

Magnolia Public Schools

Regular Facilities Committee Meeting

Date and Time

Wednesday October 10, 2018 at 7:00 PM PDT

Location

MPS Home Office: 250 E. 1st St. Suite 1500 Los Angeles, CA 90012

Meeting Notice

Access to the Board Meeting: Any interested parties or community members may join remotely by using the following numbers or from the following addresses where the Committee Members are joining from: 1.844.572.5683; 1948435

- MSA San Diego 6365 Lake Atlin Ave., San Diego, CA 92119 (Dr. Salih Dikbas)
- 940 Steward Dr. Sunnyvale, CA 94085(Dr. Umit Yapanel)

In compliance with the Americans with Disabilities Act (ADA) and upon request, Magnolia Public Schools may furnish reasonable auxiliary aids and services to qualified individuals with disabilities. Individuals who require appropriate alternative modification of the agenda in order to participate in Board meetings are invited to contact the MPS central office. If you need special assistance to attend the meeting or translation services, please notify Barbara Torres at (213) 628-3634 x100 48 hours in advance of the meeting to make arrangements and accommodations.

Any public records relating to an agenda item for an open session of the committee which are distributed to all, or a majority of all, of the committee members shall be available for public inspection at 250 East 1st St. Ste 1500 Los Angeles, CA 90012.

Facilities Committee Members Ms. Charlotte Brimmer, Chair Dr. Umit Yapanel Dr. Salih Dikbas Mr. Haim Beliak Dr. Saken Sherkhanov (alternate)

CEO and Superintendent Mr. Alfredo Rubalcava

Agenda

5	Purpose	Presenter	Time
I. Opening Items			7:00 PM
A. Call the Meeting to Order			1 m

B. Record Attendance and Guests		1 m
C. Pledge of Allegiance		1 m
D. Public Comments		1 m
E. Approval of Agenda	Vote	1 m
F. Approval of Minutes from Regular Facility Committee Meeting- September 13, 2018	Approve Minutes	1 m

Approve minutes for Regular Facilities/Audit Committee Meeting on September 13, 2018

II. Approval Recommendation Items			7:06 PM
A. Adoption of ADA 504 Transition Plan for MSA-6 and MSA-7	Vote	Patrick Ontiveros	10 m
B. Approval of Prop 39 Energy Efficiency Grant Agreement for MSA-2	Vote	Patrick Ontiveros	5 m
C. Approval of Prop 39 Energy Efficiency Grant Agreement for MSA-7	Vote	Patrick Ontiveros	5 m
D. Approval of Change Order from PrimeSource for the Magnolia Science Academy-1 Project	Vote	Patrick Ontiveros	15 m
E. Approval of MSA- Santa Ana Change Order Request	Vote	Patrick Ontiveros	15 m
 F. Approval of Master Contract and Work Orders 1 and 2 for the MSA-1 Tenant Improvement Project 	Vote	Patrick Ontiveros	15 m
III. Information Items			8:11 PM
A. Facility Updates	Discuss	Patrick Ontiveros	15 m
IV. Closing Items			8:26 PM

Vote

A. Adjourn Meeting

Cover Sheet

Approval of Minutes from Regular Facility Committee Meeting- September 13, 2018

Section:I. Opening ItemsItem:F. Approval of Minutes from Regular Facility Committee Meeting-
September 13, 2018Purpose:Approve MinutesSubmitted by:Approve MinutesRelated Material:Vertical States (September 13, 2018)



Magnolia Public Schools

Minutes

Regular Facilities/Audit Committee Meeting

Date and Time

Thursday September 13, 2018 at 5:00 PM

Location MSA-Santa Ana: 2840 W. 1st St. Santa Ana, CA 92703

Facilities Committee Members Ms. Charlotte Brimmer, Chair Dr. Umit Yapanel Dr. Salih Dikbas Mr. Haim Beliak

CEO and Superintendent Mr. Alfredo Rubalcava

Committee Members Present

C. Brimmer, H. Beliak, U. Yapanel

Committee Members Absent

S. Dikbas

I. Opening Items

A. Record Attendance and Guests

B. Call the Meeting to Order

C. Brimmer called a meeting of the Facility/Audit committee of Magnolia Public Schools to order on Thursday Sep 13, 2018 @ 5:20 PM at MSA-Santa Ana: 2840 W. 1st St. Santa Ana, CA 92703.

C. Public Comments

There were no public comments.

D. Approval of Agenda

- C. Brimmer made a motion to approve the agenda as presented.
- U. Yapanel seconded the motion.

The committee **VOTED** unanimously to approve the motion.

- Roll Call
- C. Brimmer Aye
- S. Dikbas Absent
- H. Beliak Aye
- U. Yapanel Aye

E. Approval of Minutes from Regular Facility Committee Meeting- August 13, 2018

C. Brimmer made a motion to approve minutes from the Regular Facilties Committee on 08-13-18.

U. Yapanel seconded the motion.

The committee **VOTED** unanimously to approve the motion.

Roll Call

- U. Yapanel Aye
- H. Beliak Aye
- S. Dikbas Absent
- C. Brimmer Aye

II. Approval Recommendation Items

A. Approval of Change Order for the Magnolia Science Academy-1 Project

P. Ontiveros, MPS Facilities Director and General Counsel, explained owner change order number 1 for MSA 1's new construction project to the Board. He explained the potential change items that may or may not have a cost associated with them and that, the report itself explains each individual item in depth. T. Buresh, Construction Manager from Prime Source, responded to the committee members questions. He explained the items that had come in under budget and stated that some items were not in the original plans. T. Buresh also informed the board of the work that various consultants had done and emphasized the importance of keeping the project on schedule in order to deliver the project on time. C. Brimmer, MPS Facilities Committee Chair, explained her concerns on the change orders and wants to ensure staff is doing their due diligence before bringing these items to the committee and board.

U. Yapanel made a motion to recommend to approve owner change order number 1 ("OCO 1") for the MSA 1's new construction project for \$171,061.00 to the full board.

