretation from Nexus, in accordance with Subparagraphs 4.2.11 and 4.2.12.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions ~~the Architect~~ Nexus issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or ~~Architect~~ Nexus 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.

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§ 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.~~ procedures, complying with all applicable laws, codes, ordinances, rules, regulations, and industry standards. 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, the Construction Manager, and the Architect,~~ Owner and Nexus, and shall propose alternative means, methods, techniques, sequences, or ~~procedures.~~ procedures, complying with applicable laws, codes, ordinances, rules and regulations and industry standards. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. ~~The Construction Manager~~ Nexus shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless ~~the Architect or the Construction Manager~~ Nexus objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or ~~procedures.~~ procedures, complying with all applicable laws, codes, ordinances, rules, regulations, and industry standards.

§ 3.3.1.1 Safety is solely the responsibility of the Contractor to possess/implement/monitor a safety program in accordance to public contract law along with OSHA rules and regulations. Although the Nexus advises the Owner, the Owner reserves the right to stop the work due to safety concerns.

§ 3.3.1.1 The Contractor and authorized representatives shall attend all meetings as requested and scheduled by the Nexus or the Owner.

PAGE 10

§ 3.3.3 The Contractor shall be responsible for inspection of portions of the Project already performed to determine that such portions are in proper condition to receive subsequent Work. not be relieved of its obligations to perform the Work in accordance with the Contract Documents and all applicable laws, codes, ordinances, rules, regulations and industry standards, either by activities or duties of Nexus in administration of the contract, or by test, shop drawing reviews, inspections or approvals required or performed by persons other than the Contractor, or by any activities or duties of the Owner.

§ 3.3.4 In the event the scope of the Contractor's work involves installation of materials furnished by the Owner, the responsibilities of the parties shall be as follows; Contractor shall:

- (a) Inspect the materials upon delivery for damage, defect, quantity and conformance with the Contract Documents
- (b) Provide all labor, equipment and services, including hoisting and other material handling necessary to properly unload, handle, store and install all Owner furnished material
- (c) Provide Nexus with signed inventory sheets certifying that all products shipped were received. Contractor accepts liability for missing or damaged product should they fail to inventory shipment.

§ 3.3.5 Subject to the Contractor's inspection obligations under Clause 3.6.12, Owner shall be responsible for inherent defects in the materials, shall be solely responsible for pursuing the seller of the materials supplied by the Owner for replacement, damages, or other remedies.

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

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§ 3.4.3.1 Nexus shall have authority to direct a Contractor to remove a worker from site if any worker or employee of Contractor is found to be unsatisfactory.

§ 3.4.4 Local custom and trade-union jurisdictional settlements do not control the scope of work included in each prime contract. When a potential jurisdictional dispute or similar interruption of construction activities is first identified or threatened, the affected contracts shall promptly negotiate a reasonable settlement to avoid or minimize the pending interruptions and its delay. The trade contractor shall be bound by the agreement establishing the impartial jurisdictional disputes board and/or its successors. The trade contractor agrees not to cause a work stoppage due to the jurisdictional assignment of work. The trade contractor agrees to maintain an adequate work force of experienced workers and the necessary materials, supplies, and equipment to meet the requirements of Nexus and other trades in order to maintain the construction schedule. In the event that their forces are, in the judgment of Nexus, inadequate to meet the established schedules during regular working hours, the trade contractor agrees to work sufficient overtime hours or increase their workforce to meet such schedules at no extra costs to Nexus or Owner.

§ 3.4.5 After the Contract has been executed; the Owner and Nexus will consider a formal request for the substitution of products in place of those specified only under the conditions set forth in the General Requirements (Division 1 of the Specifications). By making requests for substitutions based on this subparagraph, the Contractor:

- (a) Represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

- (b) Represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;
- (c) Certifies that the cost data presented is complete and includes all related costs under this Contract but excludes costs under separate contracts and excludes Design Professional's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and
- (d) Will coordinate the installation of the accepted substitute, making such changes as may be required for the work to be complete in all respects.

§ 3.4.6 All work shall be performed in the best and most workmanlike manner to the highest standards for the work. Incompetent or careless workmanship shall not be permitted by the Contractor and will not be accepted.

§ 3.4.7 The Contractor, and all those working under its jurisdiction, shall conform to labor laws of the state and all other laws, ordinances and legal requirements affecting the Work. Prior to starting work, the Contractor shall become familiar with local labor and trade conditions, skilled and unskilled, and shall conform to local conditions. The Contractor shall consider the availability of labor in the area and import labor as may be required to meet the schedule for the Work.

§ 3.4.8 Unless otherwise provided in Contract Documents, all materials, equipment and other products shall be one of the brands, manufacturers or types specified. All like products for the Work shall be by the same manufacturer.

§ 3.4.9 Workmanship and Materials

- (a) No trade shall commence Work until conditions are right for carrying out the work properly and surfaces to be covered are suitable.
- (b) Manufacturer's printed instructions covering details of installation shall be followed where not in conflict with these specifications. If there is a conflict, notify Nexus for clarification before proceeding.
- (c) Completed work shall be left plumb, level, true to line or plane, anchored securely in place free from damage.
- (d) Unless otherwise called for, all pieces of material shall be a stock size as is in conformity with standard good practice of the trade.
- (e) Except where in conflict with these specifications, current manufacturer's printed specifications of herein specified proprietary products are made part of these specifications.

§ 3.5.1 The Contractor warrants to the Owner, ~~Construction Manager, and Architect~~ and Nexus 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 all applicable laws, codes, ordinances, rules, regulations, and industry standards 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 ~~Construction Manager or Architect~~, Owner or Nexus, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

PAGE 12

§ 3.5.3 Manufacturer product warranty shall not relieve the Contractor of general warranty obligations imposed by applicable laws, codes, ordinances, rules, regulations, and industry standards, or otherwise assumed or agreed upon by the Contractor. Where a product is specified by manufacturer or brand name, such specification is used to establish minimum standards of quality required, and the published data, including manufacturer extended warranties, pertinent to the specified product shall be a requirement of the Contract Documents.

The Contractor shall be liable for and pay all federal, state and local sales, consumer, use and similar taxes for the Work or portions thereof 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. Applicable tax amounts shall be included in the Contract sum.

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§ 3.7.1 Unless otherwise provided in the Contract Documents, the Owner, assisted by ~~the Construction Manager, Nexus,~~ shall secure and pay for the building permit. The Contractor shall secure and pay for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.1.1 The Contractor shall provide and pay for all bonds that may be required to accomplish the work, including any bonds required by local municipalities.

§ 3.7.1.2 The Owner will pay SAC / WAC (Sewer and Water access charge) directly.

§ 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 or inspection of the Work. In any instance where requirements of the Contract Documents are in excess of, but not in conflict with or violation of, requirements of a public authority having jurisdiction, the provisions of the Contract Documents shall govern.

§ 3.7.3 If the Contractor performs Work knowing it that it knows, or reasonably should know to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and for damages incurred as a result of and shall bear the costs attributable to correction.

§ 3.7.4 **Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the ~~Owner, Construction Manager, and the Architect~~ Owner and Nexus before conditions are disturbed and in no event later than 14 days after first observance of the conditions. ~~The Architect and Construction Manager Nexus~~ will promptly investigate such conditions and, if ~~the Architect, Nexus,~~ in consultation with ~~the Construction Manager, Nexus' Consultants,~~ 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, Nexus,~~ in consultation with ~~the Construction Manager, Nexus' Consultants,~~ 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 Nexus~~ shall promptly notify the ~~Owner, Construction Manager, Owner and Contractor,~~ stating the reasons. If the Owner or Contractor disputes ~~the Architect's Nexus'~~ determination or recommendation, either 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, Construction Manager, and Architect.~~ Owner and Nexus. 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.

PAGE 13

- .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;~~ allowances, except where installation is specified as part of the allowance in the General Requirements (Division 01 of the Specifications); 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.

- 4 The Supplier or Subcontractor for an allowance item is subject to acceptance of the Owner and Nexus. The Contractors Purchase Order or Subcontractor Agreements shall bind the Supplier or Subcontractor to the requirements of the Contract Documents.

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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. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Nexus has the authority to remove from the Project Site any employee (including superintendent) of the Contractor or any of its subcontractors. Upon oral or written direction of Nexus, Contractor shall replace designated personnel and maintain contract completion date.

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

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the ~~Owner, Construction Manager, or Architect-Owner or Nexus~~ 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. Unless the Superintendent proves to be unsatisfactory to the Contractor and as a result ceases to be in the Contractor's employ.

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§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and ~~Architect's~~ Nexus' information, and the Construction Manager's Nexus use in developing the Project schedule, a Contractor's construction schedule for the Work. The schedule shall be of Microsoft Project format and contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. Work (no work activity shall take longer than two calendar weeks). Procurement activities are permitted to take longer as all activities associated (submittals, etc.) are separate activities. Procurement ends the day the product arrives at the job site; and (4) include all successor and predecessor activities and resources. 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-Project~~ (no greater than twice a month). The Contractor shall cooperate with ~~the Construction Manager Nexus~~ in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of other Contractors, or the construction or operations of the Owner's own forces or Separate Contractors.

§ 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 Construction Manager's and Architect's approval. The Architect and Construction Manager's Nexus' approval.~~ Nexus' 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 Construction Manager and Architect Nexus and Design Professional 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 participate with other ~~Contractors, the Construction Manager, contractors, Nexus, and~~ the Owner in reviewing and coordinating all schedules for incorporation into the Project schedule that is prepared by ~~the Construction Manager- Nexus.~~ The Contractor shall make revisions to the construction schedule and submittal schedule as deemed necessary by ~~the Construction Manager Nexus~~ to conform to the Project schedule.

§ 3.10.4 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the ~~Owner, Construction Manager, and Architect,~~ Owner and Nexus and incorporated into the approved Project schedule.

§ 3.10.5 The Contractors shall furnish to Nexus, upon request, substantiating documentation to confirm the status of all material deliveries. Such documentation could include, but is not limited to the following:

- .1 Copies of subcontractors or purchase orders.
- .2 Factory acknowledgements or orders, with scheduled dates of shipment.
- .3 Shipping tickets, pro numbers, etc. identifying actual dates of shipment.

PAGE 14

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to ~~the Construction Manager, Architect, Nexus~~ and Owner, and delivered to ~~the Construction Manager Nexus~~ for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

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§ 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 and Construction Manager~~ Design Professional and Nexus is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which ~~the Construction Manager and Architect Nexus and Design Professional~~ are 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 Construction Manager or Architect Nexus or Design Professional~~ without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, ~~approve, and submit to the Construction Manager,~~ stamp approved, and submit to Nexus within seven days after the contract date, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by ~~the Construction Manager and Architect Nexus~~ or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the ~~Construction Manager Nexus~~ in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, ~~Construction Manager, and Architect,~~ Nexus and Design Professional, 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 reviewed ~~and approved~~ by the ~~Architect~~ Design Professional.

§ 3.12.8 The Work shall be in accordance with ~~approved~~ reviewed 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~~ Design Professionals review of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified ~~the Construction Manager and Architect Nexus and Design Professional~~ of such deviation at the time of submittal and (1) the ~~Architect~~ Design Professional has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the ~~Architect's approval~~ Design Professionals review 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 Construction Manager and Architect Nexus and the Design Professional~~ on previous submittals. In the absence of such notice, the ~~Architect's approval~~ Design Professionals review of a resubmission shall not apply to such revisions.

PAGE 15

§ 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~~ Design Professional 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, the Architect, and the Construction Manager Nexus. The Owner, , and Nexus~~ 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~~ Nexus have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, ~~the Architect Nexus~~ 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. The Construction Manager Nexus~~ shall review submittals for sequencing, constructability, and coordination impacts on other Contractors.

§ 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 Construction Manager and Architect Nexus~~ at the time and in the form ~~specified by the Architect.~~ specified.

§ 3.12.11 Submit to Nexus one electronic copy, in PDF format, of each shop drawing, including fabrication, erection, layout and setting drawings and such other drawings as required under various sections of the specifications, until final acceptance is obtained. If printed copies of shop drawings and/or submittals are determined to be necessary, the costs for the reproduction will be the responsibility of the Contractor. Nexus is responsible for obtaining and distributing required prints of shop drawings to the Separate Contractors. Where printed materials describe more than one product or model, clearly identify which is to be furnished.

§ 3.12.12 Manufacturer's Instructions: Where any item of Work is required by specifications to be furnished, installed, or performed in accordance with a specified product manufacturer's instructions, contractor shall procure and distribute the necessary copies of such instructions to all concerned parties through Nexus.

PAGE 16

§ 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, ~~the Construction Manager Nexus~~ before using any portion of the site.

§ 3.13.3 Site will be in use during the school term. Work must be coordinated with the School District for each individual school through Nexus. Care, custody and control of the site shall be vested in the Contractor, subject to the rights of the Owner. Schedule phasing of the work must not interfere with the program of each school. Shift work will be necessary. Delivery and storage of materials will be coordinated through Nexus.

§ 3.13.4 Before making a shipment of materials to the Project site, Contractors shall ascertain that the project site is in a condition to receive the shipment. If materials are delivered to the Project site and project is not in condition to receive the materials, the materials shall be removed from the site and properly stored off-site at the expense of the Contractor or his Subcontractor. Deliveries must be coordinated through Nexus.

§ 3.13.5 The Contractor shall return all improvements on or about the site, streets and adjacent property which are not shown to be altered, removed or otherwise changed, to the conditions which existed previously. The Contractor shall protect existing structures or other features from damage by any operation in connection with this Contract.

§ 3.13.6 Utilities or other services which are shown, or not shown but encountered or otherwise found, shall be protected by the Contractor from any damage from excavation or other work and operations of this Contract, unless or until they are abandoned. If the utilities or services are not abandoned, or to be abandoned, the Contractor shall immediately restore any damage from its work or operations to place the utilities and service in an equal or better condition to that which existed. Where utilities or services are shown to be abandoned or moved, they shall remain in service, and be protected by the Contractor, until new utilities and services have been provided, tested and ready for use.

§ 3.13.7 If the Contractors cannot control noise, odors, water, dust, security, access, safety egress, etc. in a manner acceptable to the building occupants, then this Contractor will be required to perform his work at times of very low or no occupancy.

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§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner, Separate Contractors, or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Nexus, Owner, and such other Contractors or Separate Contractors. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Separate Contractors, other Contractors, or the Owner, its consent to cutting or otherwise altering the Work.

§ 3.14.3 Altering or cutting of structural members will not be allowed without the written approval of Nexus.

§ 3.14.4 Any contractor requiring cutting into the work of another contractor shall do such cutting and shall properly repair such work to the satisfaction of Nexus. Such cutting, fitting, and patching shall not endanger any work or otherwise alter the work or any part of it, and it shall be done by craftsmen skilled and experienced in the trade or craft that installed or furnished the original work. Repairs shall be equal in quality and appearance to similar adjacent work and shall not be obviously apparent as a patch or repair. Work that cannot be satisfactorily repaired shall be removed and replaced.

PAGE 17

§ 3.15.1 The Contractor and its Subcontractors, Sub-subcontractors, Separate Contractors, or other Contractors shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. the Contract and keep the premises clean and free from fire hazards and maintain its work neat and orderly throughout the construction period, including broom cleaning and vacuum of the floors. All packing/crating materials from goods installed will be removed from the site by the contractor responsible for the packaged materials. The contractor responsible for taking delivery of Owner furnished materials will be responsible for packing/crating of goods delivered. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up or its subcontractors fail to clean up, or if a dispute arises between Separate Contractors as to their responsibility for clean up as required by section 3.15 or as provided in the Contract Documents, the Owner, or Construction Manager Nexus with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor. equitably charge the cost thereof to the several responsible Contractors as determined by Nexus.

§ 3.15.3 All matter (snow, water, dirt, dust or other debris) accumulated in a designated work area are the responsibility of the contractor to remove.

§ 3.15.5 If a Contractor fails to maintain the premises or clean up as specified, Nexus may do so after 2 days' notice, with the cost paid for by the Contractor.

§ 3.15.5 All Contractors and their Subcontractors/Material Suppliers are responsible for clean-up of debris created by Work of their contract, including but not limited to, broom cleaning and a final cleaning of working areas. Nexus may elect to have all Contractors on site participate, at no additional compensation to the Contractor, in weekly jobsite clean-up services. Participation will be required by all Contractors working onsite during that during that time.

...

The Contractor shall provide the ~~Owner, Construction Manager, and Architect~~ Owner and Nexus with access to the Work in preparation and progress wherever located.

...

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, ~~Construction Manager, and Architect~~ Design Professional, and Nexus 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, ~~Architect, or Construction Manager~~ Design Professional, or Nexus. 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 through the Construction Manager~~ Nexus.

...

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, ~~Construction Manager, Architect, Construction Manager's and Architect's~~ Nexus, and Nexus' 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), including loss of use therefrom,~~ but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18. The Contractors obligations set forth in this Paragraph shall apply to any claim by the Owner against the Contractor, a Subcontractor, or anyone else directly or indirectly employed by the Contractor or a Subcontractor, or against anyone for whose acts the Contractor, Subcontractor may be liable.

PAGE 18

ARTICLE 4 — ARCHITECT AND CONSTRUCTION MANAGER

§ 3.19 Field Conditions

§ 3.19.1 Each Contractor shall take field measurements of materials supplied under their Contract and verify field conditions with the Contract Documents and final Shop Drawings before commencing any Work. Report errors, inconsistencies, or omissions to Nexus at once.

§ 3.19.2 No change to the Contract Sum will be allowed on account of minor differences between actual field conditions and the Contract Documents.

§ 3.19.3 The need to obtain accurate field dimensions in ample time to permit fabrication of long lead materials and equipment, for delivery and installation in accordance with the schedule, shall be recognized. Each Contractor and all sub-contractors shall cooperate in completing work phases to accommodate the schedule for obtaining dimensions and to prevent fabrication delay. In the event it is impractical to have work in place to permit field dimensions, the responsible Contractor shall guarantee necessary dimensions, before construction, to the various fabricators and be responsible to insure the dimensions.

ARTICLE 4 NEXUS

§ 4.1.1 ~~The Architect~~ Nexus 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 ~~The Construction Manager~~ Nexus is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.

§ 4.1.3 Duties, responsibilities, and limitations of authority of the ~~Construction Manager and Architect~~ Nexus as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, ~~Construction Manager, Architect, Nexus~~ and Contractor. Consent shall not be unreasonably withheld.

...

