

## **Appendix B**

**If the School District elects to select separate Contractors to perform each of the Lawn Maintenance Services and Snow Removal Services components of the Grounds Services, this Contract will be revised to remove the non-applicable terms and services during the negotiation process.**

## **GROUND SERVICES CONTRACT**

This **GROUND SERVICES CONTRACT** (the "Contract") is entered into as of this 1<sup>st</sup> day of July, 2020 (the "Effective Date") by and between the **SOUTHFIELD PUBLIC SCHOOLS**, a Michigan general powers school district, whose address is 24661 Lahser Road, Southfield, Michigan 48033 (the "School District") and \_\_\_\_\_, a \_\_\_\_\_, whose address is \_\_\_\_\_ (the "Contractor"). The School District and Contractor may each be referred to herein as a "Party" and collectively as the "Parties."

### **Recitals**

**A.** The School District issued a Request For Proposals for Landscaping and Snow/Ice Removal Services dated February \_\_, 2020, as amended (collectively the "RFP"), the purpose of which was to solicit proposals from qualified entities with the ability to deliver lawn maintenance services and/or snow removal services for the School District's Facilities, as well as the provision of supplies and equipment related to these services as requested by the School District.

**B.** In response to the RFP, the Contractor submitted to the School District a Proposal dated \_\_\_\_\_, 2020 (the "Proposal") to provide the services contemplated by the RFP.

**C.** Pursuant to the terms of the RFP, the Contractor is required to enter into a written contract in accordance with the School District's written acceptance of its Proposal.

**D.** The Parties agree that certain terms, conditions and provisions of the RFP and the Proposal must be further clarified and that certain additional terms and conditions need to be expressly set forth by way of this Contract.

**NOW THEREFORE**, in consideration of the foregoing and the mutual covenants set forth herein, the Parties agree as follows:

### **I. RESTATEMENT CONSTITUTES THE CONTRACT**

**A. Incorporation by Reference.** The object of this Contract is to formalize in one document the complete agreement between the Parties, and to do so by specifically incorporating by reference into this Contract, the RFP, all Addenda to the RFP, the Proposal and other related documents, and by including certain additional necessary or appropriate Contract terms, particularly where the Contract terms agreed to by the Parties during the RFP negotiation process do not correspond with the RFP and/or the Proposal.

**B. Order of Precedence.** The Contract Documents, which are all incorporated herein by reference, include the following:

1. This Contract, including all Attachments hereto;
2. The RFP; and
3. Contractor's Proposal.

To the extent that the terms and conditions of the Contract Documents are in conflict, the terms and conditions shall be interpreted in the above-referenced order from 1 to 3. However, the Parties also agree that where there is not a conflict between any of the terms and conditions contained in the above-referenced Contract Documents, all of the Contract Documents shall be binding upon both Parties, except to the extent the exceptions contained in the Contractor's Proposal are not expressly accepted by the School District in writing and incorporated into this Contract.

## II. CONTRACT DURATION AND TERMINATION

- A. Initial Term.** The term of this Contract shall be for a period of approximately three (3) years, commencing July 1, 2020 and ending June 30, 2023 (the "Initial Term").
- B. Renewal Term(s).** The School District shall have the option to extend this Contract by up to two additional 1-year terms on year-to-year basis (each a "Renewal Term"), subject to the written approval of the School District, in its sole and absolute discretion. Nothing in this Contract requires the School District to exercise its option for a Renewal Term and Contractor has no expectation of a contract beyond the Initial Term, or a Renewal Term if any are exercised.
- C. Termination for Cause by the School District.** In the event the Contractor fails, at any time, to comply with, fully perform and strictly adhere to any covenant, condition or representation contained in this Contract and the other Contract Documents, whether it be performed by the Contractor, its agents or employees, the School District shall have the right to provide written notice to Contractor of such failure. If such failure is not cured to the School District's satisfaction, within ten (10) days from the time of receipt of such notice, the School District shall have the right to terminate this Contract, immediately without the requirement of any further written notice. Furthermore, in addition to the rights of the School District under Section III.B., if the School District must regularly request that the Contractor cure breaches of this Contract, such circumstances shall be grounds for termination of this Contract for cause, in accordance with the terms hereof, even if each breach on its own would not be material. Notwithstanding the foregoing, if any actions or inactions of the Contractor, its agents or employees, poses a serious or imminent i) threat to the health and safety of any person, or ii) loss to any real or tangible property of the School District, the School District may terminate this Contract immediately if such default is not cured by Contractor within twenty-four (24) hours of Contractor's receipt of written notice of such default. Furthermore, if Contractor becomes insolvent, or seeks protection of any bankruptcy court, the School District may immediately terminate this Contract.
- D. Termination for Convenience.** Notwithstanding Section II.C. above, the School District, on at least ten (10) days advanced written notice to the Contractor, may terminate this Contract, or any portion thereof, for any reason, including convenience, without incurring any penalty, expense or liability to the Contractor

except the obligation to pay for Services actually performed under the Contract prior to the effective date of the termination.