H. Beliak seconded the motion.

The committee **VOTED** to approve the motion.

Roll Call

S. Dikbas Absent

U. Yapanel Aye

- C. Brimmer Abstain
- H. Beliak Aye

B. Approval of Project Change Orders for Magnolia Science Academy- Santa Ana (Gymnasium Project)

This item was discussed in a previous committee meeting and it was brought back for further discussion as requested by the committee. P. Ontiveros, MPS Facilities Director and MPS General Counsel, explained the current status of the proposed change order for the MSA-Santa Ana project. He explained the possible actions that could happen if the board does not approve this change order at this time. He stated that the change orders were predominantly due to design omissions and that the cost of the change orders would have been incurred anyway. All change orders have been vetted by Gafcon, the construction management company for this project. After a lengthy discussion the committee decided not approve the change order at this time.

U. Yapanel made a motion to direct staff to speak with the project architect regarding an increase in the credit then bring the item to the board or committee after further negotiation.

H. Beliak seconded the motion.

The committee **VOTED** unanimously to approve the motion.

Roll Call

U. Yapanel Aye

- H. Beliak Aye
- S. Dikbas Absent
- C. Brimmer Aye

III. Information Items

A. Facility Project Updates

Due to lack of time this item was not discussed, an in-depth written report was provided to the committee.

IV. Closing Items

A. Adjourn Meeting

There being no further business to be transacted, and upon motion duly made, seconded and approved, the meeting was adjourned at 6:53 PM.

Respectfully Submitted, C. Brimmer

Cover Sheet

Adoption of ADA 504 Transition Plan for MSA-6 and MSA-7

Section:	II. Approval Recommendation Items
Item:	A. Adoption of ADA 504 Transition Plan for MSA-6 and MSA-7
Purpose:	Vote
Submitted by:	
Related Material:	II A ADA 504 Transition Plan.pdf



Facilities Committee Item #:	II A- Action Item
Board Agenda Item #:	II A- Consent Item
Date:	October 10, 2018
То:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (" MPS ") Board of Directors Facilities Committee (the " Facilities Committee ")
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Adoption of ADA 504 Transition Plans for MSA-6 and MSA-7

I. Proposed Committee Recommendation

Staff recommends that the Facilities Committee approve and adopt for MSA-6 and MSA-7 and recommend that the full Board of Directors of MPS (the "**MPS Board**") approve and adope the ADA 504 Transition Plans for MSA-6 and MSA-7.

II. Background

A. Project Background

The Los Angeles Unified School District contacted MPS in late 2017/early 2018 regarding MSA-6 and MSA-7 to indicate that "charter schools operating on private sites shall develop Transition and Self-Evaluation plans noting barriers to accessibility and the plan to remove and/or eliminate said barriers within a reasonable timeframe in the Transition Plan and noting intentional or unintentional policies or practices which discriminate against people with disabilities..."

MPS Staff issued an RFP for the services of a Certified Access Specialist on or about February 9, 2018. The RFP was both forwarded to specific CASps and was published on the websites of MPS, MSA-6 and MSA-7. Three (3) proposals were received. After evaluating the three (3) proposals received, MPS Staff elected to hire CaliCASp. MPS signed a Professional Services Agreement as of February 22, 2018 by and between Magnolia Educational & Research Foundation dba Magnolia Public Schools Mark Anderson Architects, Inc. dba CALI CASp for professional services in connection with developing a "transition plan" for each of MSA-6 and MSA-7.

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II A ADA 504 Transition Plan.docx



CALI CASp completed an investigation of each location and identified the accessibility issues with each site. It produced a draft 504 Transition Plan (the "**Plan**"). In order to finalize the Plan MPS Staff sought feedback from various parties—immediate stakeholders such as parents, teachers and staff and two (2) external parties, the Braille Institute Los Angeles and The Center of Achievement for the Physically Disabled, CSU Northridge. In addition notices regarding the preparation of the Plan for each school were posted on and around each school.

B. The Final Transition Plan

After carefully evaluating responses from stakeholders, CALI CASp prepared a final draft of the Plan. The final Plan, proposed to be approved by the Facilities Committee and recommended for approval by the full MPS Board is attached as Exhibit A. The full investigation report prepared by CALI CASp, because of its size, is not included with this report but is available upon request from Patrick Ontiveros.

III. Budget Impacts

In the short term, there is no budget impact to adoption of the final Plan. The law does not require a school to immediately implement mitigation measures. In the interim, as detailed in the final Plan "no cost" measures can be taken to increase accessibility at each site. Eventually (that is, in five years), however, each school may either have to relocate or implement mitigation measures. At MSA-7, using Charter School Facility Incentive Grant ("CSFIG") money, MPS has implemented some measures to address some of the accessibility issues.

Exhibits (attachments):

504 Transition Plan



Exhibit A

504 Transition Plan for MSA-6 and MSA-7

250 E. 1st Street Suite 1500, Los Angeles, CA 90012 | www.magnoliapublicschools.org II A ADA 504 Transition Plan.docx



1.0 Introduction

This is the Magnolia Public Schools 504 Transition Plan as relates to Magnolia Science Academy 6 and Magnolia Science Academy 7. This document was prepared as a part of the District's ongoing commitment to the full inclusion of individuals with qualified disabilities, to fulfill obligations under Section 504 of the Rehabilitation Act of 1973, as well as obligations to perform Readily Achievable Barrier Removal under Title III of the Americans with Disabilities Act of 1990.

1.1 Rehabilitation Act of 1973

The Rehabilitation Act prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors.