§ 4.2.1 The ~~Construction Manager and Architect~~ Nexus will provide administration of the Contract as described in the Contract Documents and will be the Owner's representatives during construction until the date the ~~Architect~~ Nexus issues the final Certificate for Payment. The ~~Construction Manager and Architect~~ Nexus will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The ~~Architect-Design Professionals~~ will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the ~~Owner, Nexus~~, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the ~~Architect-Design Professional~~ 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 the site visits, the ~~Architect~~ Nexus will keep the Owner and the ~~Construction Manager~~ reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and ~~Construction Manager~~ known deviations from the Contract Documents and defects and deficiencies observed in the Work.

§ 4.2.3 The ~~Construction Manager~~ Nexus shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The ~~Construction Manager~~ Nexus will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.

§ 4.2.4 The ~~Construction Manager~~ Nexus will schedule and coordinate the activities of the Contractor and other Contractors in accordance with the latest approved Project schedule.

§ 4.2.5 The ~~Construction Manager, Nexus~~, except to the extent required by Section 4.2.4, and ~~Architect-Design Professional~~ will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the ~~Construction Manager~~ Nexus nor the ~~Architect-Design Professional~~ will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 4.2.6 **Communications.** The Owner shall communicate with the Contractor and the ~~Construction Manager's~~ consultants through the ~~Construction Manager~~ Nexus' consultants through Nexus about matters arising out of or relating to the Contract Documents. The Owner and ~~Construction Manager~~ shall include the ~~Architect~~ Nexus shall include Nexus' Consultants in all communications that relate to or affect the ~~Architect's~~ their services or professional responsibilities. The Owner shall promptly notify the ~~Architect~~ Nexus of the substance of any direct communications between the Owner and the ~~Construction Manager~~ Nexus otherwise relating to the Project. Communications by and with the ~~Architect's~~ Nexus' consultants shall be through the ~~Architect~~ Nexus. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with other Contractors and Separate Contractors shall be through the ~~Construction Manager~~ Nexus. Communications by and with the Owner's own forces and ~~Separate Contractors~~ shall be through the ~~Owner~~ shall be through the Owner. Direct communications between Nexus and the Contractor that affect the performance or administration of the Work shall be made or confirmed in writing. The Contract Documents may specify other communication protocols.

§ 4.2.7 The ~~Construction Manager and Architect~~ will review and certify Nexus will review all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.

~~§ 4.2.8 The Architect and Construction Manager have~~ Nexus has the authority to reject Work that does not conform to the Contract Documents, and will notify each other about the rejection. ~~Whenever the Construction Manager considers it necessary or advisable, the Construction Manager Documents. Whenever Nexus considers it necessary or advisable,~~ Nexus will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of ~~the Construction Manager~~ Nexus will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of ~~the Architect. However, neither the Architect's nor the Construction Manager's~~ Nexus' Consultants. However, ~~neither Nexus' Consultants nor Nexus' authority to act under this Section 4.2.8 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager~~ Nexus' Consultants or Nexus to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.

~~§ 4.2.9 Utilizing the submittal schedule provided by the Contractor, the Construction Manager~~ Nexus shall prepare, and revise as necessary, a Project submittal schedule incorporating information from other Contractors, the Owner, ~~Owner's consultants,~~ Nexus' Consultants, Owner's Separate Contractors and vendors, governmental agencies, and participants in the Project under the management of ~~the Construction Manager~~ Nexus. The Project submittal schedule and any revisions shall be submitted to ~~the Architect~~ Nexus for approval.

~~§ 4.2.10 The Construction Manager~~ Nexus will receive and promptly review for conformance with the submittal requirements of the Contract Documents, all submittals from the Contractor such as Shop Drawings, Product Data, and Samples. Where there are other Contractors, ~~the Construction Manager~~ Nexus will also check and coordinate the information contained within each submittal received from the Contractor and other Contractors, and transmit to ~~the Architect~~ Nexus' Consultants those recommended for approval. ~~review. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Construction Manager~~ Nexus represents to the Owner and Architect that ~~the Construction Manager~~ Nexus' Consultants that Nexus has reviewed and recommended them for approval. ~~The Construction Manager's review. Nexus' actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule,~~ with reasonable promptness while allowing sufficient time to permit adequate review by ~~the Architect~~ Nexus' Consultants.

~~§ 4.2.11 The Architect will review and approve,~~ Nexus' Consultants will review 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 Consultants~~ action will be taken in accordance with the submittal schedule ~~approved by the Architect or, in the absence of an approved submittal schedule,~~ with reasonable promptness while allowing sufficient time in the ~~Architect's Consultants~~ professional judgment to permit adequate review. Upon the ~~Architect's Consultants~~ completed review, the ~~Architect Consultant~~ shall transmit its submittal review to ~~the Construction Manager~~ Nexus.

~~§ 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect~~ Nexus and Nexus' Consultant 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 Construction Manager and Architect's~~ Nexus and Nexus' Consultants review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. ~~The Construction Manager and Architect's~~ Nexus and Nexus' Consultants review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. ~~The Architect's approval~~ Consultants review of a specific item shall not indicate approval of an assembly of which the item is a component.

~~§ 4.2.13 The Construction Manager~~ Nexus will prepare Change Orders and Construction Change Directives.

~~§ 4.2.14 The Construction Manager and the Architect~~ Nexus will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and ~~the Architect~~ Nexus will have authority to order minor changes in the Work as provided in Section 7.4. ~~The Architect,~~ Nexus, in consultation with the ~~Construction Manager, Owner,~~ will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

~~§ 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager~~ Nexus will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar

required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to ~~the Architect and~~ the Contractor, and will be delivered to the Owner upon completion of the Project.

§ 4.2.16 ~~The Construction Manager will assist the Architect~~ Nexus will assist Nexus' Consultants in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion ~~in conjunction with the Architect~~ pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10. ~~The Construction Manager~~ Nexus will forward to the Architect Owner a final Application and Certificate for Payment or final Project Application and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 4.2.17 If the Owner and ~~Architect agree, the Architect~~ Nexus agree, Nexus will provide one or more Project representatives to assist in carrying out ~~the Architect's~~ Nexus' responsibilities at the site. The Owner shall notify ~~the Construction Manager~~ Nexus of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.18 ~~The Architect~~ Nexus will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the ~~Construction Manager, Owner, or Contractor through the Construction Manager~~. ~~The Architect's~~ Owner, or Contractor. Nexus response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.19 Interpretations and decisions of ~~the Architect~~ Nexus 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~~ Nexus 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.

§ 4.2.20 ~~The Architect's~~ Nexus decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.21 ~~The Construction Manager~~ Nexus will receive and review requests for information from the Contractor, and forward each request for information to ~~the Architect, with the Construction Manager's recommendation~~. ~~The Architect~~ Nexus' Consultants. Nexus' Consultant will review and respond in writing, through ~~the Construction Manager~~ Nexus, to requests for information about the Contract Documents. ~~The Construction Manager's recommendation and the Architect's~~ Nexus recommendation and Nexus' Consultants response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, ~~the Architect~~ Nexus' Consultant will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

PAGE 21

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, ~~as soon as practicable after award of the Contract, shall notify the Construction Manager, for review by the Owner, Construction Manager and Architect, within 14 days after the award of the Contract, the Letter of Intent to Award has been issued, Notice to Proceed has been issued or execution of the Contract (whichever occurs first), The Contractor, shall notify Nexus, for review by the Owner, and Nexus, 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 Construction Manager~~ Nexus may notify the Contractor whether the Owner, ~~the Construction Manager or the Architect~~ (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of ~~the Construction Manager~~ Nexus to provide notice within the 14-day period shall constitute notice of no reasonable objection. If the Owner or Nexus objects to a proposed Subcontractor or sub-Subcontractor, such objection shall be deemed reasonable if in the opinion of the Owner or Nexus the objectionable 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 workmanship;
- .3 lacks experience appropriate to the proper execution and completion for that part of the Work for which the 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 is proposed within the time schedule, due to financial status, size of organization, existing work load, or other considerations;
- .6 cannot demonstrate the ability, through examples of representative work, to perform the part of the Work for which the Subcontractor is being considered;
- .7 is of questionable integrity;
- .8 exhibits other factors bearing on the probability of unsatisfactory performance; or
- .9 is otherwise not qualified or is reasonably objectionable.

If adequate data on a proposed manufacturer or an installer is not available, Nexus may state that action will be deferred until the Contractor provides further data.

Failure to object to a manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufactures must conform to such requirements.

§ 5.2.2 ~~The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect or Nexus has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.~~

§ 5.2.3 ~~If the Owner, Construction Manager or Architect or Nexus has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect or Nexus has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.~~

§ 5.2.4 ~~The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect or Nexus makes reasonable objection to such substitution.~~

...

~~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, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~

§ 5.3.1 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 Nexus. Each subcontract agreement shall preserve and protect the rights of the Owner, and Nexus under the Contract Documents with respect to the Work to be performed by the Subcontractor so that

subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 The Contractor shall supply copies of each subcontract agreement to the Owner and Nexus before the Subcontractor is permitted to commence Work.

PAGE 22

- .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

...

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, due to unreasonable delays attributed to the Owner, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

...

§ 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other Contractors reasonable opportunity for and Subcontractors shall cooperate with and coordinate their work with all other contractors and the Owner to facilitate the general progress of the Project and to prevent delaying the progress of other contractors. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and equipment and performance the execution of their activities, work, and shall connect and coordinate the Contractor's construction and operations Contractor's Work with theirs as required by the Contract Documents. Each contractor and subcontractors shall obtain layout drawings, roughing-in detail sheets and other pertinent information directly from each other (not from Nexus) to coordinate all phases of the Work. For coordination with the Owner's equipment or materials, information shall be requested from Nexus. After timely notification by the Contractor of the need to accomplish a particular phase or element of the Work, the other contractors shall, within a reasonable time, perform their work so as not to delay or impede the Contractor.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces, Separate Contractors or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect Nexus of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect Nexus of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's or other Contractors' 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 Contractors or other Contractors that are not apparent.

PAGE 23

§ 6.2.3.1 Time being an essential element of the contract, it is hereby agreed that the Owner shall be entitled to damages for failure on the part of the Contractor to complete the work within the contract period, as amended by an extension. Such actual damages shall include, but not be limited to the following:

- .1 Additional fees incurred by the Design Consultants.
- .2 Additional fees incurred by Nexus

- .3 Increased cost of relocating, including moving from existing building to temporary location(s).
- .4 Increased cost of extended and additional rental space.
- .5 Lost revenue from operations of the building.

§ 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, Separate Contractors, or other Contractors ~~as provided in Section 10.2.5-Contractors.~~

...

§ 6.2.6 If a Contractor has a claim for additional cost due to the action or inaction of separate Contractors, the Contractors shall resolve the claim directly with the responsible party or parties. If resolution cannot be obtained directly, and Contractor sues, or initiates arbitration against the Owner or Nexus on account of any damage alleged to have been so sustained, the Owner shall notify the separate Contractor, who shall defend such proceeding at the Contractor's expense, and if any judgment or award against the Owner or Nexus arises there from, the separate Contractor shall pay or satisfy it.

If a dispute arises among the Contractor, Separate Contractors, other Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and ~~the Construction Manager, Nexus,~~ with notice to the ~~Architect, Owner,~~ will allocate the cost among those responsible.

§ 6.4 Cutting and Patching Under Separate Contracts

The Contractor shall be responsible for any cutting, fitting, and patching that may be required to complete its work except as otherwise specifically provided in the Contract Documents. The Contractor shall not endanger any work of any other contractors or Subcontractors by cutting, excavating, or otherwise altering any work, and shall not cut or alter the work of any other contractor except with the written consent of Nexus, after timely notice, and upon appropriate consultation with the other parties whose work is affected or involved.

PAGE 24

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, ~~Construction Manager, Architect~~ Nexus and Contractor. A Construction Change Directive requires agreement by the Owner, ~~Construction Manager and Architect~~ and Nexus 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~~ Nexus alone.

...

§ 7.1.4 The Owner or Nexus are not responsible to give Notice of Changes Orders to the Surety (if any).

A Change Order is a written instrument prepared by ~~the Construction Manager~~ Nexus and signed by the Owner, ~~Construction Manager, Architect,~~ Nexus, Design Professional, and Contractor, stating their agreement upon ~~all~~, or a combination of the following:

...

§ 7.3.1 A Construction Change Directive is a written order prepared by ~~the Construction Manager~~ and signed by the Owner, ~~Construction Manager and Architect,~~ Nexus, 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.

...

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, ~~the Construction Manager~~ Nexus 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 Construction Manager-Nexus~~ may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by ~~the Construction Manager and Architect-Nexus~~;

PAGE 25

§ 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 Construction Manager-Nexus~~ 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. In order to obtain a Contract Sum Adjustment for any Change Directive, Contractor must first submit a written notice to the CM stating its proposed Contract Sum adjustment and basis for adjustment. This notice must be submitted within seventy-two (72) hours of receipt of the written Change Directive and prior to commencement of the changed work. If Contractor fails to comply with these notice requirements Contractor shall be deemed to have waived its rights to dispute or contest the CM's determination as to the Change Adjustment, the CM shall include overhead, bond, insurance, field supervision and profit in accordance with the limits established by paragraph 7.3.10..~~ Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by ~~the Construction Manager and Architect-Nexus~~. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. ~~The Construction Manager and Architect-Nexus~~ will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that ~~the Construction Manager and Architect-Nexus~~ determine to be reasonably justified. The 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 Construction Manager and Architect-Nexus~~ 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 Construction Manager-Nexus~~ shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive. For proposed changes in the work on the lump sum or time and material methods under Clause 7.3.3.1 and 7.3.3.4 above, the costs shall be determined as provided under this subparagraph 7.3.10. The contractor shall submit an itemized list of quantities with the applicable unit costs and extended prices for each, in such form and detail as required by Nexus.

- .1 As a minimum the detailed breakdown shall include and indicate the items enumerated below. Items (a) and (b) constitute the cost of the labor, and items (a), (b), (c), and (d) constitute the basic costs referred to under this Article 7.
 - a. Labor costs, itemized by each trade involved, showing the hourly rates for each and the hours required for the change. Labor rates shall be the same for extra and credit computations and shall be the actual rate paid workmen in accordance with the established management labor agreement.
 - b. Burden on labor, which shall be only the actual costs of mandatory fringe benefits required by established agreements, taxes on labor, worker's or workmen's compensation, insurance on labor as affected by payroll, unemployment taxes and insurance, including FICA and FUTA.
 - c. Quantities of materials, equipment and supplies, at their actual cost, with unit costs indicated.

- d. The cost of subcontract work, computed in the same way as provided for under this subparagraph 7.3.10.
 - e. Overhead, profit or commission.
 - f. Applicable sales tax on material, added after the above computations are complete.
- .2 The maximum that will be allowed for overhead and profit, or commission, shall be as follows, expressed as a percentage of the basis cost of the change. The maximum allowable percentages for profit, overhead and commission may be less, depending on the nature, extend or complexity of the change, where the percentage is not commensurate with the responsibility and administration involved, (such as the contractor merely processing a substantial change order to a subcontractor) but in no event shall they exceed the following:
- a. To the contractor and/or subcontractor for work performed with their own forces. (Overhead - 10%, Profit - 5%).
 - b. To the contractor for work performed by others than its own forces. (Commission - 5%).
- .3 Not more than three percentages for overhead, profit and commission will be allowed. The markup on any part of the work a subcontractor subcontracts will be limited to one overhead figure and one profit figure, in addition to the Contractor's commission. The subcontractor and sub-subcontractor may divide the overhead and profit amount as they agree upon.
- .4 The burden on labor may be indicated as a dollar cents addition to the hourly rate or may be expressed as a percentage of the extended hourly rate costs. If required by the owner or Nexus, the contractor shall provide a detailed breakdown to justify the labor inconsistent with other similar contracts or where the cost of fringe benefits are in excess of established labor agreements. The burden on labor shall not include any costs noted as general overhead.
- .5 Material, equipment and supply costs shall be quoted at the actual cost to the contractor, or subcontractor. Upon request, the contractor (or subcontractor) shall submit evidence to substantiate the costs. Said costs shall be quoted at trade discount prices, with quantity discounts also applied where the quantities warrant. Cash or prompt payment discounts need not be credited. In any proposal with material, equipment and supply credits, the credit shall be based on the actual contract cost of the material (including trade and quantity discount) less any charges actually incurred for handling or returning a material which has been delivered. No cancellation, restocking or similar charge will be allowed unless actually incurred by the purchaser and generally will not be allowed when the product has not been shipped.
- .6 The percentages allowed for overhead, profit or commission under clause 7.3.10.2 shall be deemed to include, and no further addition for:
- a. Field and office supervision and administration, including the superintendent/foreman;
 - b. General insurance, except that listed as labor burden;
 - c. Use or replacement of tools;
 - d. Shop burden;
 - e. Equipment rental (other than specifically required additional hoisting equipment, required excavating equipment or similar necessary solely as a result of the change);
 - f. Engineering and estimating costs;
 - g. Performance (guaranty) bond;
 - h. Cost of safety measures (including those imposed by OSHA);
 - i. Shipping, drayage and demurrage;
 - j. Parking charges;
 - k. Clean up and debris removal;
 - l. Testing;
 - m. Permits, unless a new permit type is required;
 - n. Or any other costs except those under clause 7.3.10.1.
- .7 Cost changes shall be computed by determining the basic costs enumerated under clause 7.3.10.1 (as further specified under this subparagraph) to which the overhead may be added, than the profit figure may be added and finally adding the sales tax on materials.

- .8 Subcontractors (or sub-subcontractors) shall compute their costs the same way by and are subject to the same conditions of what may be included in the cost and the same maximum percentages for overhead and profit. To the subcontractor's price, the contractor may add up to 5% commission.
- .9 For changes involving work of the contractor with its own forces and work by a subcontractor (or sub-subcontractors), the commission shall be applied directly to the subcontractor's price. With the overhead and profit figure applied only to the work the contractor performs with its own forces.
- .10 For charges involving both extra and credit amounts, the overhead and profit, or commission shall be applied only to net difference where the extra exceeds the credit.
- .11 For change resulting in a credit in the basis costs, a reasonable allowance for overhead, profit or commission may be required to be credited to the owner, as approved by Nexus. In general, no credits for overhead, profits or commission will be required where the net change credit is minor or where the change in work indicates it is reasonable that no credit be allowed to the owner due to the effort, cost or responsibility of the contractor. In the event of a substantial subcontract credits, or for work not performed by the contractor, a reasonable overhead, profit or commission credit shall be allowed to the owner.

PAGE 27

~~The Architect-Nexus~~ 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-Nexus'~~ order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify ~~the Construction Manager-Nexus~~ and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in ~~the Architect's-Nexus'~~ order for a minor change without prior notice to ~~the Construction Manager-Nexus~~ 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.