- E. Termination for Cause by Contractor.** If the School District breaches any of its material obligations under this Contract, including failure to pay undisputed amounts in any properly documented invoice, the Contractor shall provide written notice to the School District detailing the nature of the material breach by the School District. If the School District fails to cure such breach within thirty (30) days of its receipt of the written notice from Contractor, the Contractor may terminate this Contract for cause upon written notice to the School District.
- F. Effect of Termination.** If this Contract is terminated in accordance with any of the provisions contained herein, all rights of the Contractor under this Contract shall cease. Regardless of the basis for termination, the School District shall neither be liable to, nor obligated to pay, the Contractor for any incidental or consequential damages or lost profits, or costs incurred for Services not actually performed.

### **III. SCOPE OF SERVICES**

The Contractor shall perform the Lawn Maintenance Services and Snow Removal Services (each as defined herein and also referred to herein collectively as the “Services”) for those School District facilities set forth in **Attachment A** (each a “Facility” and collectively the “Facilities”). The Services provided by Contractor for the Facilities shall include the full scope and manner of Services as set forth in this Contract, including the responsibility of the Contractor to provide the designated labor, personnel and equipment to perform the Services at the Facilities.

- A. Scope of Lawn Maintenance Services.** The Contractor shall manage and provide the Lawn Maintenance Services as described in this Contract for the Facilities listed in **Attachment A**. The Lawn Maintenance Services include the manner, scope and frequency of duties/tasks set forth in **Attachment B** of this Contract, including those duties/tasks that may not be specifically described in this Contract, but are a component of or necessary to perform the Lawn Maintenance Services (the “Lawn Maintenance Services”).
- B. Scope of Snow Removal Services.** The Contractor shall manage and provide the Snow Removal Services as described in the RFP and this Contract for the Facilities listed in **Attachment A**. The Snow Removal Services include the manner, scope and frequency of tasks and duties set forth in **Attachment C** of this Contract. The Contractor shall be responsible for all routine snow and ice removal from, and application of salt/ice melt to, all drives and parking lots at all the Facilities. The Contractor agrees that if weather conditions require, Contractor will ensure all necessary personnel clear all snow and apply salt/ice melt prior to the times set forth in **Attachment C**. When snow continues to fall, it is expected that Contractor personnel will re-clear the designated areas as needed to assure maximum safety for visitors/users of the Facilities. The Contractor agrees that Snow Removal Services will be available 24 hours a day, 7 days a week and Snow Removal Services provided after hours, on weekends or during

holidays are not subject to any additional surcharge to the School District. All necessary salt/ice melt will be procured in accordance with Section VI.A. of this Contract.

- C. **Standards of Services.** The Contractor shall perform all Services in a professional and workmanlike manner, utilizing properly trained and licensed (when legally required) personnel in accordance with the terms and conditions of this Contract. The Contractor agrees to supply and perform all Services in accordance with the terms and conditions of this Contract and shall re-perform any Services, at no additional cost or expense to the School District, that do not meet the quality standards of the School District or terms and conditions of this Contract. The Contractor expressly acknowledges that the Contractor's failure to perform the Services and maintain the quality, cleanliness and operational standards of the School District and this Contract, including Attachments hereto, shall be grounds for termination of part or all of this entire Contract by the School District. The Contractor agrees to schedule its personnel to ensure all Facilities are open and operational each day, even if the School District has a "calamity" day or if the School District is on a scheduled break.