There was some dispute initially as to the reach of this law. In the ruling on Grove City College v. Bell, the Supreme Court issued a narrow interpretation. The U.S. Congress responded to by passing the Civil Rights Restoration Act of 1987 (CRRA) over the veto of President Ronald Reagan. The CRRA specified that recipients of federal funds must comply with civil rights laws in all areas and not just in the particular program or area that received federal funding. The Department of Education had held a similar administrative interpretation but formally adopted regulatory language that went into effect December 13, 2000 that reinforced the broad interpretation. [Federal Register Vol 65, No 219, November 13, 2000] In the adopted regulations, the Department crafted a statutory definition that regulated four broad categories of recipients:

- (1) State or local governmental entities.
- (2) Colleges, universities, other postsecondary educational institutions, public systems of higher education, local educational agencies (LEAs), systems of vocational education, and other school systems.
- (3) Private entities, such as corporations, partnerships, and sole proprietorships, including those whose principal business is providing education.
- (4) Entities that are established by a combination of two or more of the first three types of entities.

Under the third part of the definition, in the case of private entities not already listed under the second part of the definition, if the federally assisted entity or organization is principally engaged in the business of education (or health care, housing, social services, or parks and recreation), then the entire corporation, partnership, or other private organization or sole proprietorship is the covered ``program or activity'' or ``program.'' For example, if an individual elementary or secondary school that is neither part of an LEA nor part of an assisted private ``school system'' receives financial assistance from the Department, the school will be covered on an institution-wide basis under this portion of the definition of ``program or activity'' or ``program'' because it is an entity principally engaged in the business of



providing education. For example, if a proprietary trade school receives student financial assistance from the Department, all of its operations are covered by the nondiscrimination requirements of the regulations.

Also under the third part of the definition, if a private entity is not principally engaged in the business of education (or health care, housing, social services, or parks and recreation) and the Department extends financial assistance to the private entity ``as a whole,'' all of the private entity's operations at all of its locations would be covered. If the Department were to extend general assistance, that is, assistance that is not designated for a particular purpose, to this type of corporation or other private entity, that would be considered financial assistance to the private entity ``as a whole.'' In other instances in which the geographically separate facility receives assistance under the third part of this definition, the coverage would be limited to the geographically separate facility that receives the assistance.

1.1.1 Section 504

Section 504 of the Rehabilitation Act states that "no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under" any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service. Magnolia Public Schools receives funding that originates from the Department of Education.

Department of Health, Education and Welfare (HEW) was selected as the lead federal agency to develop regulations to implement Section 504 and all other federal agencies adopted regulations from that prototype which HEW Secretary Joseph Califano signed into law on April 28, 1977.

The regulations require funding recipients to operate programs or activities so that, when each part of the program is viewed in its entirety, it is readily accessible to persons with disabilities. If it is necessary to make structural changes to facilities, the recipient must develop a Transition Plan setting forth the steps necessary to complete such changes and then execute the plan. HEW gave recipients three years to make facilities accessible. However, within six months of the regulations, these recipients needed to develop a Transition Plan which analyzes their current facilities and sets forth necessary steps to make the facilities accessible within three years.

The plan must be developed with the assistance of interested persons, including people with disabilities or organizations representing people with disabilities. A copy of the transition plan must be made available for public inspection and contain – at a minimum – the following elements [34 CFR 104.22(e)]:

1. Identify physical obstacles in the recipient's facilities that limit the accessibility of its programs or activities to people with disabilities;



- 2. Describe in detail the methods that will be used to make the facilities accessible;
- 3. Schedule for taking the steps necessary to achieve full accessibility. If the period of the Transition Plan is longer than one year, one must identify the steps that will be taken during each year of the transition plan; and
- 4. Indicate the person responsible for implementation of the plan.

An important consideration is that the accessibility requirement applies to each program or activity "when viewed in its entirety". One does not need to have every building accessible as long as each program as a whole is accessible and accessible features are adequately integrated into the programs to avoid segregating students with disabilities.

1.2 Americans with Disabilities Act (ADA)

The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. It also applies to the United States Congress.

Title III of the ADA Standards rule-made by the U.S. Department of Justice cover businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation, and commercial facilities. Public accommodations are private entities who own, lease, lease to, or operate facilities –such as restaurants, retail stores, private schools, convention centers, doctors' offices, homeless shelters, and recreation facilities such as sports stadiums and fitness clubs.

In addition to complying with architectural standards for new and altered buildings, Public Accommodations must remove barriers where such removal is readily achievable [28 CFR Part 36, Sec. 36.304]. "Readily Achievable" means something that is easily accomplishable and able to be carried out without much difficulty or expense. What is difficult or expensive is differs from organization to organization and is determined on a case-by-case basis in light of the nature and cost of the barrier removal and the resources available. In determining whether a proposed barrier removal is readily achievable, on must consider various factors including:

- (1) The nature and cost of the action needed;
- (2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;
- (3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
- (4) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and



(5) If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity. [28 CFR Part 36, Sec. 36.304]

If removal of barriers is not readily achievable, alternative methods must be used to accommodate persons with disabilities if those methods are readily achievable. [28 CFR Part 36, Sec. 36.305] This document does not include consideration of whether given barriers are readily achievable.

On Friday, July 23rd, 2010, United States Attorney General Eric Holder signed final regulations revising the Department's ADA regulations, including its ADA Standards for Accessible Design. The 1991 ADA Standards and Uniform Federal Accessibility Standards (UFAS) were replaced by the 2010 ADA Standards. Published on September 15, 2010 with minor corrections made on March 11, 2011, the 2010 ADA Standards became mandatory on March 15, 2012. Projects regulated under the ADA as Public Accommodations or as Commercial Facilities that didn't have a completed building application accepted by applicable jurisdictions prior to March 15, 2012 had to comply with these new rules.