§ 7.5 Owners Right to Perform Changes in the Work

If the Owner does not agree to a proposal of the Contractor for additional Work or changes in the Work, or if the Owner does not deem it advisable or expedient to proceed on the basis of the Contractor's proposal, the Owner reserves the right to perform additional work or changes in the Work with its own personnel or to employ others for changes in the Work.

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§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. Contract Time is the date of the Owners Notice to Proceed or is the date established in the Agreement, whichever is the earliest date.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect-Nexus in accordance with Section 9.8.

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§ 8.2.2.1 If a Contract is awarded, construction at the site may commence upon, but not before, (1) Contractor's receipt of a Notice to Proceed from the Owner, and (2) Owner's receipt of Contractor's insurance certificates and Subcontractors list.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate After award of the Contract it shall be the responsibility of the Contractor upon notification by Nexus to begin the Work immediately and to thereafter proceed expeditiously with adequate qualified forces and shall achieve Substantial Completion within the Contract Time at the earliest possible date, but in no case later than within the Contract Time identified in the Contract Documents.

§ 8.2.4 Progress and supervision of the Work shall be the responsibility of the Contractor to supervise the operations of subcontractors responsible to the Contractor so as not to delay the Work.

§ 8.2.5 The progress of the Work shall conform to the Project Construction Schedule prepared by Nexus. The Contractors shall be responsible for damages incurred by the Owner and 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 conform to the Project Construction Schedule.

PAGE 28

§ 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, Architect, Construction Manager, Nexus, or an employee of any of them, or of the Owner's own forces, Separate Contractors, or other Contractors; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, Nexus determines justify delay, then the Contract Time shall be extended for such reasonable time as the Architect/Nexus may determine.

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§ 8.3.3 This Section 8.3 does not preclude/exclude the Owner's recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 Contractor shall anticipate a reasonable amount of delays due to minor changes in the work, concealed and other field conditions, whether or not specifically identified in the Contract Documents. No extension of time will be allowed for work performed under change orders up to an additional 10 percent of labor hours included in the contract.

§ 8.3.5 Upon request of Nexus, the Contractor shall submit and implement a written plan to recover the overall contract schedule.

§ 8.3.6 Upon receipt of Notice to Proceed, the Contractor shall begin construction operations and continuously and effectively prosecute the work with the least possible delay, so as to complete all contract work and all clean up within the Contract Time, taking into consideration all restrictions or limitations to construction procedures hereinafter specified.

§ 8.3.7 The Contractor shall be responsible for damages incurred by the Owner and separate Contractors for delay resulting from the Contractor's failure to complete the work within the Contract time indicated in the Agreement. Losses may include additional administrative costs, rental costs for required off-site classroom space, additional custodial costs and professional fees.

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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 Construction Manager, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Construction Manager shall forward to the Architect the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to the Construction Manager and supported by such data to substantiate its accuracy as the Construction Manager and the Architect may require, and unless objected to by the Construction Manager or the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. § 9.2.1 Where the Contract is based on a Stipulated Sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to Nexus, at least 10 days before the first Application for Payment, or in conjunction with the Contractors submission of its construction schedule, whichever is earlier, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by Nexus. This schedule, unless objected to by Nexus, shall be used as a basis for reviewing the Contractor's Applications for Payment. Nexus shall forward to the Owner the Contractor's schedule of values. Any changes to the schedule of values shall be submitted to Nexus and supported by such data to substantiate its accuracy as Nexus and the Owner may require, and unless objected to, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.2.2 Update and resubmit the Schedule of Values when Change Orders result in a change in the contract sum. List Change Orders separately on the Schedule of Values.

§ 9.2.3 The Schedule of Values shall include separate mandatory line items titled "housekeeping", "bonds", "insurance", and "shop drawings" for any contractor who provides labor and/or materials as part of their contract. The value of the "housekeeping" line item shall be at least 2% of the contract, but not less than \$500. The value of "shop drawings" shall be at least 1/2% of the contract, but not less than \$500. The actual costs of bonds and insurance shall be used as cost items on the Schedule of Values. These shall serve as a form of retainage to ensure that each contractor cleans up properly and provides the required documents. Monthly billings can be made to "housekeeping" and will be approved based on contractor performance in this area of responsibility. This provision shall not limit the Owner's right to clean-up and recover associated costs, as specified in other sections of this specification. The Owner reserves the right to withhold payment for individual line items until the contractor's work on site is complete or within conformance.

§ 9.2.4 Upon request of the Owner or Nexus, the Contractor shall furnish a schedule of estimated periodic requests for payment for the Owner's financial planning guidance. The schedule shall indicate the anticipated amount that will be requested each month, taking into consideration the work schedule, expected deliveries, and the retained amount. The Contractor will not be bound to the estimated amounts, but should the actual requested amounts tend to vary substantially from the estimates, the Contractor shall revise the schedule at the request of the Owner.

PAGE 29

§ 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the ~~Construction Manager~~ Nexus an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner, ~~Construction Manager or Architect~~ or Nexus require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents. The Contractor shall indicate the percentage of completion of each portion of the Work (as defined by the schedule of values) as of the end of the period covered by the Application for Payment. Application for Payment shall be made on AIA Document G732 2019 CMA Edition and G703 1992 and shall not be made more frequently than once per month.

§ 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 Construction Manager and Architect, but not yet included in Change Orders. Applications shall submit a maximum of one (1) request for payment per month to Nexus by the date noted in the Construction Documents with costs forecasted through the end of the month. Application will include all items incorporated into the project or stored (in a secure manner) on-site. This also includes updating of record drawings on a monthly basis. Applications will not be process for the month until record documents are updated.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or ~~supplier~~, supplier unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Applications for Payment will delineate retention in the amount of five (5) percent for each line item and in total for the project through completion.

§ 9.3.1.4 Until substantial completion, the Owner shall pay ninety five (95) percent of the amount of progress payments. The Owner, in making partial payment, will retain five (5) percent of the duly approved value of the work performed under the contract as of the date of the Application for Payment until substantial completion. Within 60 days after Substantial Completion, the Owner will pay to the Contractor all the retainage less two hundred fifty (250) percent of the cost to complete the punchlist and/or repair any defective work and less one (1) percent of the final contract value which shall be released upon receipt of all final paperwork required under the specifications. The Contractor will not be paid interest on retainage amounts.

§ 9.3.1.5 An Application for Payment shall not be considered acceptance or approval of any work or waiver of any defect therein.

§ 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~~, Owner and Nexus, 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 and Nexus 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. Proof of delivery and certificate of insurance covering materials and equipment stored off site shall be required to be submitted with the Application for Payment. Any application for payment not including such documentation will be rejected and resubmitted the following month upon receipt of proof of deliver and certificate of insurance.

PAGE 30

§ 9.3.4 Nexus shall have the right to require signed material lien waivers from all contractors' major suppliers. Names of major suppliers and the amounts due to them shall be provided at pre-award interview by all contractors."

§ 9.3.5 The contractor shall be required to submit certified wages to the Owner through Nexus with each progress pay application. Failure to submit certification will deem the application incomplete and the application will be returned to the contractor without further processing.

§ 9.4.1 ~~Where there is only one Contractor, the Construction Manager-Nexus will, within seven days after the Construction Manager's receipt of the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines Application and the amount determined is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect-Owner. Within seven days after the Architect-Nexus receives the Contractor's Application for Payment from the Construction Manager, the Architect Payment, Nexus will either (1) issue to the Owner a Certificate for Payment, in the full amount of the Application for Payment, with a copy to the Construction Manager; Payment; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect-Nexus determines is properly due, and notify the Construction Manager and Owner of the Architect's Owner of Nexus' 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 Construction Manager and Owner of the Architect's Owner of Nexus' reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager-Nexus will promptly forward to the Contractor the Architect's-Nexus' notice of withholding certification.~~

§ 9.4.2 ~~Where there is more than one Contractor performing portions of the Project, the Construction Manager-Nexus will, within seven days after the Construction Manager-Nexus receives all of the Contractors' Applications for Payment: (1) review the Applications and certify-review the amount the Construction Manager-Nexus determines is due each of the Contractors; (2) prepare a Summary of Contractors' Applications for Payment by combining information from each Contractor's application with information from similar applications for progress payments from the other Contractors; (3) prepare a Project Application and Certificate for Payment; (4) certify-review the amount the Construction Manager-Nexus determines is due all Contractors; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect-Owner.~~

§ 9.4.2.1 ~~Within seven days after the Architect receives Nexus compiles the Project Application and Project Certificate for Payment and the Summary of Contractors' Applications for Payment from the Construction Manager, the Architect-Nexus will either (1) issue to the Owner a Project Certificate for Payment, with a copy to the Construction Manager; Payment; or (2) issue to the Owner a Project Certificate for Payment for such amount as the Architect-Nexus determines is properly due, and notify the Construction Manager and Owner of the Architect's Owner of Nexus' reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Project Application for Payment, and notify the Construction Manager and Owner of the Architect's Owner of Nexus' reason for withholding certification in whole as provided in Section 9.5.1. The Construction Manager-Nexus will promptly forward the Architect's notice of withholding certification to the Contractors.~~

§ 9.4.3 ~~The Construction Manager's certification-Nexus' review of an Application for Payment or, in the case of more than one Contractor, a Project Application and Certificate for Payment, shall be based upon the Construction Manager's-Nexus' evaluation of the Work and the data in the Application or Applications for Payment. The Construction Manager's certification-Nexus' review will constitute a representation that, to the best of the~~

~~Construction Manager's Nexus~~' 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, or Contractors are, entitled to payment in the amount certified.

§ 9.4.4 ~~The Architect's Nexus~~' issuance of a Certificate for Payment or, in the case of more than one Contractor, Project Application and Certificate for Payment, shall be based upon ~~the Architect's Nexus~~' evaluation of the Work, ~~the recommendation of the Construction Manager~~, and data in the Application for Payment or Project Application for Payment. ~~The Architect's certification Nexus~~' review will constitute a representation that, to the best of ~~the Architect's Nexus~~' 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, or Contractors are, entitled to payment in the amount certified.

§ 9.4.5 The representations made pursuant to Sections 9.4.3 and 9.4.4 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 Construction Manager or Architect Nexus~~.

§ 9.4.6 The issuance of a Certificate for Payment or a Project Certificate for Payment will not be a representation that ~~the Construction Manager or Architect Nexus~~ 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.

PAGE 31

§ 9.5.1 ~~The Construction Manager or Architect Nexus~~ may withhold a Certificate for Payment or Project Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in ~~the Construction Manager's or Architect's Nexus~~' opinion the representations to the Owner required by Section 9.4.3 and 9.4.4 cannot be made. If ~~the Construction Manager or Architect Nexus~~ is unable to certify payment in the amount of the Application, ~~the Construction Manager Nexus~~ will notify the Contractor and Owner as provided in Section 9.4.1 and 9.4.2. If the ~~Contractor, Construction Manager and Architect Contractor and Nexus~~ cannot agree on a revised amount, ~~the Architect Nexus~~ will promptly issue a Certificate for Payment or a Project Certificate for Payment for the amount for which ~~the Architect Nexus~~ is able to make such representations to the Owner. ~~The Construction Manager or Architect Nexus~~ 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 or Project Certificate for Payment previously issued, to such extent as may be necessary in ~~the Construction Manager's or Architect's Nexus~~' opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from the acts and omissions described in Section 3.3.2 because of

...

§ 9.5.2 When either party disputes ~~the Architect's Nexus~~' decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

...

§ 9.5.4 If ~~the Architect or Construction Manager Nexus~~ withholds certification for payment under Section 9.5.1, 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 Construction Manager, Nexus~~, and both will reflect such payment on the next Certificate for Payment.

§ 9.5.5 If contractor defaults or neglects to carry out the work in accordance with the contract documents or fails to perform any provision thereof, Nexus may, after three (3) calendar days written notice to the contractor and without prejudice to any other remedy it may have, make good such deficiencies. Nexus shall adjust the total contract price by reducing the amount thereof by the cost of making good such deficiencies.

PAGE 32

~~§ 9.6.1 After the Architect-Nexus has issued a Certificate for Payment or Project Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect-Nexus.~~

...

~~§ 9.6.3 The Construction Manager-Nexus 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 Owner, Construction Manager and Architect and Nexus 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, Construction Manager nor Architect nor Nexus 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.~~

...

~~§ 9.6.6 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. The Contractor and its Surety agree any issuance of a Contractor's Application and Certificate for Payment by the Owner, payment on the Contract Sum or in reducing any retained amount, or any use or occupancy of the Work will in no way relieve them of the obligation to completely fulfill or accomplish all obligations of the Contract, including warranty of the Work, and that they waive any actual or alleged rights of subrogation or action against the Owner or Nexus as a result of any such issuance of a Contractor's Application and Certificate for Payment, payment, or use or occupancy. At any time, the Surety, shall have the right to examine the status of the Work, as well as any payments, and may request the Owner to withhold additional sums as it considers appropriate to protect its interests.~~

~~§ 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. Where there is limited storage area on the Project Site, the Owner will consider making payment for certain materials and equipment which are stored off the site if such action will improve or benefit the progress of the Work. The Owner shall be the sole judge as to the types of materials and equipment it will pay for while in off-site storage and the conditions for the payment. Notwithstanding anything herein to the contrary, the Owner will not pay for items in off-site storage which are:~~

- ~~.1 damaged or otherwise defective;~~
- ~~.2 off-the-shelf type materials;~~
- ~~.3 held at the producer's plant; or~~
- ~~.4 produced over a period of time and normally would be installed to a schedule over a period of time as they are delivered, unless the Owner has caused a significant change in the schedule.~~

~~For consideration of payment for items stored off-site, at the start of the Work the Contractor shall submit a proposed list to Nexus for review and concurrence, state the reasons for each, the proposed storage locations and the anticipated delivery time. The list shall include:~~

- ~~.1 The item;~~
- ~~.2 proposed storage location; and~~
- ~~.3 anticipated delivery time to the off-site storage.~~

~~To qualify for consideration, the material or equipment shall be:~~

- .1 a major item;
- .2 specially fabricated or produced for the Work of this Contract and shall be in accordance with the Contract Documents;
- .3 a critical material which is in short supply or which has an uncertain long lead time delivery schedule;
- .4 properly stored and protected, as required by 9.3.3, and approved by the Owner, including marking with the Project name;
- .5 certified by the contractor, Subcontractor or supplier to be in storage and immediately available (when required);
- .6 examined by Nexus at the place of storage;
- .7 furnished at no additional cost or expense to the Owner except the time required to examine the items, unless otherwise authorized by the Owner; and
- .8 insured to the satisfaction of the Owner.

PAGE 33

If the ~~Construction Manager and Architect~~ Nexus does not issue a Certificate for Payment or a Project Certificate for Payment, through no fault of the Contractor, within fourteen (14) days after ~~the Construction Manager's Nexus'~~ receipt of the Contractor's Application for Payment, provided it has been properly submitted as specified, or if the Owner does not pay the Contractor within ~~seven~~ fourteen (14) days after the date established in the Contract Documents, the amount certified by ~~the Construction Manager and Architect~~ Nexus or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner, ~~Construction Manager and Architect, and Nexus,~~ stop the Work until payment of the amount owing has been received. The Contract Time shall be extended ~~appropriately~~ appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, ~~plus~~ excluding interest as provided for in the Contract Documents.

...

§ 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~~ The date of substantial completion of the work of designated portion thereof is the date when construction is sufficiently complete, in accordance with the contract documents, so the Owner can occupy or utilize the Work for its intended use, the work or designated portion thereof for the use for which it is intended. Minor corrective work and the replacement of defective work or materials, and the adjustment of control apparatus will not delay the determination that the Contract is substantially complete.

§ 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 notify ~~the Construction Manager, and the Contractor and Construction Manager shall jointly prepare and submit to the Architect~~ Nexus, and Nexus and the Design Professionals shall jointly prepare and submit a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.2.1 All warranties and closeout documentation as noted in the Contract Documents must be complete, submitted and approved by Nexus prior to the Certificate of Substantial Completion being released.

§ 9.8.3 Upon receipt of the list, ~~the Architect, assisted by the Construction Manager, Nexus,~~ will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If ~~the Architect's Nexus'~~ inspection discloses any item, whether or not included on the 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, Nexus.~~ In such case, the Contractor shall then submit a request for another inspection by ~~the Architect, assisted by the Construction Manager, Nexus,~~ to determine Substantial Completion.

§ 9.8.4 When ~~the Architect, assisted by the Construction Manager, Nexus,~~ determines that the Work of all of the Contractors, or designated portion thereof, is substantially complete, ~~the Construction Manager will prepare, and the Construction Manager and Architect~~ Nexus will prepare, and shall execute, a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for

security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents, made no more than 60 days after Substantial Completion. Owner may retain either 1% of the contract value or 250% of the cost of the remaining punch list work, whichever is greater to assure completion of the punch list.

PAGE 34

§ 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 and Construction Manager Nexus shall jointly 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 after consultation with the Construction Manager Nexus.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor, and Architect Nexus 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, Documents and all applicable laws, codes, ordinances, rules, regulations, and industry standards.

§ 9.9.3 The Owner reserves the right to enter into the Project at all times and make installations of equipment as work progresses and to install furnishings as space becomes substantially complete. The Contractor shall cooperate and coordinate work with the Owners own forces.

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§ 9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager Nexus a notice that the Work is ready for final inspection and acceptance, and shall also forward to the Construction Manager Nexus a final Contractor's Application for Payment. Upon receipt, the Construction Manager Nexus shall perform an inspection to confirm the completion of Work of the Contractor. The Construction Manager shall make recommendations to the Architect when the Work of all of the Contractors is ready for final inspection, and shall then forward the Contractors' notices and Application for Payment or Project Application for Payment, to the Architect, who will promptly make such inspection. When the Architect When Nexus finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect Nexus will promptly issue a final Certificate for Payment or Project Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their 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 Construction Manager's and Architect's Nexus' final Certificate for Payment or Project 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 through the Construction Manager Nexus (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or

encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

- .1 Contractor's Affidavit of Payment of Debts and Claims, AIA Document G706;
- .2 Contractor's lien waiver in the full amount of the Contract Sum AIA Document G706a;
- .3 Lien waivers from all Subcontractors, Sub-subcontractors, and major material suppliers who have furnished material for the Work under Contract with the Contractor or a Subcontractor. The lien waivers shall be in the full amount of the contract involved;
- .4 Consent of Surety Company to Final Payment on AIA Document G707;
- .5 IC134, Withholding Affidavit for Contractor and Subcontractors and Sub-subcontractors who have Work under Contract with the Contractor.