#### IV. CONTRACTOR PERSONNEL

- A. **Management Personnel.** The Contractor shall provide all personnel necessary for the efficient management of the Services, which shall notify the School District of the Contractor's main point of contact under this Contract (the "Contractor Manager"). The Contractor Manager will act as the Contractor's main point of contact and representative for Contractor's day-to-day performance of the Services and will interact directly with School District Liaison on a daily basis regarding the performance of the Services. The Contractor shall provide the School District Liaison with the Contractor-provided cellular telephone where Contractor Manager may be reached at all times. The Contractor Manager will be required to answer each call from the School District Liaison within thirty (30) minutes of the time the call is placed.
- B. **Service Personnel.** It is the responsibility of the Contractor to provide sufficient personnel, including substitute employees, who are properly trained and licensed (when legally required) to ensure that the requirements and standards are met and that the Services are performed in accordance with the terms and conditions of this Contract.
- C. **Compensation of Contractor Personnel.** The Contractor shall be responsible for all salaries, wages, benefits (including health/medical insurance), payroll and other taxes, fees, and other charges or insurance required by any federal, state and local law, statute or regulation (including, but not limited to, unemployment taxes, Social Security contributions, worker's compensation premiums and all similar taxes and payments), attributable to each Contractor employee or agent.
- D. **Scheduling and General Coverage of Services.** The Contractor shall perform the Services set forth in the Contract Documents. The Services shall be provided at times that do not interfere with the School District's operations. Snow

Removal Services shall be completed prior to the times set forth in **Attachment C**. The Contractor shall notify the School District Liaison of its scheduled times it will be at each Facility, which must be approved by the School District to ensure non-interference with School District operations.

**V. PRICING AND PAYMENT TERMS**

- A. Contract Pricing.** The Contractor shall perform all Services for the fixed prices set forth in **Attachment D** for the Initial Term and the Renewal Term(s), if exercised (the "Contract Pricing"). The Contract Pricing is based upon per mow pricing and each Facility being mowed not more than twenty-seven (27) times each season as part of the Lawn Maintenance Services. The Contract Pricing is based upon per push pricing for Snow Removal Services. The Contract Pricing include all costs and expenses for the Services, except the cost of salt/ice melt procured by the School District in accordance with Section VI.A. below. The Contract Pricing shall remain firm for the Initial Term and the Renewal Term, if exercised, and shall not be increased except as provided for in this Contract.
- B. Special Snow Removal Charging Issues.** In the event that it has stopped snowing and the Contractor has satisfactorily completed the required Snow Removal Services at a Facility(ies) and then it begins snowing again which accumulates in excess of 1½" accumulates between the time the prior work was satisfactorily completed and the time when Contractor is required to re-dispatch Snow Removal Services to the Facility(ies), the Contractor may charge for the additional per push Services. In the event that the snow fall pattern requires the Contractor to perform Snow Removal Services between 7:00 am and 7:00 pm and: a) the Contractor satisfactorily completes part of the Snow Removal Services during normal business hours and cannot complete the remaining portion due to parked cars and/or traffic; and b) Contractor plans to return to the Facility during non-business hours to finish the original but unfinished Snow Removal Services; and c) it has stopped showing; and d) District has confirmed satisfactory completion of part of the Snow Removal Services; then Contractor may be able to charge for additional Snow Removal Services only if additional snow accumulation in excess of 1½" accumulates between the time the partial work was satisfactorily completed and the time when Contractor returns to finish the original started Snow Removal Services. When additional charges are going to be incurred, Contractor must notify the School District Liaison and obtain the School District Liaison's approval to proceed prior to commencing any such work which will be an additional charge to the School District.
- C. Additional Services.** If the Contractor is requested by the School District to perform any services in addition to those specified required by this Contract (the "Additional Services"), the Contractor must receive prior written approval from the School District Liaison before rendering or invoicing for such Additional Services. Any Additional Services which are not specifically addressed in this Contract shall be charged at the designated hourly rate set forth in **Attachment D**, or based upon a mutually negotiated price agreed upon in writing prior to the commencement of such Additional Services.

**D. Invoicing.** The Contractor shall invoice the School District as follows:

1. **Contract Pricing Invoicing.** Contractor shall invoice the School District for the Contract Pricing on a once-per-month basis for all Services rendered under the Contract during the previous month and the invoice shall be itemized on a Facility-by-Facility basis. Invoices shall be submitted to: \_\_\_\_\_, Southfield Public Schools, 24661 Lahser Road, Southfield, Michigan 48033.
2. **Additional Services Charges.** Invoices for approved Additional Services shall include the date and times the Additional Services were completed, the name of the Facility, the type of Additional Services performed and the number of hours (or ¼ hour fraction thereof) worked. Invoices for Additional Services shall be separate from the Contract Pricing invoice, but shall be sent to the School District together with the Contract Pricing invoice. Charges for these Additional Services shall be in accordance with rates set forth above.
3. **Charges for Services Not Performed.** The School District shall not be charged nor liable for payment for any Services not performed. Moreover, if the Contractor fails to perform the required Services, the Contract Pricing, and the amount owed by the School District shall be adjusted on a pro-rata daily basis.