Facilities that complied with either the 1991 ADA Standards or UFAS were not required upgrade due to incremental changes in the Standards unless renovations occur. That was the "Safe Harbor" Provision but there was an exception for facilities that the Department saw as newly regulated and were thus being regulated retroactively to comply with the 2010 ADA Standards:

- Residential facilities and dwelling units, [ADA 233 and 809]
- Amusement Rides [ADA 234 and 1002; 206.2.9; 216.12]
- Recreational boating facilities [ADA 235 and 1003; 206.2.10]
- Exercise machines and equipment [ADA 236 and 1004; 206.2.13]
- Fishing piers and platforms [ADA 237 and 1005; 206.2.14]
- Golf facilities [ADA 238 and 1006; 206.2.15]
- Miniature golf facilities [ADA 239 and 1007; 206.2.16]
- Play areas [ADA 240 and 1008; 206.2.17]
- Saunas and steam rooms [ADA 241 and 612]
- Swimming pools, wading pools, and spas [ADA 242 and 1009]
- Shooting facilities with firing positions [ADA 243 and 1010]
- Miscellaneous
 - Team or player seating [ADA 221.2.1.4]
 - Accessible route to bowling lanes [ADA 206.2.11]
 - Accessible route in court sports facilities [ADA 206.2.12]

2.0 Priorities

The Department of Education requires that recipients shall give priority to those methods that serve individuals with disabilities in the most integrated setting appropriate. [36 CFR 104.22(b)] The ADA regulations are similar [28 CFR 36.203]. With integration and equal opportunity foremost in mind, the



District shall give priority to facilities that have the highest occurrence. Facilities with a focus on serving qualified individuals with disabilities will also be a priority. The order of priority shall be as follows:

- 1) Facilities Common to all Students, Caregivers and Visitors
 - a. Public Parking, Loading Zone(s) and Paths to the Primary Entrance(s)
 - b. Reunion Gates, School Lobby and Similar Spaces
- 2) Academic Setting [34 CFR 104.34(a)]
 - a. Classrooms and Disability Support Service Spaces
 - b. Assembly Spaces, Libraries
- 3) Non-Academic Settings [34 CFR 104.34(b)]
 - a. Meals
 - b. Recess Areas
 - c. Restrooms, Drinking Fountains and Changing Rooms
 - d. Counseling Services
 - e. Physical Recreational Athletics
 - f. Transportation
 - g. Health services
 - h. Recreational Activities
 - i. Special interest groups or clubs sponsored by the recipients
 - j. Referrals to agencies which provide assistance to handicapped persons
 - k. Employment of Students, including both employment by the recipient and assistance in making available outside employment

Many buildings have spaces of differing types. For example, instructional buildings are apt to also have instructor prep spaces, break rooms and restrooms. In such facilities, different parts of the building will be of different priority than other parts.

Each of the facility groups described above shall be further prioritized in the order established by the Department of Justice in ADA regulations [28 CFR 36.304(c)]

- a) Building Access Provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.
- b) Interior Program Access Provide access to the areas where goods and services are furnished. These measures include, for example, providing signage with Braille and raised text, widening doors, providing visual alarms, and installing ramps.
- c) Restrooms Provide access to at least one restroom for each sex or a single unisex restroom where there aren't separate restrooms for each sex. These measures include, for example, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.
- d) Take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations. These may include telephones, drinking fountains, and other amenities.



3.0 Methods of Creating Program Accessibility and Removing Barriers

The District shall ensure that no qualified person shall be denied benefits of, be excluded from participation in, or otherwise be subjected to discrimination due to facilities that are inaccessible to or unusable by people with disabilities. Further, the District shall operate its programs and activities so that when each part is viewed in its entirety, it is readily accessible to people with disabilities. This view of the totality of activities, as regulated by Department of Education [34 CFR 104.22(a)], does not give rise to a need to make every part of a facility accessible. Accordingly, the District's resources shall be applied to improvement of facilities as follows:

- Places where programs and activities are delivered
 - o Student Environments
 - o Public Spaces
- Accessible circulation connecting all accessible elements and spaces
- Circulation-Related signage
 - o Identifying where accessible circulation and general circulation diverge
 - Communicating room names in Braille and tactile text
- Outlets, Switches and Controls to the extent provided as part of programs and activities
 - o Elements of an accessible student workstation
 - Light switches in single-occupant rooms (ie, single toilet restrooms)

3.1 Schedule

In consideration of the fact that each of these properties are not owned but leased by the District, the District adopts that it shall, within three years of the adoption of this plan, enter into lease negotiations and execute a new lease for a facility that shall meet all construction-related accessibility standards within ten years of the adoption of this plan.

Certain work at MSA-7 shall occur earlier than that:

- Some restroom upgrades which would provide ADA accessible restrooms for both students and adults. (36 months)
- Removing sand area and substitute a proper play surface. (30 months)
- Replacing most classroom door handles with compliant lever locksets. Deadbolts used by staff in the case of a lockdown shall remain. (30 months)

3.2 Interim Measures

Physical barriers to program access can often be temporarily mitigated using programmatic solutions. These interim solutions include but are not limited to the following types of policies and programs:

• Leasing compliant portable classrooms and portable restrooms to create accessible options.



- Reassign, at the request of a student with a disability or faculty member, a class originally scheduled in a classroom with barriers to that individual or temporarily staffing that facility with individuals to assist disabled students.
- Developing a School Orientation Program for Students with Visual Impairment. The purpose of the Orientation Program would be to assist students in understanding where important facilities are, including but not limited to, Dining Buildings, Academic Buildings, and Individual Classrooms when tactile room identification isn't provided for the student's class.
- Making accommodations, as appropriate to individual needs.

4.0 Responsible Party

Magnolia Public Schools employs several individuals whose roles include issues related to accessibility for the disabled community. The University Administrator ultimately responsible for the implementation of the Transition Plan is Patrick Anton C. Ontiveros, Esq.

5.0 Public Input

Magnolia Public Schools is required to provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the Transition Plan by submitting comments and that a copy of the Transition Plan shall be made available for public inspection. The University shall maintain a copy of the Transition Plan at 250 E. 1st Street, Suite 1500 Los Angeles, CA 90012. Additionally, the district has solicited commentary through direct outreach in four ways:

- Posting public notices.
- Sending letters to public agencies, organizations, and individuals with disabilities requesting input on prioritizing current and future needs.
- Circulating a survey of facility users.