§ 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 Construction Manager and Architect so confirm,~~ Nexus so confirms, the Owner shall, upon application by the ~~Contractor and certification by the Construction Manager and Architect,~~ Contractor, 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 through the Construction Manager~~ Owner through Nexus 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 not constitute a waiver of Claims by the ~~Owner except those arising from~~ Owner, Legal or equitable rights, remedies or redress, except those arising from;

PAGE 35

§ 9.10.6 Contractor shall, at its own cost, defend, indemnify, and hold harmless Nexus and the Owner, its officers, agents, employees, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including attorney's fees and expenses, or any of them, arising from or attributable to a lien or stop notice filed and/or served in connection with the work.

§ 9.10.7 The Contractor and any of its Subcontractors and Sub-Subcontractors, upon completion of the project, shall fill out the Form IC-134 and send it to the Minnesota Department of Revenue for certification. The Department of Revenue will verify that the contractor has complied with all the applicable withholding laws, and if compliant, will certify the form with an official stamp, and return the form to the contractor. The contractor must submit this certified form along with the Contractors final Application for Payment to Nexus for final approval.

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The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. ~~The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors. The Construction Manager's responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction~~

~~Manager.~~ § 10.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Nexus for review and coordination with the safety programs of other Contractors. Nexus' responsibilities for review and coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by Nexus.

§ 10.1.2 Each Contractor is responsible to provide an overview of its safety program, including a policy statement, description of its methods of implementing and enforcing safety measures, and its procedures for identifying/controlling hazards. Prior to first application for payment, Contractor shall provide:

- .1 A written inventory of all hazardous materials it will have on the Project Site;
- .2 A material Safety Data Sheet (MSDS) for each of the hazardous materials;
- .3 A statement on its letterhead confirming that its workers have received proper training in the handling of those hazardous materials.

§ 10.1.2 Nexus and its Design Consultants shall have no duty to discover, detect or investigate the presence of any Hazardous Materials at or near the site of the Project at any time prior to, during or after design or construction of the Project. Should the Contractor know, detect, or suspect the presence of Hazardous Materials at or near the site, the Contractor shall immediately disclose such information to the Owner and Nexus for appropriate action by the Owner, including, but not limited to, verification of the presence of hazardous materials and proper measure to deal with the Hazardous Materials.

PAGE 36

§ 10.2.2 The Contractor shall comply with, and give notices ~~required by~~ in all respects to the Contract Documents, applicable laws, statutes, ordinances, codes, rules and regulations, industry standards, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss. The Contractor shall be directly responsible to and shall reimburse and compensate any person or entity, including the Owner, for any damage, injury or loss caused by any actions or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable in failing to comply with 10.2.

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§ 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~~ personnel and shall give to the Owner and Nexus reasonable advanced notice of such activities.

§ 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, 10.2.1.3 and 10.2.1.4 to property referred to in Paragraph 10.2 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, 10.2.1.3 and 10.2.1.4. Paragraph 10.2. 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, Construction Manager or Architect~~ Owner or Nexus or anyone directly or indirectly employed by ~~any either~~ any of them, or by anyone for whose acts any 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, Construction Manager and Architect~~ Owner and Nexus.

PAGE 37

§ 10.2.9 The Contractors shall send written notices, make necessary arrangements, and provide services required for the care of gas mains, water pipes, steam pipes, sewer pipes, telephone and telegraph conduits, cables and other equipment or property, assuming responsibility and paying costs for which the Owner may be liable. The Contractor

shall consult the Public Service Companies' records to determine the locations and extent of utilities. Existing services shall be maintained without interruption unless new services are provided.

§ 10.2.10 Contractor shall, at all times, protect the excavation trenches, and the building from damage from rainwater, spring water, ground water, backing up of drains and sewers, and all other sources of water. The Contractor shall provide all pumps and other equipment and bail out all water and all enclosures to provide this protection. Contractor shall construct and maintain all necessary temporary drainage and do all pumping necessary to keep the excavation and basement free of water. Pumping of other than the building excavations shall be the responsibility of the Contractor doing the Work.

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the ~~Owner, Construction Manager and Architect~~ Owner and Nexus of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the ~~Contractor, Construction Manager and Architect~~ Contractor and Nexus 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, ~~the Construction Manager and the Architect~~ and Nexus will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the ~~Contractor, Construction Manager or Architect~~ Contractor or Nexus has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the ~~Contractor, the Construction Manager and the Architect~~ Contractor and Nexus have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended ~~appropriately~~ appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, ~~Construction Manager, Architect, Nexus,~~ their consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

PAGE 38

§ 10.5 Miscellaneous General Provisions

§ 10.5.1 The requirements under 10.5, Miscellaneous General Provisions, shall be considered as minimum requirements and shall not be construed to limit the amount of protection required to safeguard all persons and property, nor construed as directing or establishing the Contractor's methods or responsibilities.

§ 10.5.2 Each Contractor shall provide and maintain adequate fire extinguishers in and around the construction area, available to all workers, but shall not use extinguishers that are to be installed in the Work.

§ 10.5.3 The Contractor shall provide visual barrier at installed glass which conceivably could be walked into or otherwise damaged. After removal of the visual barrier the Contractor shall clean all glass and replace any glass that has been scratched or otherwise damaged.

§ 10.5.4 The Contractor shall provide and maintain guard lights at barricades, railings, obstructions in streets, roads or sidewalks and at trenches or pits, including at those adjacent to existing buildings, public roads, walks, and similar

locations where a hazard may exist. The Contractor shall provide and maintain suitable barricades or fences around excavations, including trench excavations, excavated by contractor or subcontractors.

§ 10.5.5 As may be applicable to the Project and to the Work, the Contractor shall provide and be responsible for:

- .1 protection of equipment, materials, supplies and Work to prevent any damage, including from freezing, thermal shock, heat, water and other damaging elements;
- .2 providing proper and adequate drainage (temporary and permanent) of the site in connection with work of this Contract; damage to property as a result of work or operations under this Contract, including but not restricted to:
 - a. damage from water, excavation, underpinning, removal or changing of structural supports; collapse or other failure to the Project resulting from the Contractor's acts, operations or work, including water undermining or creating pressure on the construction;
 - b. pumping of water from work areas and excavations of this Contract, and spaces built, constructed or opened up under the Contract.
- .3 If necessary, installing temporary heat or dehumidification to keep the spaces dry;
- .4 Providing protection and planking on finished floors and other finished surfaces where work is being done by the Contractor or subcontractors;
- .5 Closing and protecting all holes or openings through walls, floors and roofs that are cut or built by the Contractor or its subcontractors, and which will admit water to interior spaces during the construction period or will create a potential safety hazard;
- .6 Removal of snow to accomplish the Work;
- .7 Keeping premises in neat and orderly condition;
- .8 Eliminating fire hazards.

§ 10.5.6 As may be applicable to the Project and to the Work, the Contractor shall be responsible for the following:

- .1 providing safe and adequate stairways (temporary and permanent) for the use of all trades;
- .2 maintaining access to the site;
- .3 proper protection by heating of an enclosed building during cold weather;
- .4 ventilation of an enclosed building to remove humidity;
- .5 protection for trees and other similar features, which are to remain, from damage from operations in connection with Project, by boxing tree trunks and setting up barricades at sufficient distance to prevent damage to branches;
- .6 complete water integrity of the Project and particularly roof areas, including watching operations of others to insure no damage to the water integrity;
- .7 after the roof deck is placed, the removal of accumulated snow and ice within a building, which generally shall be hauled out (not melted), unless it is a minor amount, as approved by Nexus.

§ 10.5.7 Any work on the roof, after roofing has been installed, shall be done over planking, plywood or other suitable protection, to spread loads under roof walkways and at all work areas, including around ventilating bases with protection provided by the Contractor.

§ 10.5.8 The Contractor and each subcontractor shall provide storage and enclosures to protect and preserve the materials stored at and off the site. Materials such as wood, metal, cement, masonry materials, equipment of any type, conduit and similar materials, shall not be set directly on ground. Coverings shall be durable, watertight, fully cover sides as well as top, substantial and well anchored to prevent blowing away. Shed type of enclosures shall be provided for easily damaged and small items. Any protection which becomes damaged shall be replaced immediately.

§ 10.5.9 Without exception, fan units and all other equipment with bearings or similar working parts shall be set on supports above the ground and snow and shall be enclosed with substantial well secured waterproof protection.

PAGE 39

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Construction Manager and Construction Manager's consultants, and the 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. Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) Nexus, Nexus' Design Consultants, and the Owner, 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 during the Contractor's completed operations.

§ 11.1.1.1 The Contractor shall purchase such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.
- .9 Liability Insurance shall include all major divisions of coverage and be on a comprehensive basis including:
 - a. General Liability Insurance for Bodily Injury and Property Damage.
 - b. Products and Completed Operations
 - c. Personal Injury and Employee Benefits Injury.
 - d. Owner, non-owned and hire motor vehicles.
 - e. Umbrella/Excess Liability.
 - f. Pollution Liability.

§ 11.1.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. The insurance required by Subparagraph 11.1.1 shall be written for not less than the following, or greater if required by law:

<u>WORKMANS COMPENSATION:</u>	
<u>State</u>	<u>Statutory</u>
<u>Applicable Federal (ie. Longshoreman's)</u>	<u>Statutory</u>
<u>EMPLOYERS LIABILITY</u>	
<u>Bodily Injury by Accident</u>	<u>\$ 1,000,000.00</u>
<u>Bodily Injury by Disease Policy Limit</u>	<u>\$ 1,000,000.00</u>
<u>Bodily Injury by Disease - Each Employee</u>	<u>\$ 500,000.00</u>

Comprehensive General Liability written on an occurrence basis (including Premises-Operations; Independent Contractor's protective; Products and Completed Operations; Broad Form Property Damage):

<u>COMPREHENSIVE GENERAL LIABILITY</u>	
<u>General Aggregate</u>	<u>\$ 2,000,000.00</u>

Products/Completed Operations Aggregate	\$ 2,000,000.00
Personal Injury & Advertising Injury	\$ 1,000,000.00
Each Occurrence	\$ 1,000,000.00
Fire Damage Limit	\$ 50,000.00
Medical Payment	\$ 5,000.00

Property Damage Liability insurance will provide explosion, collapse and underground coverage's where applicable.

<u>CONTRACTUAL LIABILITY</u>	
General Aggregate	\$ 1,000,000.00
Products/Completed Operations Aggregate	\$ 1,000,000.00
Personal Injury & Advertising Injury	\$ 1,000,000.00
Each Occurrence	\$ 1,000,000.00
Fire Damage Limit	\$ 50,000.00
Medical Payment	\$ 5,000.00
<u>PERSONAL INJURY</u>	
Each occurrence	\$ 1,000,000.00
<u>COMPREHENSIVE AUTOMOBILE LIABILITY</u>	
Combined Single Limit	\$ 2,000,000.00
<u>COMMERCIAL UMBRELLA</u>	
Minimum Limit	\$ 5,000,000.00
<u>PROFESSIONAL LIABILITY</u>	
Per Occurrence	\$ 3,000,000.00
Aggregate	\$ 3,000,000.00
<u>CONTRACTORS POLLUTION LIABILITY</u>	
Per Occurrence	\$ 1,000,000.00
Aggregate	\$ 2,000,000.00

§ 11.1.1.3 Certificates of insurance acceptable to the Owner shall be submitted to Nexus for transmittal to the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.1.2. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness. The form of the Certificate shall be ACORD Form - current edition. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage or limits.

§ 11.1.1.4 The insurance set forth in these documents is the minimum insurance required. Any additional coverages that may be necessary to further protect the contractor are the sole responsibility of the contractor.

§ 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. **Performance Bond and Payment Bond**

§ 11.1.2.1 The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising hereunder. Bonds must be obtained through a corporate surety authorized in the state of Minnesota and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to 100% of the Contract Sum. The form of the bond shall be AIA document A312. The standard language of this document shall be altered to be consistent with the notification requirements in regards to termination of contract or correction of work.

§ 11.1.2.2 For contracts exceeding \$10,000 in value (excluding materials only suppliers) the Contractor shall furnish the specified bonds. Separate performance and labor and material payment bonds shall be provided.

PAGE 41

§ 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 directly to the Owner, and ~~separately to the Construction Manager, Nexus,~~ of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act 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.

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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 Owners usual liability insurance. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. ~~If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform both the Contractor and the Construction Manager, separately and 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.~~ **Property Insurance**

§ 11.2.2.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project. The deductible on the policy shall be \$25,000 and the Contractor shall pay all cost not covered because of such deductible. Owner will carry All-Risk Builder's Risk Insurance. If "All-Risk" Builders Risk Policy and endorsements carry deductible features, such deductions shall be guaranteed by the Owner to the Co-Insured's. "Integral" shall be interpreted to mean that which is necessary to complete. Policies shall carry "permission to occupy" endorsements. Owner's All-Risk Builder's Risk insurance will allow for payment of materials stored off-site up to, but not exceeding, \$25,000

§ 11.2.2.2 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Nexus' services and expenses required as a result of such insured loss.

§ 11.2.2.3 Such Builders Risk policy shall allow for partial occupancy by the owner prior to completion of the project. Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.2.2.4 The Owner and all contractors agree to waive all rights of subrogation against each other for all losses covered by the Builders Risk coverage.

§ 11.2.2.5 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.2.2.6 The insurance set forth in these documents is the minimum insurance required. Any additional coverages that may be necessary to further protect the contractor are the sole responsibility of the contractor.

§ 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 directly to the Contractor, and separately to the Construction Manager, Nexus, 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.

PAGE 42

§ 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 Construction Manager and Construction Manager's consultants; (3) the Architect and Architect's consultants; (4) other Contractors and any of their subcontractors, sub-subcontractors, agents, and employees; and (5) ~~Separate Contractors, the Subcontractors, agents and employees each of the other, and (2) the Design Professionals, its consultants and separate contractors, and (3) Nexus, its consultants and separate contractors if any, and any of their subcontractors, sub-subcontractors, agents, sub-contractors, 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 fire or other perils to the extent covered by insurance obtained pursuant to this Paragraph 11.3 or any 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 Construction Manager, Construction Manager's consultants, Architect, Architect's consultants, other Contractors, 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.~~ Work, except such rights as they may have to the proceeds of such insurance held by the Owner as trustees. The Owner or the Contractor, as appropriate, shall require of separate contractors, Sub-contractors and Sub-subcontractors by appropriate agreements, written where legally required for validity, similar waivers, each in favor of all other parties enumerated in this Subparagraph 11.3.1

PAGE 43

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, ~~Architect, and Construction Manager~~ Nexus and Nexus' Consultants for loss of use of the Owner's property, due to fire or other hazards however caused.

...

§ 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 ~~Construction Manager, Architect~~ Nexus, and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the ~~Construction Manager, Architect~~ Nexus, and Contractor shall make payments to their consultants and Subcontractors in similar manner.

...

§ 11.5.3 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.5.4 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or distribution of insurance proceeds in accordance with the direction of the arbitrators.

...

§ 12.1.1 If a portion of the Work is covered contrary to ~~the Construction Manager's or Architect's~~ Nexus' request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their 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 Construction Manager or Architect~~ Nexus has not specifically requested to examine prior to its being covered, ~~the Construction Manager or Architect~~ Nexus 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.

PAGE 44

The Contractor shall promptly correct Work rejected by ~~the Construction Manager or Architect~~ Nexus or Nexus' Consultants or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion, and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for ~~the Construction Manager's and Architect's~~ Nexus and Nexus's Consultants services and expenses made necessary thereby, shall be at the Contractor's expense. The corrective work shall conform in the aspects with the original intent of the Contract Documents

...

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established

under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, ~~Construction Manager or Architect, or Nexus~~, the Owner may correct it in accordance with Section 2.5.

...

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, substantive and procedural laws of the State of Minnesota and all forums for the resolution of claims or disputes shall be Minnesota forums.

PAGE 45

§ 13.3.2 No action or failure to act by the Owner, ~~Construction Manager, Architect, Nexus, 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.

...

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give ~~the Construction Manager and Architect~~ Nexus timely notice of when and where tests and inspections are to be made so that ~~the Construction Manager and Architect~~ Nexus Design Professional may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If ~~the Construction Manager, Architect, Nexus, Design Professional, 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 Construction Manager and Architect~~ Nexus will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to ~~the Construction Manager and Architect~~ Nexus of when and where tests and inspections are to be made so that ~~the Construction Manager and Architect~~ Nexus may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for ~~the Construction Manager's and Architect's~~ Nexus' and Design Professionals 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 Construction Manager for transmittal to the Architect.~~ Nexus.

§ 13.4.5 If ~~the Construction Manager or Architect~~ Nexus or Design Professional is to observe tests, inspections, or approvals required by the Contract Documents, ~~the Construction Manager or Architect~~ Nexus or Design Professional will do so promptly and, where practicable, at the normal place of testing.

...

§ 13.5 InterestWritten Notice

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity or to an officer of the corporation for which it was intended; or if delivered at or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice. All written notices shall also be delivered via electronic mail to the electronic mail address designated by the parties representative.

§ 13.6 Time Limits on Claims

The Owner and the Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law.. The Owner and the Contractor waive all claims and causes of action not commenced in accordance with this Section 13.6.

§ 13.7 Equal Opportunity

Pursuant to Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, you are advised that under the provisions of government contracting and in accordance with these laws, contractors and subcontractors are obliged to take affirmative action to provide equal employment opportunity without regard to race, color, religion, national origin, age, sex, physical or mental disability, or status as a special disabled veteran or veteran of the Vietnam era.

§ 13.8 Out of State Contractor

Out-of-State Contractor with contract greater than \$100,000 shall file a Form SD-E (Exemption from Surety Deposits for Out-of-State Contractors with the Minnesota Department of Revenue). If no exemption is given eight (8) percent of each application for payment will be withheld as surety and deposited with the Department of Revenue.

§ 13.9 Owner Use or Occupancy of the Premises

§ 13.9.1 The Owner reserves the right to jointly use the premises with the Contractor in the performance of its duties and functions as set forth in the Contract Documents. The Owner reserves the right reasonably to:

- .1 enter into the Project and premises at all times;
- .2 make installations of materials and equipment at appropriate times as the Work progresses;
- .3 store property in essentially completed areas;
- .4 install furniture and furnishings when spaces are at appropriate stages of completion; and
- .5 use the premises for other similar activities.

The Contractor and Owner shall coordinate the Work with the work of the Owner and other contractors and shall cooperate so as not to unduly interfere with one another. Such activities shall not be construed as occupancy.

§ 13.9.2 If any part, unit, or the entire Work or Project is Substantially Complete or ready for occupancy, the Owner may, upon reasonable notice to the Contractor, enter into and make use of the Work that is Substantially Complete or otherwise suitable for the Owner's purposes.