**E. Payments.** Payment of undisputed amounts in each invoice shall be made within forty-five (45) days of receipt of the invoice. The School District will issue one (1) payment per month. Disputes regarding amounts contained in any invoice will be communicated to the Contractor Manager by the School District Liaison, in writing, within fifteen (15) days of the receipt of the disputed invoice. Payments of disputed amounts will be delayed unless Contractor is able to resolve the matter to the School District's satisfaction within ten (10) business days prior to payment due date. The School District will not be assessed any late payment penalties, fines or charges for disputed amounts not timely paid due to Contractor's failure to timely resolve the matter as set forth above.

**F. Rate Adjustment.** Adjustments to the Contract Pricing for the Services or rates for the Additional Services beginning with the first Renewal Term, if exercised, will be effective July 1 of that contract year. The rates for the first Renewal Term, if exercised by the School District, shall be determined by adjusting the rates for the third year of the Initial Term by the lesser of: i) the percentage increase or decrease, if any, between the index number, as established by the Consumer Price Index, All Items, for the Detroit Metropolitan Area, published by the United States Department of Labor, Bureau of Labor Statistics for the prior calendar year; or ii) two percent (2%). The rates for any subsequent Renewal Term(s) or extensions of the Contract shall be determined by the above formula. Rates may not otherwise be modified unless upon the mutual written agreement of the Parties.

- G. Reduction in Services.** If the School District elects to remove a Facility or component of Services from the scope of Services required under this Contract, the School District will provide the Contractor with prior written notice indicating the day which Services or Facility is/are no longer necessary or required under this Contract. If the School District exercises this right, the Contract Pricing for the remaining portion of the Initial Term, or Renewal Term, if exercised, shall not be charged for the removed Services or Facility.

**VI. SUPPLIES AND EQUIPMENT**

- A. Snow Removal Services.** Except for salt/ice melt addressed below, the Contractor shall provide all supplies, materials and equipment (including all fuel) necessary to perform the Snow Removal Services. Said equipment and/or tools shall remain the property of the Contractor and Contractor shall maintain and repair said equipment at its sole cost and expense. The School District will procure and provide all necessary rock salt/ice melt for the Snow Removal Services. All salt/ice melt is stored at the J.W.E. Administration Building back lot area, 24661 Lahser, Southfield, MI 48033. The Contractor shall utilize such School District supplied salt/ice melt at the School District's Facilities to perform the Snow Removal Services and shall only spread the salt/ice melt at the application rates approved by the School District. The Contractor shall return any unused salt on a daily basis and shall not utilize any School District supplied salt/ice melt for any other purpose other than to perform the Snow Removal Services for the School District.
- B. Lawn Maintenance Services.** The Contractor shall provide all supplies, materials and equipment (including all fuel) necessary to perform the Lawn Maintenance Services. Said equipment and/or tools shall remain the property of the Contractor and Contractor shall maintain and repair said equipment at its sole cost and expense.

**VII. COMPLIANCE WITH LAWS AND SCHOOL DISTRICT POLICIES**

- A. Compliance with Laws.** While performing the Services or while in or on the Facilities, the Contractor and its employees and agents shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including all licensing and permitting requirements applicable to providing the Services required under this Contract, including, but not limited to, drivers' licenses etc. The Contractor, including all employees and agents, shall perform all Services in accordance with all applicable State and Local licensing laws. The Contractor represents and warrants to the School District that it shall at all times be in compliance with any and all applicable federal, state and local laws, rules, ordinances, policies and regulations and licensing and permitting requirements applicable to providing the Services. The Contractor shall indemnify, defend and hold the School District harmless from any liability arising from Contractor's failure to so comply.
- B. Compliance with School District Policies.** While performing the Services or while in or on the Facilities, the Contractor, its employees and agents shall be



responsible for knowing and shall be subject to, and adhere to, all the rules, regulations, policies and procedures of the School District. These include, but are not limited to, all policies concerning the use of the Facilities and appropriate behavior of persons in the Facilities, such as the prohibitions of sexual harassment or the use or possession of tobacco or alcohol.