Cover Sheet

Approval of Prop 39 Energy Efficiency Grant Agreement for MSA-2

Section:	II. Approval Recommendation Items
Item:	B. Approval of Prop 39 Energy Efficiency Grant Agreement for
MSA-2 Purpose: Submitted by:	Vote
Related Material:	II B HVAC Contract for MSA2 (Prop 39 EEG).pdf



Facilities Committee Item #:	II B – Action Item (recommendation)
Board Agenda Item #:	II B – Consent Item
Date:	October 10, 2018 / October 11, 2018
То:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (" MPS ") Board of Directors Facilities Committee (the " Facilities Committee ")
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Approval of Construction Agreement for MSA-2 to Make HVAC Upgrades Using MSA-2's Prop 39 Energy Efficiency Grant From the State of California

I. Proposed Committee Recommendation

Staff recommends that the Facilities Committee approve, and recommend that the full Board of Directors of MPS (the "**MPS Board**") approve, the agreement between MPS and Highlands Diversified, Inc. dba Highlands Trade, attached as Exhibit A, for the installation of new HVAC units at MSA-2's campus located at 17125 Victory Boulevard in Van Nuys (the "**Project**"). The Project will be paid for solely from the Prop 39 energy efficiency grant received by MPS for the benefit of MSA-2.

II. Background

A. Prop 39 Background

MPS applied for and received grants for its schools under the Proposition 39 California Clean Energy Jobs Act ("**Prop 39**"), a state program providing funding to local educational agencies for improving energy efficiency and creating clean energy jobs. Under Prop 39, MSA-2 received funding of <u>\$271,059</u>. According to Prop 39 rules and regulations, Prop 39 projects must be under contract by June 30, 2019. Otherwise, Prop 39 funds received must be returned to the State of California.

MPS signed an agreement with First Note Finance ("**FNF**") to manage MPS's Prop 39 projects. FNF is only paid if and when projects are completed. After the payment of fees to FNF



of $\underline{\$27,218}$ under its contract, a balance of $\underline{\$243,840}$ remains to be spent on various energy efficiency projects for MSA-2.

B. MSA-2 Co-Location Use Agreement

MSA-2 leases space on the Los Angeles Unified School District ("LAUSD") owned Birmingham campus. As such, MPS was required to seek additional approvals from LAUSD to perform the proposed HVAC upgrades. For example, LAUSD required a review of the equipment to be installed to confirm it conformed to its standards. LAUSD has provided its approvals.

C. Procurement

On MPS's behalf FNF issued an RFP to various vendors for the Project. See RFP attached as Exhibit B. Four bids were received. FNF and Mr. Ontiveros reviewed the bids and determined that Highlands Trades's bid of **<u>\$205,079.26</u>** represented the best value to MPS and MSA-2.

D. The Agreement

The proposed Agreement between MPS and Highlands Trade Partners has been reviewed by MPS's general counsel and found to be acceptable.

III. Budget Impacts

Since the Project will be paid entirely from the Prop 39 funds already received by MPS, there is no budget impact to either MSA-2 or MPS.

Exhibits (attachments):

A. Agreement between MPS and Highlands Trade Partners

B. RFP

250 E. 1st Street Suite 1500, Los Angeles, CA 90012 | www.magnoliapublicschools.org 181002 - MERF Facilities Committee - Board Cover Sheet for Approval of HVAC Contract for MSA2 (Prop 39 EEG).docx



Agreement between MPS and Highlands Trade Partners

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 8th day of August, 2018.

BETWEEN the Owner:

Magnolia Science Academy 2 17125 Victory Boulevard Van Nuys, CA 91406

and the Contractor:

Highlands Diversified, Inc. dba Highlands Trade Partners 5114 E. Clinton Way #111 Fresno, CA 93727 Tel: (559) 455 – 1700 ext. 102

the Project is:

Magnolia Science Academy 2 17125 Victory Boulevard Van Nuys, CA 91406

The Owner and Contractor agree as follows.

ARTICLE 1 THE WORK OF THIS CONTRACT

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

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to provide turnkey installation of ten (10) Wall Mounted Heat Pump Systems and ten (10) programmable, networking, smart thermostats. These replacement units shall be 11.0 EER and 14.0 IPLV or better, and will replace (10) existing Wall Mounted Heat Pump units located on the portable classrooms. All units include isolation curbs, sound attenuators, CO2 sensors, Bard guards, and IAQ Controllers.

The project is to be implemented as soon as possible as determined by school client. The project includes development of all documentation required for permit from the local jurisdiction and a full one (1) year replacement labor warranty and warranty to commence upon startup of equipment. The contractor includes a one (1) year warranty period, dated from date of Substantial Completion and must meet requirements of the Los Angeles Unified School District.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits "A", "B", and "C") to this Contract, and the terms and conditions of the Task Order will take precedence

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit "A" and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit "B" Price and Payment Terms.

ARTICLE 5

5.1 **PROGRESS PAYMENTS**

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment ("Application for Payment") setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor's right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, <u>a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit "C"</u>, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner's receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic's liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, <u>including all completed and signed Prevailing</u> Wage Reports using the standard California Department of Industrial Relations form, attached <u>hereto as TASK ORDER Exhibit "C"</u>, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable thirty (30) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor work ("punch-list work"), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor's proposal attached as Exhibit "A". 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 Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 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.

ARTICLE 7 OWNER

7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

7.1.1 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.

7.1.2 The Contractor shall pay for the building permit and final inspection. Owner shall pay other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the 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 is 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.

7.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after ten (10) days written notice to the Contractor and without prejudice to any other remedy the

Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

8.1 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, unless the Contract Documents give other specific instructions concerning these matters.

8.2 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.