§ 13.9.3 If the Work is not complete at the time required by the Contract, but the Work is to a state of readiness to permit partial or full use or occupancy by the Owner, the Owner reserves the right, upon reasonable notice to the Contractor, to enter into and make use of those parts that are suitable for its needs. The Contractor shall cooperate with and coordinate its operations in completing the Work with the Owner to minimize disturbance of the Owner's programs and functions.

§ 13.9.4 The Owner's beneficial use or occupancy, as provided for in 9.8.1 through 9.9.1, shall not be construed as acceptance of the Work or of any of its materials or equipment. Such use and occupancy shall be subject to any corrections, deficiencies, damage, or omissions noted. Damage occurring after occupancy, not caused by the Contractor, will be the responsibility of the Owner or other contractor causing the damage.

§ 13.9.5 Upon substantial completion and occupancy by the Owner, complete and usable facilities of light, power, exits, heat, ventilation, air conditioning, utilities, toilets, and similar facilities necessary for safety, comfort, and

Owner's functions shall be available at all times, so the Work can be used without hazard, discomfort, or inconvenience. After such occupancy by the Owner, its programs, functions, or normal use shall not be unnecessarily interrupted or interfered with, and unnecessary inconvenience will not be permitted. The Contractor shall schedule and arrange the Work with the Owner to accomplish this objective.

§ 13.9.6 If the Work is not completed within the Contract Time and the Owner does occupy as permitted by subparagraph 13.8.3, that work which would interfere with occupancy shall be scheduled on weekends, or other times when the Work is not in use without additional cost to the Owner. The Contractor will be allowed reasonable access to the areas as necessary to complete the Work. All operations and activities relating to electrical, heating, air conditioning, ventilation, plumbing services, and phases shall be accomplished in accordance with a sequence schedule planned with the Owner so that complete facilities are maintained.

PAGE 47

- ~~3~~ Because the Construction Manager has not certified or the Architect-Nexus 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, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

...

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven-fourteen (14) days' notice to the Owner, Construction Manager and Architect, Owner and Nexus, 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 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, Construction Manager and Architect, Owner and Nexus, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

...

- ~~5~~ fails to make satisfactory progress in performing all of the Work for a period of three (3) business days
- ~~6~~ Becomes insolvent, files a petition in Bankruptcy, shall be adjudicated bankrupt, shall make a general assignment to the benefit of its creditors, or shall be unable to pay its debts as they generally become due.
- ~~7~~ suspends its business operations or otherwise fails to operate its business in the ordinary course.
- ~~8~~ files a bankruptcy petition or has a bankruptcy action commenced against it that is not discharged within 30 days of commencement of same, makes an assignment for the benefit of its creditors, has a receiver appointed to manage the Contractor's assets or otherwise is or becomes insolvent.
- ~~9~~ fails to maintain schedules as required by the Contract Documents, or fails to comply in a material way with design requirements of the Contract Documents, or persistently fails to perform the work in accordance with the Contract Documents.
- ~~10~~ Subcontractors or Sub-subcontractor fails to perform or to maintain the progress schedule. Owner reserves the right to remove any and all Contractors, Subcontractors or Sub-subcontractors for failure to perform work the requirements of the construction schedule. Contractor will be provided one (1) three-day notice to correct Subcontractor performance, after such time the Contractor must either terminate the non-performing Subcontractor or Sub-subcontractor and replace with another Subcontractor or Sub-subcontractor or the Contractor will be considered in default. Owner reserves the right, through Nexus, to terminate and/or supplement not performing Contractors, Subcontractors, and Sub-Subcontractors at the expense of the Contractor, after proper notice has been served.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, after consultation with the Construction Manager, and upon certification by the Architect-Nexus 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:

PAGE 48

~~§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, the direct and indirect consequential cost of completing the Work (including but not limited to fees and charges of Nexus, Nexus' Consultants, attorneys and other professionals and court and arbitration costs) 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, upon application, be certified by the Initial Decision Maker after consultation with the Construction Manager, and this~~ When exercising any rights or remedies under this paragraph, the Owner shall not be required to obtain the lowest price for the Work performed. This obligation for payment shall survive termination of the Contract.

...

~~§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Termination by Owner under the Paragraph shall be by written notice give to Contractor, specifying the extent of termination and the effective date.~~

~~§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall~~

...

- ~~2~~ take actions necessary, or that the Owner may direct, Place no further orders and enter into no further subcontracts for materials, labor, services or facilities to the extent that they relate to terminated Work;
- ~~3~~ Unless otherwise specified, terminate all subcontracts and orders to the extent that they relate to Work so terminated;
- ~~4~~ Complete the performance of Work not terminated; and
- ~~5~~ Take such other actions as may be necessary or requested by Owner 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 terminated Work

PAGE 49

~~§ 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 written notice to the other party and to the Initial Decision Maker with a copy sent to the Construction Manager and Architect, if the Architect-Nexus, if Nexus is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.~~

...

~~§ 15.1.4.2 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-Nexus will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.~~

...

~~§ 15.1.7 Waiver of Claims for Consequential Damages. The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~1—damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and~~
- ~~2—damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.~~

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2.1 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-Nexus~~ will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

PAGE 50

§ 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, ~~the Construction Manager, and the Architect, if the Architect and Nexus,~~ if Nexus is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

...

§ 15.3.2 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.~~ mediation. 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.

PAGE 51

§ 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.

ARTICLE 16 ADDITIONAL DEFINITION

§ 16.1 Additional Definitions

§ 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.~~

§ 16.1.1 Reviewed, accepted, approved, satisfactory, equal to, proper, as directed and similar terms: These shall mean the decision rests with Design Professional, whose decision shall be final and binding upon the Contractor and Subcontractors.

~~§ 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.~~

§ 16.1.1 Project, Work, Job: In the technical sections or on the drawings, these terms may be used interchangeably and are synonymous. They shall mean the facility, construction and/or improvement within the intent and scope of the Contract Documents. The terms shall mean the entire facility, or separable parts as appropriate to the use of the term, including that under subcontract where applicable, and includes labor, materials, equipment, services and skill.

§ 16.1.1 Notice to Proceed: This shall mean verbal or written notice by the Owner or Nexus to the Contractor to commence Work of the Contract, issued either before or after execution of the Contract. If verbally given, and the Contractor requests, the notice shall be confirmed in writing. In issuing the Notice, stipulations may be included as to time and other requirements that may condition commencement of the Work.

~~§ 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.~~

§ 16.2 Use of Drawings and Specifications

~~§ 15.4.4 Consolidation or Joinder~~

§ 16.2.1 During construction, the Contractor shall examine and use all Specifications and Drawings for the Project, including those that may primarily pertain to other work the Contractor normally does not perform with his own forces. The Contractor shall use all of the Project Drawings and Specifications: for a complete understanding of the Project and the Work; to determine the type of construction and systems; for coordination; to determine what other work may be involved in various parts or phases; to anticipate and notify others when work will be required; and all other relevant matters related to the Project. The Contractor shall also be bound by all the requirements to complete his Work, that are applicable to, pertain to, or affect the Work, as may be shown or inferred by the entire set of Drawings and Specifications.

§ 16.3 Periodic Payment Estimate

~~§ 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).~~

§ 16.3.1 When required by the Owner to establish a schedule of money available to make payment of periodic Applications for Payment, the Contractor shall provide an estimate, by months, of the anticipated amounts for each periodic payment. The retained percentage shall be considered in the estimate schedule, as well as anticipated job progress and materials delivery. The schedule will be deemed an estimate only, for financial planning purposes, and the Contractor shall not be bound to conform to the schedule. The schedule may be required by the Contract Documents or requested by the Owner after Contract execution.

§ 16.4 Layout of the Work

§ 16.4.1 The Contractor shall employ a qualified engineer or registered surveyor to stake out and locate the construction, locate property markers and other points as needed to properly locate the Work under this Contract, locate all significant corners of each unit, roads and parking areas, locate pertinent features of the site and establish necessary references and bench marks, all of which the Contractor shall preserve.

§ 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.

§ 16.4.2 The Contractor shall recognize that the drawings necessarily are diagrammatic, in many instances. All work and in particular, exposed piping, ducts, conduit and similar items shall be neatly and carefully laid out to provide the most useful space utilization and the most orderly appearance. Except as otherwise indicated or directed, piping and similar work shall be installed as close to ceilings and walls as conditions permit, located to prevent interference with other work or with the use of the spaces in the manner required by the functions of the room and the Owner. Valves shall be located in inconspicuous but accessible places. Before proceeding with any work, particularly where exposed, the Contractor shall carefully plan the layout and review it with Nexus for acceptability of location

§ 16.4.3 The Contractor shall verify grades, lines, levels and dimensions shown on drawings and report any errors or inconsistencies to Nexus for decision before commencing work. The Contractor and Subcontractor shall be responsible for the correct location, dimensions and elevations of his Work. As the Work progresses, the Contractor shall be responsible for the layout of the exact location of all partitions and similar features, as guide to all trades.

§ 16.5 General Quality of Work, Installation and Operation

§ 16.5.1 All of the Work shall be strictly first quality, in materials, erection, installation and workmanship.

§ 16.5.2 The Contractor shall request interpretations from The Design Professionals through Nexus for the following: Work indicated on the Drawings or specified in such a manner as to make it impossible to produce Work of the highest quality within the space shown; possibilities of damaging effects of expansion and contraction; discrepancies found between Drawings or between Drawings and Specifications. If the Contractor does not request such interpretation, no excuse will be entertained thereafter for failure to carry out and guarantee the Work in a satisfactory manner. Elements of the Work intended to protect against the weather shall be guaranteed weatherproof and watertight.

§ 16.5.3 Proper performance of the Contract shall imply correct and proper placement, proper or published results for products and equipment, fitting and operation of fixed or movable and operating parts of the Work, including doors, windows, hardware and all systems and equipment. Materials and equipment shall be complete in every respect, with parts, connections, anchors, devices, backing, fittings and other necessary items, and shall be completely installed, anchored, fitted and placed in operating condition. Before buying, constructing or installing work, the Contractor shall notify Nexus of conditions which exist in the Contract Documents which will adversely affect proper operation or first quality installation.

§ 16.5.4 Throughout Project, accommodate various materials and pieces of equipment that are fitted to other materials and equipment and various materials that are applied to which other materials attach. Take all reasonable precautions to ensure materials, devices, items, equipment or other products can be satisfactorily applied or installed to each other or work of others and make necessary adjustments during preparation of shop drawings or in advance of field or shop work to accommodate other work.

§ 16.5.5 Materials or equipment shall be installed or applied according to directions of the manufacturer or recommendations of an association dealing primarily with materials, unless specifically designated otherwise. In no case shall installation, including any temporary work necessary (e.g. shoring), be below standard recommended by manufacturer. Where specified requirements exceed the manufacturer's standards, the specification shall govern. Fabrication (including reinforcing and accessories) and installation shall be provided to ensure proper placement and use of the item or material under the location, use, condition and available space to serve intended function and to meet code requirements. Equipment and devices shall be provided and installed to "fail safe" under normal operating conditions and it shall be Contractor's obligation to provide and install work in such manner.

§ 16.6 General Fire Safety

§ 16.6.1 The Contractor shall exercise extreme care to maintain and exercise adequate fire safety precautions throughout construction. This shall include providing sufficient devices, watchmen, standby helpers or other precautions during construction, in use of temporary heat, welding, brazing, sweating, testing or other phases or work. Welding, brazing, cutting and sweating operations performed in vicinity of, or accessible to, combustible materials

shall be adequately protected to make certain that sparks or hot slag do not reach the combustible materials and start a fire. Glass and glazed material shall be masked from splatter. When necessary to do cutting, welding, brazing, sweating, in vicinity of wood, or combustible material (and the combustible material cannot be removed), the materials shall be adequately protected with fireproof coverings. In addition, a helper shall be stationed nearby with proper fire extinguishers to guard against sparks and fire.

§ 16.6.2 Whenever combustible materials have been exposed to sparks, molten metal, hot slag or splatter, a person shall be kept at the place of work for at least two hours after completion to make sure that smoldering fires have not been started. Whenever cutting or welding operations are carried on in a vertical pipe shaft, a man to act as a fire guard shall be employed to examine floors below the point of cutting or welding. This fire guard shall be kept on duty at least two hours after completion or work to guard against fires and he shall examine each level after this time, prior to leaving.

~~§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Michael David, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 18:54:11 ET on 12/19/2021 under Order No. 7082196928 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A232™ – 2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 20th day of December in the year 2021
(In words, indicate day, month and year.)

BETWEEN Nexus' client identified as the Owner:
(Name, legal status, address and other information)

Independent School District 108
531 Morse Street
Norwood Young America, MN 55368

and Nexus:
(Name, legal status, address and other information)

Nexus Solutions, LLC
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

for the following Project:

Elementary, Middle School and High School renovations as more fully set forth in Exhibit A to be financed as follows:

WHEREAS, the Owner has decided to hire Nexus for Program Management services including, architectural, engineering, Construction Management, and commissioning for the Project; and

WHEREAS, Nexus shall be entitled to use subconsultant architects, engineers and other design professionals to perform or assist in performing any of Nexus services under this Agreement ("Nexus' Subconsultants"). The Parties intend to use AIA documents as the basis for the Contract Documents, including Nexus' contracts with Nexus' Subconsultants. The Parties expressly recognize that the architect or engineers of record on the Project may be either employees of or subconsultants to Nexus and Nexus in no manner represents or implies that Nexus itself intends to perform architectural or engineering services for which it is not appropriately licensed; and

WHEREAS, nothing contained in the Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Nexus; and

WHEREAS, the parties understand and agree that a significant number of improvements and additions have been made at the Site over time, the parties understand and agree that Nexus does not represent or warrant the quality or acceptability of the previous work and Nexus shall be entitled to negotiate additional compensation arising from unforeseen and/or concealed conditions arising from the previous work; and

WHEREAS, the parties understand and agree Nexus and Nexus' Subconsultants will provide design, engineering, construction management, and commissioning services for the following improvements.

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.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 NEXUS' RESPONSIBILITIES
- 3 SCOPE OF NEXUS' BASIC SERVICES
- 4 SUPPLEMENTAL AND ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

See Exhibit A.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

N/A

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1, plus all other hard and soft costs for the Project:

(Provide total and, if known, a line item breakdown.)

See Exhibit A, \$45,818,600

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:
See Exhibit B: Preliminary Project Schedule
- .2 Construction commencement date:
See Exhibit B: Preliminary Project Schedule
- .3 Substantial Completion date or dates:
See Exhibit B: Preliminary Project Schedule
- .4 Other milestone dates:
See Exhibit B: Preliminary Project Schedule

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Construction Manager as Advisor with the Architect acting as the Construction Manager

§ 1.1.6 The Owner’s anticipated Sustainable Objective for the Project:
(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)

N/A

(Paragraph deleted)

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Mr. Timothy Schochenmaier
Superintendent of Schools
952-467-7000
District Office
531 Morse Street
Norwood Young America, MN 55368

§ 1.1.8 The persons or entities, in addition to the Owner’s representative, who are required to review Nexus’ submittals to the Owner are as follows:
(List name, address, and other contact information.)

N/A

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

- .1 Geotechnical Engineer:
TBD

.2 Civil Engineer:

None.

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

Asbestos Consultant

§ 1.1.10 Nexus identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Michael J. David
President
(612) 747-1003
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

§ 1.1.11 Nexus shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Architect:

Hay Dobbs
2324 University Avenue W, Suite 200
St. Paul, MN 55114

.2 Civil Engineer:

Larson Engineering
3524 Labore Road
White Bear Lake, Minnesota 55110-5126

.3 Electrical Engineer:

JB Electrical Design
6885 Sycamore Lane N., Suite 220
Maple Grove, Minnesota 55369

.4 Structural Engineer:

Sandman Structural Engineers
10900 Noble Avenue North
Champlin, MN 55316

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

§ 1.1.12 Other Initial Information on which the Agreement is based:

N/A

§ 1.2 The Owner and Nexus may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and Nexus shall appropriately adjust Nexus' services, schedule for Nexus' services, and Nexus' compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

§ 1.3.1 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, 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 NEXUS' RESPONSIBILITIES

§ 2.1 Nexus shall provide professional services as set forth in this Agreement. Nexus represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 Nexus shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. Nexus shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 Nexus shall identify a representative authorized to act on behalf of Nexus with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, Nexus shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise Nexus' professional judgment with respect to this Project.

§ 2.5 Nexus shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits Nexus normally maintains, the Owner shall pay Nexus as set forth in Section 11.9.

COVERAGES	LIMITS OF LIABILITY
Workmen's Compensation, including Employer's Liability Insurance	Statutory
Commercial General Bodily Injury Liability Insurance, including Contractual	\$1,000,000
Commercial General Property Damage Liability Insurance, including Contractual	\$1,000,000 Per Claim \$2,000,000 Aggregate
Commercial Automobile Injury Liability Insurance	\$500,000 Aggregate
Commercial Automobile Property Damage Liability	\$500,000

Init.

Insurance	
Professional Liability Insurance	\$1,000,000 Per Claim \$3,000,000 Aggregate

(Paragraphs deleted)

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, Nexus shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by Nexus' negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 Nexus shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

§ 2.5.9 Owner shall maintain Property Insurance (builder's risk completed value) in sufficient amount for the entire period of the Agreement on a replacement cost basis. Such insurance shall be on an all risk basis including theft and shall protect the interest of the Owner, the Contractor and Subcontractors and shall name Nexus as an additional insured

ARTICLE 3 SCOPE OF NEXUS' BASIC SERVICES

§ 3.1 Nexus' Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 Nexus shall manage Nexus' services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 Nexus shall coordinate its services with those services provided by the Owner and the Owner's consultants. Nexus shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. Nexus shall provide prompt written notice to the Owner if Nexus becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, Nexus shall submit for the Owner's approval a schedule for the performance of Nexus' services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by Nexus or Owner. With the Owner's approval, Nexus shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 Nexus shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without Nexus' written approval.

§ 3.1.5 Nexus shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. Nexus shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 Nexus shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.7 Upon Owner's request, Nexus shall create site advertisements and content and design for community communications related to the Project.

Init.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 Nexus shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to Nexus' services.

§ 3.2.2 Nexus shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. Nexus shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 Nexus shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. Nexus shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, Nexus and its consultants shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 Nexus shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 Nexus shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 Nexus shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. As the design process progresses through the end of the preparation of the Construction Documents, Nexus shall update and refine the preliminary estimate of the Cost of Work.

§ 3.2.7 Nexus shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, Nexus and its consultants shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 Nexus shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 Nexus shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, Nexus shall prepare Construction

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Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Nexus acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which Nexus shall review in accordance with Section 3.6.4.