**C. Fingerprinting and Criminal Background Checks.** The Contractor acknowledges and agrees that in accordance with Michigan Public Act 84 of 2006, as amended, the Contractor shall be required to have all on-site personnel such as managers, personnel, employees (including substitutes), as well as any and all of its agents, employees or representatives who will regularly and continuously be on any School District premises to carry out the Services contemplated by the Contract Documents, fingerprinted and subjected to criminal history and background checks through the Michigan State Police and Federal Bureau of Investigation, as detailed in Public Act 84 of 2006, as amended, prior to commencing any work under this Contract. These criminal background checks must be completed through the School District by having all applicable Contractor personnel present themselves, or any of its agents, employees or representatives, for proper fingerprinting and criminal backgrounds checks, as directed by the School District, or if permitted by law, having said Contractor personnel provide written notification to the School District that said individual has previously completed fingerprinting and a criminal history and background check as a Contractor employee or agent in connection with contracting or working for another Michigan school district, intermediate school district, public school academy or nonpublic school (each an "Agency") and indicating that the individual consents to the sharing or transferring of the appropriate fingerprinting and criminal history background report from the other Agency. If such transfer is not permissible under applicable law, the Contractor acknowledges and agrees that the Contractor personnel will be required to undergo the full fingerprinting and background check process. If Contractor wishes to receive a copy of any report that may be provided to the Contractor under applicable law, it shall have the Contractor employee provide written consent to the School District acknowledging its consent to provide Contractor with a copy of the report at the time fingerprinting and background checks are initiated. Additionally, unless notified it is not subject to Michigan Public Act 84 of 2006, as amended, the Contractor represents and warrants to the School District that it will at all times during the Initial Term or any Renewal Term of this Contract be in compliance with the provisions of Michigan Public Act 84 of 2006, as amended, including, but not limited to, requiring all its personnel to report to the School District within three (3) business days of when any of its agents, employees or representatives who will regularly and continuously be on the School District's premises to carry out the Services contemplated by the Contract Documents, is/are charged with a crime listed in Section 1535a(1) or 1539b(1) of the Revised School Code, being MCL 380.1535a(1) and 380.1539b(1), or a substantially similar law, and to immediately report to the School District if that person is subsequently convicted, plead guilty or plead no contest to that crime. The Contractor shall indemnify, defend and hold the School District, its employees, Board of Education, and each

member thereof, agents and consultants, harmless from and against any and all claims, counter-claims, suits, debts, demands, actions, judgments, liens, liabilities, costs, expenses, including actual attorneys' fees and actual expert witness fees, arising out of or in connection with any violation of, or the Contractor's (or its employees' or agents') failure to comply with, the requirements of Michigan Public Act 84 of 2006, as amended, or this paragraph. The Contractor shall be responsible for all costs and expenses associated with the above-required fingerprinting and background checks. The Contractor shall supply all necessary data and information, as requested by the School District, to enable the School District to properly submit Contractor and its employees and agents for inclusion in the State of Michigan Department of Education's list of "registered educational personnel." The Contractor acknowledges and agrees that all background checks must be completed through the School District and the School District will not accept any background checks conducted through the Contractor.

- D. OSHA Compliance.** All Services to be furnished by the Contractor and the Contractor's working conditions and employment practices shall comply with all applicable state and federal requirements, including, but not limited to, the Federal and State Occupational Safety and Health Acts. If the School District or Contractor is/are fined for any such violations, the Contractor shall be liable for all costs and expenses associated with responding to, or paying, any such non-compliance issues or fines.
- E. Nondiscrimination in Employment.** The Contractor shall comply with all Federal and State laws pertaining to Equal Employment Opportunity and Affirmative Action requirements and all subsequent amendments thereto and applicable orders.
- F. Pesticide Application.** The Contractor shall not spray or use any pesticides, herbicides or fertilizers in, on or around School District property without the prior written consent of the School District. The School District, pursuant to the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994 (the "Act"), is subject to strict regulations relative to the application of any pesticides, herbicides or fertilizers on School District property, and persons are prohibited from doing so unless there is strict compliance with the Act. Contractor must submit written notice to the School District Liaison of planned applications two (2) weeks prior to the date of application. Within twenty-four (24) hours of application/treatment, the Contractor must submit a record of application to the School District Liaison. Herbicides and pesticides may only be sprayed on weekends or other days/times when students are not in attendance.