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

8.4 WARRANTY

8.4.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.4.2 Pursuant to the terms of this warranty, the Contractor shall promptly correct Work rejected by the Owner for failing to conform to the requirements of the Contract Documents if discovered within one year after the date of Substantial Completion of the Work, provided that the Owner gives the Contractor prompt written notice of the discovery of the condition. The Contractor shall correct it promptly after receipt of written notice from the Owner to do so.

8.5 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

ARTICLE 9 CHANGES IN THE WORK

9.1 The Owner, without invalidating the Contract, may 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. Such changes in the Work shall be

authorized by written Change Order signed by the Owner and Contractor or by a written Construction Change Directive signed by the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. 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; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property 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, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

10.2 PROTECTION OF STUDENTS – WORK DURING SCHOOL HOURS

10.2.1 Fingerprinting and Criminal Records Check of Contractor's Employees.

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

Contractor shall not permit any employee to have any contact with Magnolia pupils until such time as Contractor has verified in writing to the Magnolia Project Lead that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

ARTICLE 11 INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

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

Worker's Compensation and Employer's Liability Insurance with limits of not less than required by law.

Commercial General Liability Insurance, (Insurance Services Office, Form CG 00 01 or equivalent), including

- Personal Injury, including accidental death, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Property Damage, including Broad Form Property Damage Coverage, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Products Liability/Completed Operations Liability, with limits of not less than One Million Dollars (\$1,000,000) in the aggregate; and
- Automobile Liability One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Before commencing the Work, the Contractor shall furnish a) certificate, satisfactory to Owner, from each insurance company showing that the above insurance is in force, stating policy numbers, dates of expiration, and limit of liability thereunder and b) a certificate naming Owner as an additional insured on a combination of a ISO form CG 20 37 and an ISO CG 20 10 10/01 form or its approved equivalent.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

12.2 GOVERNING LAW

The Contract shall be governed by the laws of the State of California.

12.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. 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. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

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

Magnolia Science Academy 2

Highlands Trade Partners

President & CEO (Signature)

CONTRACTOR (Signature)

By: Patrick Ontiveros

Its: Director of Facilities

By: Leonel Alvarado

Its: President 861507 License Number

Form of TASK ORDER Exhibit A

Scope of Work and Schedule

Facility: Magnolia Science Academy 2

Address: 17125 Victory Boulevard, Van Nuys, CA 91406

Primary Contact for Site: Patrick Ontiveros, Tel: (213) 628-3634; Email: pontiveros@magnoliapublicschools.org

Project Manager Name and Contact Info:

James Richmond, First Note Finance *inc*; Cell: (303) 517-8640; Email: James@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email: <u>Amanda@FirstNoteFinance.com</u>

Project Manager Name and Contact Info for CONTRACTOR:

Frank Kaiser, Highlands Trade Partners, Cell: (559) 978-3876; Email: <u>fkaiser@highlandstraes.com</u>

Scope of Work Narrative:

This project includes the turnkey (Design-Build) Engineering, Design, Electrical, permitting, Installation, and Commissioning Support of ten (10) Bard Wall Mounted Heat Pumps and ten (10) Bard programmable, networking, smart thermostats.

The unit replacements must meet a minimum efficiency 11.0 EER and 14.0 IPLV. All units include isolation curbs, sound attenuators, CO2 sensors, Bard guards, and IAQ Controllers. The contractor includes a one (1) year warranty period, dated from date of Substantial Completion and meets requirements of the Los Angeles Unified School District.

Additionally, the kWh savings in the CEC approved plan for this scope is 39,086 kWh/year. The energy savings of the project shall be within 15% of 39,086 kWh/year.

	(1) 4 ton	(8) 3.5 ton	(1) 2 ton
	Wall Mounted Heat	Wall Mounted Heat	Wall Mounted
	Pump	Pumps	Heat Pump
Manufacturer	Bard	Bard	Bard
Model Number	C48H1-B0ZVP4XXX	C42H1-A0ZVP4XXX	C24H1-A0ZVP4XXX
Efficiency (EER and	11.00 EER and 15.0	11.0 EER and 14.7	11.00 EER and 14.3
IPLV)	IPLV	IPLV	IPLV



Bid Form - Schedule of Values - Magnolia Science Academy 2, HVAC

For your bid to be accepted as responsive, all blanks in both tables below must be filled in with a price, or "N/A", or "included". Leaving blanks may result in your bid being rejected.

Base Bid includes LAUSD Required Equipment

17125 Victory Blvd.

		Total
1	Prepare and Submit Feasibility Study	\$6,184.00
2	Obtain Engineering and Permits	\$6,844.00
3	Secure and Assist with Collection of Rebates & Incentives	\$0.00
4	Replace (10) Wall Mounted Heat Pumps	\$164,077.26
5	Install (10) programmable, networking, smart thermostats	\$6,504.00
6	Removal/Disposal	\$1,100.00
7	Repair & Seal Ductwork	\$5,680.00
8	System Commissioning	\$7,800.00
9	Other Costs	\$6,890.00
	Fixed Turnkey Price, 17125 Victory Blvd.	\$ <u>205,079.26</u>

I, (name) _____ Frank Kaiser Certification:

, am qualified to make this bid-offer commitment on behalf of my company. The fixed, turnkey price provided is all-inclusive. I understand that this bid is provided to the client without expectation for compensation of any kind for the cost of preparing it, and that the Client (Magnolia Science Academy 2), or its designated Energy Manager (First Note Finance inc) may reject this bid if it is not responsive, complete or submitted after the due date of 4:00 PM on March 26, 2018.

aux 8/8/18 (signature) (date) **General Superintendent** (title)

Please submit your bid via email attachment on or before the date and time due to Amanda@FirstNoteFinance.com

This bid includes: (1) 4-ton Wall Mount Heat Pumps, (8) 3.5-ton Wall Mount Heat Pumps and (1) 2-ton Wall Mounted Heat Pumps. All units include Isolation curbs, sound attenuators, CO2 Sensors, Bard Guards and IAQ Controller. *Equipment pricing is based off of Geary Pacific/Bard and the information they have obtained through LAUSD Specifications. A representative from Geary Pacific/Bard was at the job walk and obtained equipment information directly from Magnolia Science Academy 2.*