§ 3.4.2 Nexus shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, Nexus and its consultants shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). Nexus shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 Nexus shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 Nexus shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

Nexus shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, Nexus shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 Nexus shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, Nexus shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 Nexus shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, Nexus shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 Nexus shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A232™–2009, General Conditions of the Contract for Construction.

§ 3.6.1.2 Nexus shall advise and consult with the Owner during the Construction Phase Services. Nexus shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. Nexus shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall Nexus be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Nexus shall be responsible for Nexus' negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, Nexus' responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date Nexus issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 Nexus shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. As a part of its construction management services, Nexus will have a full time superintendent on site. However, Nexus shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, Nexus shall 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.

§ 3.6.2.2 Nexus shall reject Work that does not conform to the Contract Documents, unless otherwise approved in writing by the Owner. Whenever Nexus considers it necessary or advisable, Nexus shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of Nexus 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 Nexus to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 Nexus shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. Nexus' response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of Nexus shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, Nexus shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. Nexus' decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A232–2009, Nexus shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 Nexus shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. Nexus' certification for payment shall constitute a representation to the Owner, based on Nexus' evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of Nexus' 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 (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by Nexus.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that Nexus 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) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 Nexus shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 Nexus shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. Nexus' action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in Nexus' professional judgment, to permit adequate review.

§ 3.6.4.2 Nexus shall 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. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. Nexus' review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. Nexus' approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, Nexus shall specify the appropriate performance and design criteria that such services must satisfy. Nexus shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to Nexus. Nexus' review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Nexus shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, Nexus shall review and respond to requests for information about the Contract Documents. Nexus shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. Nexus' response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, Nexus shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 Nexus shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 Nexus 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. Subject to Section 4.2, Nexus shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 Nexus shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 Nexus shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of Nexus’ knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 Nexus’ inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, Nexus shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 Nexus shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, Nexus shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.6.7 COMMISSIONING SERVICES

§ 3.6.7.1 Nexus, with the Owner’s assistance, shall oversee the close-out of the Project, as well as the commencement and final reporting and response action determined by the commissioning services for each Project where commissioning is required pursuant to applicable law.

§ 3.6.7.2 Nexus shall coordinate and complete all testing and reporting required by applicable law. Nexus shall consult with Owner on post-construction issues until the Project is turned over to Owner.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. Nexus shall provide the listed Supplemental Services only if specifically designated in the table below as Nexus’ responsibility, and the Owner shall compensate Nexus as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor Nexus is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate Nexus’ Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether Nexus or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Nexus, Owner, or not provided)</i>
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(Rows deleted)

Init.

§ 4.1.1.1	Measured drawings	Not Provided
§ 4.1.1.2	Existing facilities surveys	Owner
§ 4.1.1.3	Site evaluation and planning	Not Provided
§ 4.1.1.4	Building Information Model management responsibilities	Not Provided
§ 4.1.1.5	Development of Building Information Models for post construction use	Nexus as a Supplemental service
§ 4.1.1.6	Civil engineering	Nexus Included in Basic Services
<i>(Row deleted)</i>		
§ 4.1.1.7	Landscape design	Nexus Included in Basic Services
<i>(Row deleted)</i>		
§ 4.1.1.8	Architectural interior design	Nexus included in Basic Services
<i>(Rows deleted)</i>		
§ 4.1.1.9	On-site project representation	Nexus per Construction Management Agreement
<i>(Row deleted)</i>		
§ 4.1.1.10	As-designed record drawings	Nexus as a Supplemental Service
§ 4.1.1.11	As-constructed record drawings	Nexus as a Supplemental Service
<i>(Rows deleted)</i>		
§ 4.1.1.12	Telecommunications/data design	Nexus as a Supplemental Services
<i>(Row deleted)</i>		
§ 4.1.1.13	Security evaluation and planning	Owner
§ 4.1.1.14	Commissioning	Nexus included in Basic Services
<i>(Rows deleted)</i>		
§ 4.1.1.15	Furniture, furnishings, and equipment design	Nexus as a Supplemental Service

(Rows deleted)

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as Nexus’ responsibility is provided below.

(Describe in detail Nexus’ Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Nexus’ Services documents that can be included as an exhibit to describe Nexus’ Supplemental Services.)

N/A

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner’s responsibility is provided below.

(Describe in detail the Owner’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

N/A

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, Nexus shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate Nexus as provided in Section 11.2.

§ 4.2 Nexus’ Additional Services

Nexus may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of Nexus, any Additional Services provided in accordance with this Section 4.2 shall entitle Nexus to compensation pursuant to Section 11.3 and an appropriate adjustment in Nexus’ schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, Nexus shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. Nexus shall not proceed to provide the following Additional Services until Nexus receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where Nexus is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 If conditions are encountered at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or Record Drawings provided by the Owner or (2) unknown physical conditions of an unusual nature, which 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;
- .12 If additional planning services are required;
- .13 Providing services to verify the accuracy of drawings or other information furnished by the Owner; or
- .14 Providing services of necessary consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of this Agreement.

§ 4.2.2 To avoid delay in the Construction Phase, Nexus shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of Nexus' notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to Nexus of the Owner's determination. The Owner shall compensate Nexus for the services provided prior to Nexus' receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by Nexus;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 Nexus shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, Nexus shall notify the Owner:

- .1 Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Three (3) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

Init.

.3 Three (3) inspections for any portion of the Work to determine final completion.

§ 4.2.4 If the services covered by this Agreement have not been completed December 31, 2024, through no fault of Nexus, extension of Nexus's services beyond that time shall be compensated as Additional Services

(Paragraph deleted)

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. The Owner shall not significantly increase or decrease the Owner's budget for the Cost of the Work without the agreement of Nexus to a corresponding change in the Project Scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve Nexus' submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of Nexus' services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 The Owner shall provide Nexus all Record Drawings, as-built drawings, or construction drawings of the existing facility within the Owner's possession custody and control.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by Nexus. Upon Nexus' request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of Nexus in this Agreement, or authorize Nexus to furnish them as an Additional Service, when Nexus requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to Nexus if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in Nexus' Instruments of Service.

§ 5.12 The Owner shall include Nexus in all communications with the Contractor that relate to or affect Nexus' services or professional responsibilities. The Owner shall promptly notify Nexus of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with Nexus' consultants shall be through Nexus.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate Nexus' duties and responsibilities set forth in the Contract for Construction with Nexus' services set forth in this Agreement. The Owner shall provide Nexus a copies of the executed agreement between the Owner and the Prime Contractors.

§ 5.14 The Owner shall provide Nexus access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide Nexus access to the Work wherever it is in preparation or progress.

§ 5.15 The Owner shall provide Nexus all known Record Drawings, as-built drawings, or construction drawings of the existing facilities within the Owner's possession, custody or control. The Owner warrants that such information is correct and that Nexus shall be entitled to reasonably rely on the accuracy of all such information. In the event Nexus encounters any differing or changed field conditions or any concealed Site conditions that are different than reasonably anticipated or different than depicted in information provided by the Owner ("Changed Condition"), Nexus shall be compensated for additional services as a result of such Changed Condition.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total estimated cost to the Owner to construct all elements of the Project designed or specified by Nexus and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work. If there is a construction manager, the Cost of Work shall also include the costs of management or supervision of construction or installation provided by the construction manager.

The Cost of Work does not include the compensation of Nexus under this Agreement, but does include Nexus' compensation under the Construction Management Agreement. The Cost of the Work also does not include, the costs of the land, rights-of-way or financing.

For the purpose of calculating Program Management fees, the Cost of Work shall include the entire project budget, which includes but is not limited to, the Cost of Work as described above, plus compensation for architectural, engineering, commissioning, and construction management services, plus other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by Nexus, represent Nexus' judgment as a design professional. It is recognized, however, that neither Nexus nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, Nexus cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by Nexus.

§ 6.3 In preparing estimates of the Cost of Work, Nexus shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. Nexus' estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, Nexus shall provide such an estimate, Nexus shall provide such an estimate as part of the Basic Services.

§ 6.4 If, through no fault of Nexus, the Procurement Phase has not commenced within 90 days after Nexus submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time Nexus' estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, Nexus shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with Nexus in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with Nexus, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, Nexus shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires Nexus to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions Nexus could not reasonably anticipate, the Owner shall compensate Nexus for the modifications as an Additional Service pursuant to Section 11.3; otherwise Nexus' services for modifying the Construction Documents shall be without additional compensation. In any event, Nexus' modification of the Construction Documents shall be the limit of Nexus' responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 Nexus and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 Nexus and Nexus' consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of Nexus and Nexus' consultants.

§ 7.3 Nexus grants to the Owner a nonexclusive license to use Nexus' Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. Nexus shall obtain similar nonexclusive licenses from Nexus' consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If Nexus rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases Nexus and Nexus' consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless Nexus and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of Nexus. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to Nexus and Nexus' consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 To the extent damages are covered by property insurance, the Owner and Nexus waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232-2009, General Conditions of the Contract for Construction. The Owner or Nexus, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

(Paragraph deleted)

§ 8.1.3 To the extent allowable by Minnesota law, Nexus and the Owner each agree to indemnify the other party and its respective officers, agents, directors and employees from third party claims, demands, actions, liabilities, expenses or suits for bodily injury, including death or tangible property damage to the extent resulting from the intentional misconduct or any negligent act by its employees or agents. Owner expressly agrees Nexus shall be responsible only for such injury or damage to the extent it is caused by the intentional misconduct or negligent act or omission of Nexus' employees or agents and Nexus shall not be responsible for any injury or damage to the extent caused, or contributed to, in any manner by Owner or any third party.

§8.1.4 HAZARDOUS MATERIALS

§8.1.4.1 **Asbestos Containing Materials** – Neither Party desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of asbestos-containing materials ("ACM"). Consistent with applicable laws, Owner shall supply Nexus with any information in its possession relating to the presence of ACM in areas where Nexus undertakes any work that may result in the disturbance of ACM. It is Nexus' policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and Owner shall provide such certification for buildings it owns, or aid Nexus in receiving such certification from facility owners in the case of buildings that it does not own, if Nexus will undertake any work in the facility that would disturb ACM. If either Owner or Nexus becomes aware of or suspects the presence of ACM that may be disturbed by Nexus' work, it shall immediately stop the work in the affected area and notify the other contacts. If ACM is identified in the information provided by the Owner to Nexus, and the Program work will disturb or require abatement of any ACM, the Owner shall be responsible at its sole expense for addressing abatement of such ACM. Except where Nexus provides environmental services pursuant to this Agreement, Nexus shall have no obligation to monitor, verify or otherwise warrant that such abatement work has been completed.

§8.1.4.2 **Other Hazardous Materials** – Nexus shall have no obligations relating to the identification, abatement, cleanup, control, removal or disposal of mold, regardless of the cause of the mold. Nexus shall be responsible for removing or disposing of any Hazardous Materials that it uses in providing any work ("Nexus Hazardous Material") and, other than mold, for the remediation of any areas impacted by the release of Nexus Hazardous Materials. For other Hazardous Materials that may be otherwise present at its facilities ("Non-Nexus Hazardous Materials"), Owner shall supply Nexus with any information in its possession relating to the presence of such materials if their presence may affect Nexus' performance of any work. If either Owner or Nexus becomes aware of or suspects the presence of Non-Nexus Hazardous Materials that may interfere with Nexus' work, it shall immediately stop the work in the affected area and notify the other's contacts. As between Owner and Nexus, Owner shall be responsible for removing and disposing of mold and Non-Nexus Hazardous Materials from its facilities and the remediation of any areas impacted by mold or the release of the Non-Nexus Hazardous Materials.

§8.1.4.3 **Environmental Indemnity** – To the fullest extent permitted by Law, Owner shall indemnify and hold harmless Nexus and Nexus' subcontractors, and their respective directors, officers, employees, agents, representatives, shareholders, affiliates, and assigns and successors, from and against any and all losses, costs, damages, expenses

Init.

(including reasonable legal fees and defense costs), claims, causes of action or liability, directly or indirectly, relating to or arising from the Owner's use, or the storage, release, discharge, handling or presence of ACM, mold (actual or alleged and regardless of the cause of such condition) or Non-Nexus Hazardous Materials on, under or about the facilities, or Owner's failure to comply with this Section 10.

§8.1.5 FORCE MAJEURE – Neither party shall be responsible to the other for damages, loss, injury or delay caused by conditions beyond its reasonable control, and without the intentional misconduct or negligence of that Party ("Uncontrollable Events"). Uncontrollable Events include, but are not limited to: (a) acts of God; (b) acts of Government agencies; (c) strikes and/or labor disputes; (d) fire; (e) explosions or other casualties; (f) thefts; (g) vandalism; (h) terrorism, riots or war; (i) unavailability of parts, materials or supplies; (j) change in law, including the promulgation, modification or repeal of any law or the imposition of any material condition on the issuance or renewal of any permit which (A) occurs after the Effective Date, (B) establishes new laws or requires any new or existing permits, or modifies any law or permit requirement for the Program existing as of the Effective Date, or (C) materially and adversely affects the cost or expense of the Work to Nexus; or (k) lawsuits from parties seeking to enjoin the Owner, Nexus or both from performing in accordance with the Agreement.

§8.1.6 DELAYS – If either party is delayed in the commencement or completion of these services by causes beyond its control and without its fault or negligence, including but not limited to Uncontrollable Events, or by failure of the other Party to perform its obligations under this Agreement and Schedules or failure by the other Party to cooperate in the timely completion of the services, then the delayed Party shall provide written notice to the other Party of the existence, extent of, and reason for such delays. An equitable adjustment in completion dates shall be made as a result.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of Nexus' services, Nexus may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Nexus shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

If the Owner and Nexus 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, the dispute will be resolved in a court of competent jurisdiction.

Init.

§ 8.3 The provisions of this Article 8 shall survive the termination of this Agreement.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to Nexus in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at Nexus' option, cause for suspension of performance of services under this Agreement. If Nexus elects to suspend services, Nexus shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, Nexus shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay Nexus all sums due prior to suspension and any expenses incurred in the interruption and resumption of Nexus' services. Nexus' fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, Nexus shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, Nexus shall be compensated for expenses incurred in the interruption and resumption of Nexus' services. Nexus' fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of Nexus, Nexus may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to Nexus for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or Nexus terminates this Agreement pursuant to Section 9.3, the Owner shall compensate Nexus for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to Nexus' termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or Nexus terminates this Agreement pursuant to Section 9.3, the Owner shall pay to Nexus the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

- .1 Termination Fee:
Reasonable expenses incurred by Nexus as a result of the termination
- .2 Licensing Fee if the Owner intends to continue using Nexus' Instruments of Service:
15% of Remaining fees on the Project

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use Nexus' Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

Init.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement 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 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232–2009, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Nexus, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor Nexus shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to Nexus by the Owner prior to the assignment.

§ 10.4 If the Owner requests Nexus to execute certificates, the proposed language of such certificates shall be submitted to Nexus for review at least 14 days prior to the requested dates of execution. If the Owner requests Nexus to execute consents reasonably required to facilitate assignment to a lender, Nexus shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to Nexus for review at least 14 days prior to execution. Nexus shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Nexus.

§ 10.6 Unless otherwise required in this Agreement, Nexus shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 Nexus shall have the right to include photographic or artistic representations of the design of the Project among Nexus' promotional and professional materials. Nexus shall be given reasonable access to the completed Project to make such representations. However, Nexus' materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised Nexus in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for Nexus in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If Nexus or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement 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 Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 The Owner and Nexus recognize that the designer under this project may be eligible for a tax deduction for energy efficient commercial buildings under §179D of the Internal Revenue Code. The Owner and Nexus agree and

Init.

recognize that Nexus will be the designer of this project for the purposes of the §179D deduction. The Owner will cooperate with Nexus in obtaining the paperwork and certification necessary from the Owner to allow Nexus to claim any §179D or any other energy efficient commercial buildings deduction.

ARTICLE 11 COMPENSATION

§ 11.1 For Nexus’ Basic Services described under Article 3, the Owner shall compensate Nexus as follows:

.1 Stipulated Sum:

(Paragraphs deleted)

Six Million, One Hundred and Five Thousand, Five Hundred and Eighty Dollars (\$6,105,580.00)

§ 11.2 For Nexus’ Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate Nexus as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

As agreed or on a time and expense basis as applicable.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate Nexus as follows:

(Insert amount of, or basis for, compensation.)

As agreed or on a time and expense basis as applicable.

§ 11.4 Compensation for Supplemental and Additional Services of Nexus’ consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to

(Paragraphs deleted)

Nexus plus zero percent (0%).

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty-Five	percent (	25	%)
Construction Documents Phase	Forty	percent (	40	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Fifteen	percent (	15	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. Nexus shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of Nexus and Nexus' consultants are set forth below. The rates shall be adjusted in accordance with Nexus' and Nexus' consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit C.
(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by Nexus and Nexus' consultants directly related to the Project, as follows.

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid and expenses incurred for securing approval of Authorities having jurisdiction over the Project, including but not limited to government agency reviews and permit fees;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Bid-Set printing
- .7 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .8 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .9 Expenses related to LEED, Energy Star, or other sustainability-related documentation, including processing of utility rebates;
- .10 Community meetings beyond the number specified herein, unless compensated as a change order to the Agreement;
- .11 Nexus' or Nexus' consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by Nexus or Nexus' consultants;
- .12 All taxes levied on professional services and on reimbursable expenses;

(Paragraph deleted)

- .13 Marketing and communications materials, consulting, and research as requested by the Owner, beyond the scope of the marketing and communication materials described in Article 3.1.7;
- .14 Site office expenses, to the extent the Owner does not provide office space at the project site, excluding expenses related to trailers and portable offices; and
- .15 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by Nexus and Nexus's consultants plus zero percent (0 %) of the expenses incurred.

§ 11.9

(Paragraphs deleted)

Payments to Nexus

(Paragraphs deleted)

§ 11.9.1 Initial Payments

§ 11.9.1.1 An initial payment of ten percent (10%) shall be made by February 1, 2022 and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of Nexus' invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of Nexus.