## **VIII. INSURANCE, INDEMNIFICATION AND DAMAGE TO PROPERTY**

- A. Insurance Requirements.** The Contractor shall maintain the following insurance in force at all times during the Initial Term, and any Renewal Term(s), of the Contract, with an "A" rated Best insurance carrier acceptable to the School District. The Contractor shall not commence any Services under the Contract until the Contractor has obtained all insurances stated in these requirements, all insurances have been reviewed and approved by the School District and the

Certificates of Insurance have been provided to the School District. All policies must be endorsed to require the insurance carrier to notify the School District and the Contractor at least thirty (30) days prior to the expiration, termination or material change of such insurance coverage. The School District shall be named as additional insured for the minimum limits listed below and these coverages and limits are to be considered minimum requirements under this Contract and shall in no way limit the liability or obligations of the Contractor under any other provision of this Contract. Failure to secure and/or maintain the required insurance policies/limits during the Initial Term and any Renewal Term(s) shall be grounds for immediate termination of this Contract by the School District.

<u>Policy Type</u>	<u>Minimum Limits</u>
<b>Workers' Compensation</b>	Statutory
<b>Commercial General Liability*</b>	
Bodily Injury	\$1,000,000 each person \$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
Products – Comp/Op Agg.	\$1,000,000 each occurrence
<b>Commercial Automobile Liability</b>	
Bodily Injury	\$1,000,000 each person \$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence \$1,000,000 each occurrence
<b>Excess Umbrella Liability</b>	\$1,000,000 each occurrence
<b>Employer's Liability</b>	\$1,000,000 each occurrence

\*Note: Commercial General Liability to include: "Contractual Obligations" coverage and Negligent Hiring coverage.

The Contractor shall not commence any Services under this Contract until it has secure the aforementioned insurance coverages and provided the School District with the appropriate certificates of insurance evidencing the same.

**B. General Indemnification.** Contractor shall indemnify, defend and hold harmless the School District, its Board of Education, its Board Members, in their official and individual capacities, its administrators, employees, agents, contractors, successors and assignees, from and against any and all claims, counter claims, suits, debts, demands, actions, judgments, liens, costs, expenses, damages, and liabilities, including actual attorney's fees and actual expert witness fees arising out of or related to Contractor's performance of the Services pursuant to this Contract and/or from Contractor's violation of any of the terms of the Contract, including, but not limited to: (i) the negligent acts or willful misconduct of the Contractor, its officers, directors, employees, successors, assignees, contractors, subcontractors and agents; (ii) any breach of the terms of this Contract by the Contractor, its officers, directors, employees, successors, assignees, contractors,

subcontractors and agents; (iii) any violation or breach of any applicable Federal, State or local law, rule, regulation, ordinance, policy and/or licensing and permitting requirements applicable to providing the Services; or (iv) any breach of any representation or warranty by the Contractor, its officers, directors, employees, successors, assignees, contractors and agents under this Contract. The Contractor shall notify the School District by certified mail, return receipt requested, immediately upon actual knowledge of any claim, suit, action, or proceeding for which the School District may be entitled to indemnification under this Contract. This paragraph shall survive the expiration or earlier termination of this Contract.

- C. Environmental Indemnification.** Throughout the Initial Term, or any Renewal Term of this Contract, Contractor shall not permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Substances in, on, under, upon or affecting any School District property in violation of any applicable law or regulation. Without limiting any other provisions of this Contract or the other Contract Documents, Contractor shall indemnify, defend and hold harmless the School District, its Board of Education, its Board Members in their official and individual capacities, administrators, employees, agents, contractors, successors and assignees, from and against all liabilities, claims, losses, costs and expenses (specifically including, without limitation, attorneys', engineers', consultants' and experts' fees, costs and expenses) arising from or related to (i) any breach of any representation or warranty made in this paragraph and/or (ii) environmental conditions or noncompliance with any applicable law or regulation that result, in the case of Contractor, from operations or the Services in or about any School District property by Contractor or its agents or employees. As used herein, the term "Hazardous Substances" shall mean (i) any hazardous or regulated substance as defined by all federal, state and local environmental laws, including, but not limited to, Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) ("Clean Water Act"), the Resource Conservation & Recovery Act (42 U.S.C. §§ 6901 et seq.) ("RCRA"), Safe Drinking Water Act (42 U.S.C. §§ 300f-j-26), Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) ("CERCLA"), the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 11001 et seq. ("EPCRA"), the Michigan Natural Resources and Environmental Protection Act (MCL § 324.101 et seq.) the administrative rules and regulations promulgated under such statutes, or any other similar federal, state or local law or administrative rule or regulation of similar effect, each as amended and as in effect and as adopted as of the date of execution of this Contract, (ii) any other pollutant, contaminant, hazardous substance, solid waste, hazardous material, radioactive substance, toxic substance, noxious substance, hazardous waste, particulate matter, airborne or otherwise, chemical waste, medical waste, crude oil or any fraction thereof, radioactive waste, petroleum or petroleum-derived substance or waste, asbestos, PCBs, radon gas, all forms of natural gas, or any hazardous or toxic constituent of any of the foregoing, whether such substance is in liquid, solid or gaseous form, or (iii) any such substance the release, discharge

or spill of which requires activity to achieve compliance with applicable law. This paragraph shall survive the expiration or earlier termination of this Contract.