26-Feb-18

First Note Finance inc

8

Magnolia Science Academy 2 Project Narrative

- Total duration of project to (6) working days
- Day 1: Disconnect and remove (2) existing wall mount units and (2) thermostats. Start, test and clean up job site.
- Day 2: Disconnect and remove (2) existing wall mount units and (2) thermostats. Start, test and clean up job site.
- Day 3: Disconnect and remove (2) existing wall mount units and (2) thermostats. Start, test and clean up job site.
- Day 4: Disconnect and remove (2) existing wall mount units and (2) thermostats. Start, test and clean up job site.
- Day 5: Disconnect and remove (2) existing wall mount units and (2) thermostats. Start, test and clean up job site.
- Day 6: Final walk through with First Note Finance and school representative.

****Timeline may change based on weather delays, arrival of equipment, or any unforeseen issues on jobsite.



5114 East Clinton Way, #111 Fresno, California 93727 Phone: 559-455-1700 Fax 559-455-1711 CDGS DVBE #0043397 California State Contractor's License #861507

Date: March 26, 2018

Magnolia Science Academy 2 17125 Victory Boulevard Van Nuys, CA 91406

Attention: Steven Keskinturk Reference: Magnolia Science Academy 2 Subject: Warranty Letter

Dear Steven,

Highlands Diversified Inc. dba Highlands Trade Partners will repair or replace any or all work, that may prove defective or fail to conform to Contract requirements, workmanship and materials; together with any other work which may be displaced, damaged or marred in so doing, all without any additional expense to Contractor, ordinary wear and tear and unusual abuse or neglected excepted. All warranties, unless greater requirements are otherwise stipulated in the Contract Documents, shall be for one (1) year period, dated from date of Substantial Completion.

Warrant: Magnolia Science Academy 2 Project: Prop 39 HVAC Implementation Address: 17125 Victory Boulevard, Van Nuys, CA 91406 Date: 3/26/2018

We hereby warrant the performed scope of work in accordance with Contract Documents and that the work provided will fulfill the requirements of the warranty. We agree to repair or replace any or all our work that may prove to be defective in its workmanship, materials, or fail to conform to Contract requirements together with any other work which may be damaged or displaced by so doing within a period of one (1) year from date of Substantial Completion of the above-named Project by Highlands Diversified, Inc. dba Highlands Trade Partners, without any expense to the said Contractor, ordinary wear and tear and unusual abuse or neglect excepted. In the event of our failure to comply with the above-mentioned conditions within thirty (30) days after being notified in writing by the Contractor, we collectively or separately do hereby authorize the Contractor to proceed to have said defects repaired and made good at our expense and we will honor and pay costs and charges therefore upon demand.

Dated:	Dated:

By: ____

By: _

5114 E. Clinton Way, Suite #111 Fresno, CA 93727

CONTRACTOR will install the following equipment, and ensure that the 11.0 EER and 14.0 IPLV specification for each system is validated with an ARI certificate.

Project Budget: <u>\$ 205,079.26</u>

The project budget includes all costs of all contractors, including mechanical, electrical, permits, materials, supplies, demolition... everything.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR. Please see link below for a comprehensive set of project cut sheets.

https://www.dropbox.com/sh/dcdysv5w1rqqfkz/AABkkuc6xCUWseJS0c7Uvstua?dl=0

Exhibit B

Price and Payment Terms

Fixed Turnkey Price: \$205,079.26

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead.)

Payment Terms:

- One final invoice per the following Schedule of Values. Payment terms at net 15 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Final Invoice. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) is required from all equipment suppliers and/or subcontractors for final payment.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Schedule of Values:

Project Milestone	% Completed	Amount
Installation Complete, Warranty, & O&M Manual	100%	\$ 205,079.26
Contract for HVAC Project – Highlands Trade Partners and Magnolia Science Academy 2 8/8/18

Exhibit C

CA Department of Industrial Relations Prevailing Wage Reporting Form - PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: https://www.dir.ca.gov/pwc100ext/LoginPage.aspx



Exhibit B

Request for Proposal

250 E. 1st Street Suite 1500, Los Angeles, CA 90012 | www.magnoliapublicschools.org 181002 - MERF Facilities Committee - Board Cover Sheet for Approval of HVAC Contract for MSA2 (Prop 39 EEG).docx Powered by BoardOnTrack Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM,

First Note Finance Energy Savings Made Sim



HVAC Contractor Statement of Work – Request for Proposals

Magnolia Science Academy 2 17125 Victory Blvd, Van Nuys, CA 91406-5455 Replace HVAC Systems, Duct Repair and Sealing, February 26, 2018

This document is an invitation to qualified HVAC contracting firms to bid on the turnkey (Design-Build) Engineering, Design, Electrical, Permitting, Installation, and Commissioning Support of sixteen (16) wall mounted heat pump units and sixteen (16) programmable, networking, smart thermostats. This document and all submittals will become a contract exhibit for the successful bidder. The HVAC project is intended to be undertaken as soon as possible or in Summer Break 2018 as TBD by school client. Funding has been approved under California Proposition 39, and the total cost of the HVAC system retrofit will need to fall within the State-approved budget for the included energy efficiency measures.