At the rate specified in Minnesota Statutes, Section 549.09

§ 11.9.2.2 The Owner shall not withhold amounts from Nexus' compensation to impose a penalty or liquidated damages on Nexus, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless Nexus agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be provided to the Owner with the invoice(s) seeking payment for those expenses.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

None.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and Nexus and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Nexus.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document

(Paragraphs deleted)

B144/ARCH-CM—1993 Standard Form of Amendment for the Agreement Between Owner and Architect where the Architect Provides Construction Management Services as an Advisor to the Owner

(Paragraphs deleted)

- .3 Exhibit A: Project Scope of Work
- .4 Exhibit B: Preliminary Schedule

(Paragraph deleted)

- .5 Exhibit C: Hourly Rates

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

OWNER (Signature)

Sara Eischens, Board Chairperson

(Printed name and title)

NEXUS (Signature)

Michael J. David, President

(Printed name, title, and license number, if required)

OWNER (Signature)

Rich Schug, Board Clerk

(Printed name and title)

Additions and Deletions Report for AIA[®] Document B101[™] – 2017

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 18:39:39 ET on 12/19/2021.

PAGE 1

AGREEMENT made as of the 20th day of December in the year 2021

...

BETWEEN ~~the Architect's~~ Nexus' client identified as the Owner:

...

Independent School District 108
531 Morse Street
Norwood Young America, MN 55368

and the ~~Architect~~:Nexus:

...

Nexus Solutions, LLC
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

...

~~(Name, location and detailed description)~~

Elementary, Middle School and High School renovations as more fully set forth in Exhibit A to be financed as follows:

WHEREAS, the Owner has decided to hire Nexus for Program Management services including, architectural, engineering, Construction Management, and commissioning for the Project; and

WHEREAS, Nexus shall be entitled to use subconsultant architects, engineers and other design professionals to perform or assist in performing any of Nexus services under this Agreement ("Nexus' Subconsultants"). The Parties intend to use AIA documents as the basis for the Contract Documents, including Nexus' contracts with Nexus' Subconsultants. The Parties expressly recognize that the architect or engineers of record on the Project may be either employees of or subconsultants to Nexus and Nexus in no manner represents or implies that Nexus itself intends to perform architectural or engineering services for which it is not appropriately licensed; and

The Owner and Architect agree as follows: **WHEREAS**, nothing contained in the Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Nexus; and

WHEREAS, the parties understand and agree that a significant number of improvements and additions have been made at the Site over time, the parties understand and agree that Nexus does not represent or warrant the quality or

acceptability of the previous work and Nexus shall be entitled to negotiate additional compensation arising from unforeseen and/or concealed conditions arising from the previous work; and

WHEREAS, the parties understand and agree Nexus and Nexus' Subconsultants will provide design, engineering, construction management, and commissioning services for the following improvements.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows



TABLE OF ARTICLES
PAGE 2

2 ARCHITECT'S NEXUS' RESPONSIBILITIES
3 SCOPE OF ARCHITECT'S NEXUS' BASIC SERVICES

...

See Exhibit A.

...

N/A

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6-1-6.1, plus all other hard and soft costs for the Project:

...

See Exhibit A, \$45,818,600

PAGE 3

See Exhibit B: Preliminary Project Schedule

...

Construction Manager as Advisor with the Architect acting as the Construction Manager

...

N/A

§ 1.1.6.1 ~~If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™ 2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204 2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204 2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.~~

...

Mr. Timothy Schochenmaier
Superintendent of Schools

952-467-7000
District Office
531 Morse Street
Norwood Young America, MN 55368

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review ~~the Architect's~~ Nexus' submittals to the Owner are as follows:

...

N/A

...

PAGE 4

TBD

None.

...

Asbestos Consultant

§ 1.1.10 ~~The Architect~~ Nexus identifies the following representative in accordance with Section 2.3:

...

Michael J. David
President
(612) 747-1003
6885 Sycamore Lane N., Suite 200
Maple Grove, Minnesota 55369

...

§ 1.1.11 ~~The Architect~~ Nexus shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:

...

.1 ~~Structural Engineer:~~ Architect:
Hay Dobbs
2324 University Avenue W, Suite 200
St. Paul, MN 55114

...

.2 ~~Mechanical/Civil Engineer:~~
Larson Engineering
3524 Labore Road
White Bear Lake, Minnesota 55110-5126

...

.3 ~~Electrical Engineer:~~
~~Electrical~~ JB Electrical Design
6885 Sycamore Lane N., Suite 220
Maple Grove, Minnesota 55369

4 Structural Engineer:
Sandman Structural Engineers
10900 Noble Avenue North
Champlin, MN 55316

PAGE 5

N/A

...

N/A

§ 1.2 The Owner and ~~Architect-Nexus~~ may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and ~~the Architect-Nexus~~ shall appropriately adjust ~~the Architect's-Nexus'~~ services, schedule for ~~the Architect's-Nexus'~~ services, and ~~the Architect's-Nexus'~~ compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

...

ARTICLE 2 — ARCHITECT'S RESPONSIBILITIES

ARTICLE 2 NEXUS' RESPONSIBILITIES

§ 2.1 ~~The Architect-Nexus~~ shall provide professional services as set forth in this Agreement. ~~The Architect-Nexus~~ represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 ~~The Architect-Nexus~~ shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. ~~The Architect-Nexus~~ shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 ~~The Architect-Nexus~~ shall identify a representative authorized to act on behalf of ~~the Architect-Nexus~~ with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, ~~the Architect-Nexus~~ shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise ~~the Architect's-Nexus'~~ professional judgment with respect to this Project.

§ 2.5 ~~The Architect-Nexus~~ shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits ~~the Architect-Nexus~~ normally maintains, the Owner shall pay ~~the Architect-Nexus~~ as set forth in Section 11.9.

COVERAGES	LIMITS OF LIABILITY
<u>Workmen's Compensation, including Employer's Liability Insurance</u>	<u>Statutory</u>
<u>Commercial General Bodily Injury Liability Insurance, including Contractual</u>	<u>\$1,000,000</u>
<u>Commercial General Property Damage Liability Insurance, including Contractual</u>	<u>\$1,000,000 Per Claim</u> <u>\$2,000,000 Aggregate</u>
<u>Commercial Automobile Injury Liability Insurance</u>	<u>\$500,000 Aggregate</u>
<u>Commercial Automobile Property Damage Liability Insurance</u>	<u>\$500,000</u>

Professional Liability Insurance	\$1,000,000 Per Claim \$3,000,000 Aggregate
----------------------------------	--

~~§ 2.5.1 Commercial General Liability with policy limits of not less than (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage.~~

~~§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect 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.~~

~~§ 2.5.3 The Architect 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 liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, 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.~~

~~§ 2.5.4 Workers' Compensation at statutory limits.~~

~~§ 2.5.5 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.~~

~~§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than (\$) per claim and (\$) in the aggregate.~~

~~§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect-Nexus shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's-Nexus' negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.~~

~~§ 2.5.8 The Architect-Nexus shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.~~

~~**ARTICLE 3 — SCOPE OF ARCHITECT'S BASIC SERVICES**~~

~~§ 2.5.9 Owner shall maintain Property Insurance (builder's risk completed value) in sufficient amount for the entire period of the Agreement on a replacement cost basis. Such insurance shall be on an all risk basis including theft and shall protect the interest of the Owner, the Contractor and Subcontractors and shall name Nexus as an additional insured~~

~~**ARTICLE 3 SCOPE OF NEXUS' BASIC SERVICES**~~

~~§ 3.1 The Architect's-Nexus' Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.~~

~~§ 3.1.1 The Architect-Nexus shall manage the Architect's-Nexus' services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.~~

~~§ 3.1.2 The Architect-Nexus shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect-Nexus shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect-Nexus shall provide prompt written notice to the Owner if the Architect-Nexus becomes aware of any error, omission, or inconsistency in such services or information.~~

§ 3.1.3 As soon as practicable after the date of this Agreement, ~~the Architect-Nexus~~ shall submit for the Owner's approval a schedule for the performance of ~~the Architect's-Nexus'~~ services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by ~~the Architect-Nexus~~ or Owner. With the Owner's approval, ~~the Architect-Nexus~~ shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 ~~The Architect-Nexus~~ shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without ~~the Architect's-Nexus'~~ written approval.

§ 3.1.5 ~~The Architect-Nexus~~ shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. ~~The Architect-Nexus~~ shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 ~~The Architect-Nexus~~ shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.7 Upon Owner's request, Nexus shall create site advertisements and content and design for community communications related to the Project.

PAGE 7

§ 3.2.1 ~~The Architect-Nexus~~ shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to ~~the Architect's-Nexus'~~ services.

§ 3.2.2 ~~The Architect-Nexus~~ shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. ~~The Architect-Nexus~~ shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 ~~The Architect-Nexus~~ shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. ~~The Architect-Nexus~~ shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, ~~the Architect-Nexus and its consultants~~ shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, ~~the Architect~~ shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 ~~The Architect-Nexus~~ shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 ~~The Architect-Nexus~~ shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 ~~The Architect-Nexus~~ shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. As the design process progresses through the end of the preparation of the Construction Documents, Nexus shall update and refine the preliminary estimate of the Cost of Work.

§ 3.2.7 ~~The Architect-Nexus~~ shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

...

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, ~~the Architect-Nexus and its consultants~~ shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 ~~The Architect-Nexus~~ shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 ~~The Architect-Nexus~~ shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

...

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, ~~the Architect-Nexus~~ shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and ~~Architect-Nexus~~ acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which ~~the Architect-Nexus~~ shall review in accordance with Section 3.6.4.

§ 3.4.2 ~~The Architect-Nexus~~ shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, ~~the Architect-Nexus and its consultants~~ shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). ~~The Architect-Nexus~~ shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 ~~The Architect-Nexus~~ shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 ~~The Architect-Nexus~~ shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

PAGE 8

~~The Architect-Nexus~~ shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, ~~the Architect-Nexus~~ shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

...

§ 3.5.2.2 ~~The Architect~~ Nexus shall assist the Owner in bidding the Project by:

...

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, ~~the Architect~~ Nexus shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

...

§ 3.5.3.2 ~~The Architect~~ Nexus shall assist the Owner in obtaining proposals by:

PAGE 9

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, ~~the Architect~~ Nexus shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

...

§ 3.6.1.1 ~~The Architect~~ Nexus shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, A232™-2009, General Conditions of the Contract for Construction. ~~If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~

§ 3.6.1.2 ~~The Architect~~ Nexus shall advise and consult with the Owner during the Construction Phase Services. ~~The Architect~~ Nexus shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. ~~The Architect~~ Nexus shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall ~~the Architect~~ Nexus be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. ~~The Architect~~ Nexus shall be responsible for ~~the Architect's~~ Nexus' negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, ~~the Architect's~~ Nexus' responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date ~~the Architect~~ Nexus issues the final Certificate for Payment.

...

§ 3.6.2.1 ~~The Architect~~ Nexus shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. ~~However, the Architect~~ As a part of its construction management services, Nexus will have a full time superintendent on site. However, Nexus shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, ~~the Architect~~ Nexus shall 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.

§ 3.6.2.2 ~~The Architect~~ has the authority to ~~Nexus shall~~ reject Work that does not conform to the Contract Documents. ~~Whenever the Architect considers it necessary or advisable, the Architect~~ Documents, unless otherwise approved in writing by the Owner. Whenever Nexus considers it necessary or advisable, Nexus shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the

Work is fabricated, installed or completed. However, neither this authority of the ~~Architect-Nexus~~ 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-Nexus~~ to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 ~~The Architect-Nexus~~ shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. ~~The Architect's-Nexus'~~ response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the ~~Architect-Nexus~~ shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the ~~Architect-Nexus~~ shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. ~~The Architect's-Nexus'~~ decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, ~~the Architect-A232-2009, Nexus~~ shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

PAGE 10

§ 3.6.3.1 ~~The Architect-Nexus~~ shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. ~~The Architect's-Nexus'~~ certification for payment shall constitute a representation to the Owner, based on the ~~Architect's-Nexus'~~ evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the ~~Architect's-Nexus'~~ 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 (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the ~~Architect-Nexus~~.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the ~~Architect-Nexus~~ 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) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 ~~The Architect-Nexus~~ shall maintain a record of the Applications and Certificates for Payment.

...

§ 3.6.4.1 ~~The Architect-Nexus~~ shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. ~~The Architect's-Nexus'~~ action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the ~~Architect's-Nexus'~~ professional judgment, to permit adequate review.

§ 3.6.4.2 ~~The Architect-Nexus~~ shall 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. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. ~~The Architect's-Nexus'~~ review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. ~~The Architect's-Nexus'~~ approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, ~~the Architect-Nexus~~ shall specify the appropriate performance and design criteria that such services must satisfy. ~~The Architect-Nexus~~ shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to ~~the Architect~~. ~~The Architect's Nexus~~. Nexus' review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. ~~The Architect-Nexus~~ shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, ~~the Architect-Nexus~~ shall review and respond to requests for information about the Contract Documents. ~~The Architect-Nexus~~ shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. ~~The Architect's Nexus~~ response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, ~~the Architect-Nexus~~ shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 ~~The Architect-Nexus~~ shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

...

§ 3.6.5.1 ~~The Architect-Nexus~~ 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. Subject to Section 4.2, ~~the Architect-Nexus~~ shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 ~~The Architect-Nexus~~ shall maintain records relative to changes in the Work.

PAGE 11

§ 3.6.6.1 ~~The Architect-Nexus~~ shall:

...

- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of ~~the Architect's Nexus~~ knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 ~~The Architect's Nexus~~' inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, ~~the Architect-Nexus~~ shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 ~~The Architect-Nexus~~ shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, ~~the Architect-Nexus~~ shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.6.7 COMMISSIONING SERVICES

§ 3.6.7.1 Nexus, with the Owner’s assistance, shall oversee the close-out of the Project, as well as the commencement and final reporting and response action determined by the commissioning services for each Project where commissioning is required pursuant to applicable law.

§ 3.6.7.2 Nexus shall coordinate and complete all testing and reporting required by applicable law. Nexus shall consult with Owner on post-construction issues until the Project is turned over to Owner.

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. ~~The Architect~~ Nexus shall provide the listed Supplemental Services only if specifically designated in the table below as ~~the Architect’s Nexus’~~ responsibility, and the Owner shall compensate ~~the Architect Nexus~~ as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor ~~the Architect Nexus~~ is designated, the parties agree that the listed Supplemental Service is not being provided for the Project. *(Designate ~~the Architect’s Nexus’~~ Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether ~~the Architect Nexus~~ or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility <i>(Architect, Nexus, Owner, or not provided)</i>
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 § 4.1.1.1 Measured drawings	<u>Not Provided</u>
§ 4.1.1.4 § 4.1.1.2 Existing facilities surveys	<u>Owner</u>
§ 4.1.1.5 § 4.1.1.3 Site evaluation and planning	<u>Not Provided</u>
§ 4.1.1.6 § 4.1.1.4 Building Information Model management responsibilities	<u>Not Provided</u>
§ 4.1.1.7 § 4.1.1.5 Development of Building Information Models for post construction use	<u>Nexus as a Supplemental service</u>
§ 4.1.1.6 Civil engineering	<u>Nexus Included in Basic Services</u>
§ 4.1.1.8 Civil engineering	
§ 4.1.1.7 Landscape design	<u>Nexus Included in Basic Services</u>
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 § 4.1.1.8 Architectural interior design	<u>Nexus included in Basic Services</u>
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 § 4.1.1.9 On-site project representation	<u>Nexus per Construction Management Agreement</u>
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 § 4.1.1.10 As-designed record drawings	<u>Nexus as a Supplemental Service</u>
§ 4.1.1.16 § 4.1.1.11 As-constructed record drawings	<u>Nexus as a Supplemental Service</u>
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect’s coordination of the Owner’s consultants	
§ 4.1.1.12 Telecommunications/data design	<u>Nexus as a Supplemental Services</u>
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 § 4.1.1.13 Security evaluation and planning	<u>Owner</u>

Supplemental Services	Responsibility <i>(Architect, Nexus, Owner, or not provided)</i>
§ 4.1.1.14 Commissioning	<u>Nexus included in Basic Services</u>
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 – § 4.1.1.15 Furniture, furnishings, and equipment design	<u>Nexus as a Supplemental Service</u>
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	

PAGE 12

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as ~~the Architect's~~ Nexus' responsibility is provided below.
(Describe in detail ~~the Architect's~~ Nexus' Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of ~~Architect's~~ Nexus' Services documents that can be included as an exhibit to describe ~~the Architect's~~ Nexus' Supplemental Services.)

N/A

...

N/A

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, ~~the Architect~~ Nexus shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate ~~the Architect~~ Nexus as provided in Section 11.2.

§ 4.2 ~~Architect's~~ Nexus' Additional Services

~~The Architect~~ Nexus may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of ~~the Architect~~ Nexus, any Additional Services provided in accordance with this Section 4.2 shall entitle ~~the Architect~~ Nexus to compensation pursuant to Section 11.3 and an appropriate adjustment in ~~the Architect's~~ Nexus' schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, ~~the Architect~~ Nexus shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. ~~The Architect~~ Nexus shall not proceed to provide the following Additional Services until ~~the Architect~~ Nexus receives the Owner's written authorization:

PAGE 13

- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where ~~the Architect~~ Nexus is party thereto;

...

- .11 Assistance to the Initial Decision Maker, if other than the Architect. If conditions are encountered at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or Record Drawings provided by the Owner or (2) unknown physical conditions of an unusual nature, which 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;

- .12 If additional planning services are required;
- .13 Providing services to verify the accuracy of drawings or other information furnished by the Owner; or
- .14 Providing services of necessary consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of this Agreement.

§ 4.2.2 To avoid delay in the Construction Phase, ~~the Architect-Nexus~~ shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of ~~the Architect's-Nexus'~~ notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to ~~the Architect-Nexus~~ of the Owner's determination. The Owner shall compensate ~~the Architect-Nexus~~ for the services provided prior to ~~the Architect's-Nexus'~~ receipt of the Owner's notice.

- ~~.1~~ Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by ~~the Architect-Nexus~~;

...

§ 4.2.3 ~~The Architect-Nexus~~ shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, ~~the Architect-Nexus~~ shall notify the Owner:

- ~~.1~~ Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- ~~.2~~ (-) visits to the site by ~~the Architect~~ during construction
- ~~.3~~ (-) Three (3) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- ~~.4~~ (-) .3 Three (3) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, ~~whichever is earlier, If the services covered by this Agreement have not been completed December 31, 2024, through no fault of Nexus, extension of Nexus's services beyond that time shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.~~

§ 4.2.5 If the services covered by this Agreement have not been completed within ~~(-)~~ months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 14

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. ~~If the Owner significantly increases or decreases The Owner shall not significantly increase or decrease the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree~~ Work without the agreement of Nexus to a corresponding change in the Project's scope Project Scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve ~~the Architect's-Nexus'~~ submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of ~~the Architect's-Nexus'~~ services.