- D. **Repairs to Property Damage.** Damage to any School District Facilities or properties caused by the Contractor, its agents or employees shall be repaired so that Facilities or properties are in as good condition as before entering into the Contract. All repairs shall be accomplished at no cost to the School District.

#### IX. RECORD KEEPING AND SAFETY ISSUES

- A. **Injuries to Contractor Personnel.** The Contractor shall be responsible and liable for the safety, injury and health of its personnel while its employees and agents are performing the Services for the School District.
- B. **Other Record Keeping.** The Contractor shall report, in writing, any damage that occurs as a result of one or more of the Contractor's employees or agents.
- C. **Training Requirements.** All Contractor employees and agents performing any Services shall be properly trained in the duties and functions they are performing to ensure they are performed in accordance with the terms and conditions of this Contract and will applicable laws. Contractor must have all proper registrations, certifications and licenses and all Contractor employees/agents applying pesticides at the Facilities must be a certified applicator or registered technician. The Contractor shall also provide orientation/training on all School District protocol, policies and procedures.
- D. **Communication.** Effective communication between the Contractor and the School District is necessary for effective delivery of the Services across all Facilities. Accordingly, it will be necessary for the Contractor Manager to maintain regular and open communication with the School District Liaison.

#### X. RELATIONSHIP OF THE PARTIES

- A. **Independent Contractor.** It is expressly agreed between Contractor and the School District that Contractor will act as an independent contractor in the performance of all Services under the Contract and under no circumstances shall any of the employees of one Party be deemed the employees of the other Party for any purpose. Accordingly, Contractor shall meet all of its obligations and responsibilities for payment of all taxes including Federal, State and Local taxes arising out of Contractor's Services in accordance with the Contract, including by way of illustration but not limitation, Federal and State income tax, FICA, FUTA, Social Security tax, Unemployment Insurance taxes, Workers' Compensation Insurance and any other taxes or business license fees as required and Contractor will indemnify, defend and hold the School District harmless for the payment of such sums, interest, penalties, or cost of collection of same, including reasonable attorney fees. The Contract shall not be construed as authority for either Party to act for the other Party in any agency or other capacity or to make commitments of any kind for the account of, or on behalf of, the other Party, except to the extent, and for the purposes, expressly provided for and set forth herein, and no partnership or joint venture is created hereby. Nothing in this Contract shall be construed to interfere with or otherwise affect the rendering of Services by

Contractor in accordance with its independent and professional judgment. The Contract shall be subject to Contractor's performance of the Services substantially in accordance with generally accepted practices and principals. No tenure or other rights/benefits typically arising out of an employee-employer relationship shall arise out of this Contract on behalf of Contractor, its employees or agents.

**XI. SCHOOL DISTRICT LIAISON AND NOTICES**

- A. School District Liaison.** For purposes of this Contract, the School District Liaison shall be the School District's Assistant Operations Director; provided, however, the School District may at any time designate another individual to serve in this capacity upon written notice to the Contractor Manager.
- B. Notices.** Unless otherwise provided in this Contract, all notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. The School District or the Contractor may from time to time designate any other address for this purpose by providing written notice to the other Party.
  - 1. **To the School District.** All required notices to the School District shall be delivered to the Superintendent, Southfield Public Schools, 24661 Lahser Road, Southfield, Michigan 48033, with a copy to Jeremy S. Motz, Esq., Clark Hill PLC, 151 S. Old Woodward Avenue, Birmingham, Michigan 48009.
  - 2. **To the Contractor.** All required notices to the Contractor shall be delivered to \_\_\_\_\_.

**XII. MISCELLANEOUS**

- A. Governing Law.** The Contract shall be governed by and construed in accordance with the laws of the State of Michigan. The parties hereby agree to the exclusive jurisdiction and venue of courts sitting in Oakland County, Michigan.
- B. Taxes.** Contractor is responsible for sales taxes and any other applicable taxes related to the Services provided under the Contract.
- C. No Assignment or Sub-Contracting.** This Contract, or any of the Services hereunder, shall not be assigned, transferred, or subcontracted, in whole or in part, by the Contractor without the prior written consent of the School District.
- D. No Waiver.** No waiver of any term or condition of this Contract shall be valid or binding on either Party unless the same shall have been mutually assented to in writing by both Parties. The failure of either Party to enforce at any time any of the provisions of this Contract, or the failure to require at any time performance by the other Party of any of the provisions of this Contract, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the validity of either Party to enforce each and every such provision thereafter.

- E. Severability.** In the event any provision(s) of this Contract shall be illegal or invalid for any reason, said provision(s) shall be deemed to be fully severable without affecting the remaining provisions of this Contract and this Contract shall be construed and enforced as if said illegal or invalid provision(s) had never been inserted herein.
- F. Counterparts.** This Contract may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.
- G. Entire Agreement.** This instrument contains the entire Contract entered into between the Parties hereto, its terms may not be modified except in writing signed by the Contractor and the School District. This Contract supersedes and takes the place of all prior contracts, and/or understandings, whether written or oral between the School District and the Contractor.
- H. Insolvency.** In the event that Contractor becomes insolvent or seeks the protection of the U.S. Bankruptcy Court, then the School District, at its option, may immediately terminate this Contract.
- I. Advertising.** The Contractor shall not use this Contract as part of any commercial advertising without the prior written consent of the School District.
- J. Right to Complete.** In the event the Contractor shall fail, neglect, or refuse to perform any and all Services under this Contract, the School District may perform such Services and charge the Contractor, or deduct the amount from subsequent payments. The above right of the School District includes the right to secure another contractor to perform the Services Contractor failed to perform and the School District may charge the Contractor for the services rendered by the substitute contractor.

**WHEREAS**, the Parties have executed this Grounds Services Contract as of the Effective Date.

**SOUTHFIELD PUBLIC SCHOOLS**

**[CONTRACTOR]**

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

## ATTACHMENT A

### List of School District Facilities

#### Facilities subject to the Services:

<b>Building</b>	<b>Service Required</b>	<b>Address</b>
Adler Elementary School	Lawn & Snow	19100 Filmore Southfield, 48075
Birney K-8 School	Lawn & Snow	27225 Evergreen Rd. Southfield, 48076
Bussey Early Childhood Center	Lawn & Snow	24501 Frederick Southfield, 48033
JWE Administration Bldg. , Transportation Annex and Bus lot	Lawn & Snow	24661 Lahser Rd. Southfield, 48033
Levey Middle School	Lawn & Snow	25300 W. Nine Mile Southfield, 48033
McIntyre Elementary	Lawn & Snow	19600 Saratoga Southfield, 48076
Southfield Education Center/Kennedy Learning Center	Lawn & Snow	16299 Mt. Vernon Southfield, 48075
Southfield High School for the Arts & Technology, Instructional Technology Center	Lawn & Snow	24675 and 24855 Lahser Rd Southfield, 48033
Southfield Lathrup Campus- MacArthur K-8 & University High School Academy	Lawn & Snow	19301 W. 12 Mile Rd. Southfield, 48076
Southfield Regional Academic Campus	Lawn & Snow	21705 Evergreen Rd. Southfield, 48075
Stevenson Elementary	Lawn & Snow	27777 Lahser Rd. Southfield, 48034
Thompson K-8 International Academy	Lawn & Snow	16300 Lincoln Dr. Southfield, 48076
Vandenberg Elementary	Lawn & Snow	16100 Edwards Ave. Southfield, 48076
Brace Lederle School (closed school)	Lawn only	18575 W. 9 Mile Rd. Southfield, 48075
Leonhard Elementary School (closed school)	Lawn only	20900 Independence Southfield, 48076
Eisenhower Elementary School (closed school)	Lawn only	24500 Larkins Southfield, 48033
Magnolia Preschool Center	Lawn only	17050 Dorset Southfield, 48076
MacArthur Early Childhood Center (closed school)	Lawn only	19080 W. 12 Mile Southfield, 48076



**ATTACHMENT B**

**Lawn Maintenance Services**

**ATTACHED**

**ATTACHMENT C**

**Snow Removal Services**

**ATTACHED**

**ATTACHMENT D**  
**Contractor's Pricing Form**  
**ATTACHED**