...

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall provide

Nexus all Record Drawings, as-built drawings, or construction drawings of the existing facility within the Owner's possession custody and control.

~~§ 5.8~~ The Owner shall coordinate the services of its own consultants with those services provided by ~~the Architect.~~ Upon the Architect's Nexus. Upon Nexus' request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of ~~the Architect~~ Nexus in this Agreement, or authorize ~~the Architect~~ Nexus to furnish them as an Additional Service, when ~~the Architect~~ Nexus requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

PAGE 15

~~§ 5.11~~ The Owner shall provide prompt written notice to ~~the Architect~~ Nexus if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in ~~the Architect's~~ Nexus' Instruments of Service.

~~§ 5.12~~ The Owner shall include ~~the Architect~~ Nexus in all communications with the Contractor that relate to or affect ~~the Architect's~~ Nexus' services or professional responsibilities. The Owner shall promptly notify ~~the Architect~~ Nexus 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~~ Nexus' consultants shall be through ~~the Architect~~ Nexus.

~~§ 5.13~~ Before executing the Contract for Construction, the Owner shall coordinate ~~the Architect's~~ Nexus' duties and responsibilities set forth in the Contract for Construction with ~~the Architect's~~ Nexus' services set forth in this Agreement. The Owner shall provide ~~the Architect a copy~~ Nexus a copies of the executed agreement between the Owner and Contractor, including ~~the General Conditions of the Contract for Construction.~~ the Prime Contractors.

~~§ 5.14~~ The Owner shall provide ~~the Architect~~ Nexus access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide ~~the Architect~~ Nexus access to the Work wherever it is in preparation or progress.

~~§ 5.15~~ Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights. The Owner shall provide Nexus all known Record Drawings, as-built drawings, or construction drawings of the existing facilities within the Owner's possession, custody or control. The Owner warrants that such information is correct and that Nexus shall be entitled to reasonably rely on the accuracy of all such information. In the event Nexus encounters any differing or changed field conditions or any concealed Site conditions that are different than reasonably anticipated or different than depicted in information provided by the Owner ("Changed Condition"), Nexus shall be compensated for additional services as a result of such Changed Condition.

...

~~§ 6.1~~ For purposes of this Agreement, the Cost of the Work shall be the total estimated cost to the Owner to construct all elements of the Project designed or specified by ~~the Architect~~ Nexus and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. ~~The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or~~ In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work. If there is a construction manager, the Cost of Work shall also include the costs of management or supervision of construction or installation provided by the construction manager.

The Cost of Work does not include the compensation of Nexus under this Agreement, but does include Nexus' compensation under the Construction Management Agreement. The Cost of the Work also does not include, the costs of the land, rights-of-way or financing.

For the purpose of calculating Program Management fees, the Cost of Work shall include the entire project budget, which includes but is not limited to, the Cost of Work as described above, plus compensation for architectural,

engineering, commissioning, and construction management services, plus other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by ~~the Architect~~, represent the Architect's Nexus, represent Nexus' judgment as a design professional. It is recognized, however, that neither ~~the Architect-Nexus~~ nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, ~~the Architect-Nexus~~ cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by ~~the Architect-Nexus~~.

§ 6.3 In preparing estimates of the Cost of Work, ~~the Architect-Nexus~~ shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. ~~The Architect's-Nexus'~~ estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, ~~the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.~~ Nexus shall provide such an estimate, Nexus shall provide such an estimate as part of the Basic Services.

§ 6.4 If, through no fault of ~~the Architect, Nexus~~, the Procurement Phase has not commenced within 90 days after the ~~Architect-Nexus~~ submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time ~~the Architect's-Nexus'~~ estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, ~~the Architect-Nexus~~ shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with ~~the Architect-Nexus~~ in making such adjustments.

PAGE 16

- 4 in consultation with ~~the Architect, Nexus~~, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,

...

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, ~~the Architect-Nexus~~ shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires ~~the Architect-Nexus~~ to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions ~~the Architect-Nexus~~ could not reasonably anticipate, the Owner shall compensate ~~the Architect-Nexus~~ for the modifications as an Additional Service pursuant to Section 11.3; otherwise ~~the Architect's-Nexus'~~ services for modifying the Construction Documents shall be without additional compensation. In any event, ~~the Architect's-Nexus'~~ modification of the Construction Documents shall be the limit of ~~the Architect's-Nexus'~~ responsibility under this Article 6.

...

§ 7.1 ~~The Architect-Nexus~~ and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 ~~The Architect and the Architect's-Nexus and Nexus'~~ consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet

official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of ~~the Architect and the Architect's Nexus and Nexus'~~ consultants.

§ 7.3 ~~The Architect-Nexus~~ grants to the Owner a nonexclusive license to use ~~the Architect's-Nexus'~~ Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. ~~The Architect-Nexus~~ shall obtain similar nonexclusive licenses from ~~the Architect's-Nexus'~~ consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If ~~the Architect-Nexus~~ rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases ~~the Architect and Architect's-Nexus and Nexus'~~ consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless ~~the Architect-Nexus~~ and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of ~~the Architect-Nexus~~. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to ~~the Architect and the Architect's Nexus and Nexus'~~ consultants.

PAGE 17

§ 8.1.1 ~~The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this 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 Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1. To the extent damages are covered by property insurance, the Owner and Nexus waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232-2009, General Conditions of the Contract for Construction. The Owner or Nexus, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.~~

§ 8.1.2 ~~To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.~~

§ 8.1.3 ~~The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7. To the extent allowable by Minnesota law, Nexus and the Owner each agree to indemnify the other party and its respective officers, agents, directors and employees from third party claims, demands, actions, liabilities, expenses or suits for bodily injury, including death or tangible property damage to the extent resulting from the intentional misconduct or any negligent act by its employees or agents. Owner expressly agrees Nexus shall be responsible only for such injury or damage to the extent it is caused by the intentional misconduct or negligent act or omission of Nexus' employees or agents and Nexus shall not be responsible for any injury or damage to the extent caused, or contributed to, in any manner by Owner or any third party.~~

§8.1.4 HAZARDOUS MATERIALS

§8.1.4.1 Asbestos Containing Materials – Neither Party desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of asbestos-containing materials ("ACM"). Consistent with applicable laws, Owner shall supply Nexus with any information in its possession relating to the presence of ACM in areas where Nexus undertakes any work that may result in the disturbance of ACM. It is Nexus' policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and Owner shall provide such certification for buildings it owns, or aid Nexus in receiving such certification from facility owners in the case of buildings that it does not own, if Nexus will undertake any work in the facility that would disturb ACM. If either Owner or Nexus becomes aware of or suspects the presence of ACM that may be disturbed by Nexus' work, it shall immediately stop the work in the affected area and notify the other contacts. If ACM is identified in the information provided by the Owner to Nexus, and the Program work will disturb or require abatement of any ACM, the Owner shall be responsible at its sole expense for addressing abatement of such ACM. Except where Nexus provides environmental services pursuant to this Agreement, Nexus shall have no obligation to monitor, verify or otherwise warrant that such abatement work has been completed.

§8.1.4.2 Other Hazardous Materials – Nexus shall have no obligations relating to the identification, abatement, cleanup, control, removal or disposal of mold, regardless of the cause of the mold. Nexus shall be responsible for removing or disposing of any Hazardous Materials that it uses in providing any work ("Nexus Hazardous Material") and, other than mold, for the remediation of any areas impacted by the release of Nexus Hazardous Materials. For other Hazardous Materials that may be otherwise present at its facilities ("Non-Nexus Hazardous Materials"), Owner shall supply Nexus with any information in its possession relating to the presence of such materials if their presence may affect Nexus' performance of any work. If either Owner or Nexus becomes aware of or suspects the presence of Non-Nexus Hazardous Materials that may interfere with Nexus' work, it shall immediately stop the work in the affected area and notify the other's contacts. As between Owner and Nexus, Owner shall be responsible for removing and disposing of mold and Non-Nexus Hazardous Materials from its facilities and the remediation of any areas impacted by mold or the release of the Non-Nexus Hazardous Materials.

§8.1.4.3 Environmental Indemnity – To the fullest extent permitted by Law, Owner shall indemnify and hold harmless Nexus and Nexus' subcontractors, and their respective directors, officers, employees, agents, representatives, shareholders, affiliates, and assigns and successors, from and against any and all losses, costs, damages, expenses (including reasonable legal fees and defense costs), claims, causes of action or liability, directly or indirectly, relating to or arising from the Owner's use, or the storage, release, discharge, handling or presence of ACM, mold (actual or alleged and regardless of the cause of such condition) or Non-Nexus Hazardous Materials on, under or about the facilities, or Owner's failure to comply with this Section 10.

§8.1.5 FORCE MAJEURE – Neither party shall be responsible to the other for damages, loss, injury or delay caused by conditions beyond its reasonable control, and without the intentional misconduct or negligence of that Party ("Uncontrollable Events"). Uncontrollable Events include, but are not limited to: (a) acts of God; (b) acts of Government agencies; (c) strikes and/or labor disputes; (d) fire; (e) explosions or other casualties; (f) thefts; (g) vandalism; (h) terrorism, riots or war; (i) unavailability of parts, materials or supplies; (j) change in law, including the promulgation, modification or repeal of any law or the imposition of any material condition on the issuance or renewal of any permit which (A) occurs after the Effective Date, (B) establishes new laws or requires any new or existing permits, or modifies any law or permit requirement for the Program existing as of the Effective Date, or (C) materially and adversely affects the cost or expense of the Work to Nexus; or (k) lawsuits from parties seeking to enjoin the Owner, Nexus or both from performing in accordance with the Agreement.

§8.1.6 DELAYS – If either party is delayed in the commencement or completion of these services by causes beyond its control and without its fault or negligence, including but not limited to Uncontrollable Events, or by failure of the other Party to perform its obligations under this Agreement and Schedules or failure by the other Party to cooperate in the timely completion of the services, then the delayed Party shall provide written notice to the other Party of the existence, extent of, and reason for such delays. An equitable adjustment in completion dates shall be made as a result.

PAGE 18

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect Nexus' services, Nexus may proceed in accordance with

applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

~~§ 8.2.2~~ The Owner and ~~Architect~~ Nexus shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. ~~mediation.~~ A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

...

Litigation in a court of competent jurisdiction

...

If the Owner and ~~Architect~~ Nexus 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, the dispute will be resolved in a court of competent jurisdiction.

~~§ 8.3~~ ~~Arbitration~~ The provisions of this Article 8 shall survive the termination of this Agreement.

~~§ 8.3.1~~ If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

~~§ 8.3.1.1~~ A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

~~§ 8.3.2~~ The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.3~~ The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.4~~ **Consolidation or Joinder**

~~§ 8.3.4.1~~ Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

~~§ 8.3.4.2~~ Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

~~§ 8.3.4.3~~ The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

~~§ 8.4~~ The provisions of this Article 8 shall survive the termination of this Agreement.

~~§ 9.1~~ If the Owner fails to make payments to the Architect-Nexus in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's-Nexus' option, cause for suspension of performance of services under this Agreement. If the Architect-Nexus elects to suspend services, the Architect-Nexus shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect-Nexus shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect-Nexus all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's-Nexus' services. Nexus' fees for the remaining services and the time schedules shall be equitably adjusted.

~~§ 9.2~~ If the Owner suspends the Project, the Architect-Nexus shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect-Nexus shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's-Nexus' services. Nexus' fees for the remaining services and the time schedules shall be equitably adjusted.

~~§ 9.3~~ If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect-Nexus, Nexus may terminate this Agreement by giving not less than seven days' written notice.

PAGE 19

~~§ 9.5~~ The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect-Nexus for the Owner's convenience and without cause.

~~§ 9.6~~ If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect-Nexus terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect-Nexus for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's-Nexus' termination of consultant agreements.

~~§ 9.7~~ In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect-Nexus terminates this Agreement pursuant to Section 9.3, the Owner shall pay to Nexus the Architect the following fees:

...

Reasonable expenses incurred by Nexus as a result of the termination

.2 Licensing Fee if the Owner intends to continue using the Architect's-Nexus' Instruments of Service:

15% of Remaining fees on the Project

...

~~§ 9.9~~ The Owner's rights to use the Architect's-Nexus' Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

PAGE 20

~~§ 10.2~~ Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, A232-2009, General Conditions of the Contract for Construction.

~~§ 10.3~~ The Owner and Architect, Nexus, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect-Nexus shall assign this Agreement without the

written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to ~~the Architect-Nexus~~ by the Owner prior to the assignment.

§ 10.4 If the Owner requests ~~the Architect-Nexus~~ to execute certificates, the proposed language of such certificates shall be submitted to ~~the Architect-Nexus~~ for review at least 14 days prior to the requested dates of execution. If the Owner requests ~~the Architect-Nexus~~ to execute consents reasonably required to facilitate assignment to a lender, ~~the Architect-Nexus~~ shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to ~~the Architect-Nexus~~ for review at least 14 days prior to execution. ~~The Architect-Nexus~~ shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or ~~Architect-Nexus~~.

§ 10.6 Unless otherwise required in this Agreement, ~~the Architect-Nexus~~ shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 ~~The Architect-Nexus~~ shall have the right to include photographic or artistic representations of the design of the Project among ~~the Architect's-Nexus'~~ promotional and professional materials. ~~The Architect-Nexus~~ shall be given reasonable access to the completed Project to make such representations. However, ~~the Architect's-Nexus'~~ materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised ~~the Architect-Nexus~~ in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for ~~the Architect-Nexus~~ in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If ~~the Architect-Nexus~~ or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

...

§ 10.10 The Owner and Nexus recognize that the designer under this project may be eligible for a tax deduction for energy efficient commercial buildings under §179D of the Internal Revenue Code. The Owner and Nexus agree and recognize that Nexus will be the designer of this project for the purposes of the §179D deduction. The Owner will cooperate with Nexus in obtaining the paperwork and certification necessary from the Owner to allow Nexus to claim any §179D or any other energy efficient commercial buildings deduction.

§ 11.1 For ~~the Architect's-Nexus'~~ Basic Services described under Article 3, the Owner shall compensate ~~the Architect-Nexus~~ as follows:

.1 Stipulated ~~Sum~~Sum:
(*Insert amount*)

.2 — Percentage Basis
—— (*Insert percentage value*)

—— () % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 — Other
—— (*Describe the method of compensation*)

Six Million, One Hundred and Five Thousand, Five Hundred and Eighty Dollars (\$6,105,580.00)

§ 11.2 For the ~~Architect's~~ Nexus Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate ~~the Architect~~ Nexus as follows:
PAGE 21

As agreed or on a time and expense basis as applicable.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate ~~the Architect~~ Nexus as follows:

...

As agreed or on a time and expense basis as applicable.

§ 11.4 Compensation for Supplemental and Additional Services of the ~~Architect's~~ Nexus' consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to ~~the Architect~~ plus ~~percent (%),~~ or as follows: *(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

Nexus plus zero percent (0%).

...

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Twenty-Five</u>	percent (	<u>25</u>	%)
Construction Documents Phase	<u>Forty</u>	percent (	<u>40</u>	%)
Procurement Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)

...

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. ~~The Architect~~ Nexus shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of ~~the Architect and the Architect's~~ Nexus and Nexus' consultants are set forth below. The rates shall be adjusted in accordance with ~~the Architect's and Architect's~~ Nexus' and Nexus' consultants' normal review practices.

PAGE 22

See Exhibit C.

Employee or Category

Rate (\$0.00)

...

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by ~~the Architect and the Architect's~~ Nexus and Nexus' consultants directly related to the Project, as follows:follows.

...

- .2 Long distance services, dedicated data and communication services, teleconferences, Project ~~web~~ Web sites, and extranets;

- ~~.3~~ Permitting and other fees required by authorities having jurisdiction over the Project; Fees paid and expenses incurred for securing approval of Authorities having jurisdiction over the Project, including but not limited to government agency reviews and permit fees;
- ~~.4~~ Printing, reproductions, plots, and standard form documents;
- ~~.5~~ Postage, handling, handling and delivery;
- ~~.6~~ Bid-Set printing
- ~~.7~~ Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- ~~.7~~ Renderings, physical; ~~.8~~ Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project; Owner;
- ~~.9~~ Expenses related to LEED, Energy Star, or other sustainability-related documentation, including processing of utility rebates;
- ~~.8~~ If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses; ~~.10~~ Community meetings beyond the number specified herein, unless compensated as a change order to the Agreement;
- ~~.11~~ Nexus' or Nexus' consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's if the Owner requests such insurance in excess of that normally carried by Nexus or Nexus' consultants;
- ~~.9~~ ~~.12~~ All taxes levied on professional services and on reimbursable expenses;
- ~~.10~~ Site office expenses;
- ~~.11~~ Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and, ~~.13~~ Marketing and communications materials, consulting, and research as requested by the Owner, beyond the scope of the marketing and communication materials described in Article 3.1.7;
- ~~.14~~ Site office expenses, to the extent the Owner does not provide office space at the project site, excluding expenses related to trailers and portable offices; and
- ~~.12~~ ~~.15~~ Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ~~percent (—)~~ percent (—) Nexus and Nexus's consultants plus zero percent (0 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

Payments to Nexus

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of ~~(\$ —)~~ shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of ~~(\$ —)~~ shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ~~(—)~~ days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

—%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

§ 11.9.1 Initial Payments

§ 11.9.1.1 An initial payment of ten percent (10%) shall be made by February 1, 2022 and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of Nexus' invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of Nexus.

At the rate specified in Minnesota Statutes, Section 549.09

§ 11.9.2.2 The Owner shall not withhold amounts from Nexus' compensation to impose a penalty or liquidated damages on Nexus, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless Nexus agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be provided to the Owner with the invoice(s) seeking payment for those expenses.

PAGE 23

None.

...

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and ~~the Architect Nexus~~ and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and ~~Architect Nexus~~.

...

.2 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.)

.3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

[] AIA Document E204™—2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.) B144/ARCH-CM—1993 Standard Form of Amendment for the Agreement Between Owner and Architect where the Architect Provides Construction Management Services as an Advisor to the Owner

[] — Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

- .3 Exhibit A: Project Scope of Work
- .4 Other documents: Exhibit B: Preliminary Schedule
(List other documents, if any, forming part of the Agreement.)
- .5 Exhibit C: Hourly Rates

...

OWNER (Signature)

Sara Eischens, Board Chairperson

...

OWNER (Signature)

Rich Schug, Board Clerk

(Printed name and title)

ARCHITECT NEXUS (Signature)

Michael J. David, President

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Michael David, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 18:39:39 ET on 12/19/2021 under Order No. 7082196928 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, 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)