Clients:	Magnolia Science Academy 2, 17125 Victory Boulevard, Van Nuys, CA 91406.
	Steven Keskinturk, Principal
Energy Manager:	First Note Finance inc., 831 Pomona Ave, Coronado, CA 92118
	Amanda Kielian & Chris Ing, Energy Managers
	Amanda@FirstNoteFinance.com ; Chris@FirstNoteFinance.com
Local Jurisdiction:	City of Los Angeles Department of Building and Safety, 6262 Van Nuys Blvd, 2 nd Floor, Rm. 251, Van Nuys, CA 91401, Tel: (213) 473-3231

Contractor Pre-Bid Walk-Through: Wednesday, March 14, 2018. All bidding contractors will survey the premises at one time at **2:00 PM**, 17125 Victory Boulevard, Van Nuys, CA 91406. Parking lot can be accessed from Haynes Street off Balboa Blvd. This will be the only opportunity to survey the premises before proposals are due. <u>Please RSVP at Amanda@FirstNoteFinance.com</u>

Questions and Answers: Bidder questions shall be submitted by electronic mail by close of business on March 19, 2018. Answers to all questions will be provided in writing to all interested parties on or before March 22, 2018. Please send questions to <u>Amanda@FirstNoteFinance.com</u>

Proposal Due Date: March 26th, 2018, 4:00 PM. Please read and follow carefully all instructions on the *Bid Submittal Requirements* and *Bid Form and Schedule of Values*.

Facilities and Layout

HVAC system replacements for the main building are included in this RFP. These include the following units:

LEA (e.g. school)	Street Address	Floor Area (sf)	Inst. Schedule
Magnolia Science	17125 Victory Blvd, Van	16,235	Summer Break 2018
Academy 2	Nuys		



Equipment Scheduled for Replacement

Building	Serving	System (Existing)	Quantity	Estimated Capacity (Existing)	Replacement Efficiency (Minimum)
P-20	Rm. P21	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-20	Rm. P22	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-20	Rm. P23	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-30	Rm. P31	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-30	Rm. P32	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-30	Rm. P33	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-40	Rm. P41	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-40	Rm. P42	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-50	Rm. P51	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-50	Rm. P52	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-11-14	Rm. P11	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-11-14	Rm. P12	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-11-14	Rm. P13	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-11-14	Rm. P14	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-10	Rm. P10	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV
P-60	Rm. P61(Teachers' Lounge)	Wall Mounted HP Bard WH491-BOZ	1	4 Tons	11.0 EER and 14.0 IPLV

Note: Selected contractor shall verify system capacity before ordering replacement equipment.

<u>Minimum Efficiency Specification</u>: All replacement heat pump systems shall be SEER-15 or better. All replacement rooftop packaged AC systems shall be SEER 14 or better. All replacement mini-split heat pump systems shall be SEER-18 or better. All replacement wall mounted AC and heat pump units shall be 11.0 EER at full load and have a minimum Integrated Part Load Value (IPLV) of 14.0. Condensing furnaces shall be AFUE 0.92 or better. If the equipment is rated in EER, not SEER, the systems shall be EER 12.2 or better.

Thermostats: Contractor shall install (16) programmable, networking, smart thermostats.

Schedule Summary

Facilities Pre-Bid Walk-Through:	Wednesday, March 14, 2018, 2:00 PM PST
RFP Questions Due:	Monday, March 19, 2018, 4:00 PM PST
RFP Answers Provided:	Thursday, March 22, 2018, 4:00 PM PST
RFP Proposals Due:	Monday, March 26, 2018, 4:00 PM PST
Contractor Selection:	Approx. March 26, 2018
Contracting:	Week of March 26, 2018
Installation:	Summer Break 2018









Preliminary Discussion

HVAC Inventory: An onsite survey performed by First Note Finance resulted in a comprehensive HVAC equipment inventory. Only some of the equipment inventoried is scheduled for replacement, and these units are identified in the tables on page 2. Bids shall be based on this inventory with regard to equipment quantities, types and sizes. Prospective bidders should also field-verify existing equipment to ensure inventory accuracy.

Responsiveness: Your complete and responsive bid is requested. Bids that are not responsive or incomplete, or are submitted after the due date and time, will be rejected. For your bid to be considered responsive and complete, the following turnkey services are required, and shall be accepted by the building owner (Client).

Best Value: Price of the HVAC retrofit is important. A responsive bid will be evaluated based on the price submitted, and whether it meets the budget parameters of the approved Proposition 39 funding. However, price is not the only consideration. Bids will also be evaluated based on the (perceived) quality of materials and equipment, warranty considerations, and company reputation, track record, and project references. The Client will choose the successful bidder and a contract awarded based on its own calculation of Best Value, at its sole discretion. The Client's decision will be final and Client withholds the right to reject any and all bids received without explanation.

Prevailing Wage: These projects are funded in whole or in part using Proposition 39 Clean Energy Jobs Act funding. This statute prohibits sole sourcing of contractors and requires documentation of Prevailing Wages. It also requires your firm to be registered with the CA Department of Industrial Relations, which involves paying them a \$400 registration fee, in order to be eligible to be paid from Proposition 39 funding.

No Payment for Bids: A bidder will not be compensated for its costs of submitting a bid.

Budget Considerations

Project implementation funding has been secured via the California Proposition 39 Clean Energy Jobs Act. These (funded) energy efficiency measures are the basis of the Project for which a Scope of Work is included in this Request for Proposal. Project funding has been secured via the California Proposition 39 Clean Energy Jobs Act.

Scope of Work

- 1. Feasibility Study
- 2. Complete Engineering and Obtain Building Permits
- 3. Apply for Rebates and/or Incentives
- 4. Replace HVAC Systems and programmable thermostats
- 5. Removal and Disposal of Old Equipment and Material
- 6. Repair and seal ductwork as needed
- 7. Commission installed HVAC Systems

Scope of Work - Discussion

1. <u>Feasibility Study</u> – The selected contractor will perform a feasibility study in order to determine in advance of filing for permits or beginning construction, any issues that may arise that will affect the schedule or cost



of the project. Contractor will have the opportunity to survey the premises including the roofs and plenums, possible locations for a crane, onsite staging of demolished equipment, condition of wiring and circuits, etc.

- 2. <u>Complete Engineering and Obtain Building Permits</u> This is a Design-Build construction process. Contractor is responsible for obtaining building permits as well as obtaining any engineering drawings /and/or specifications that are required by the local jurisdiction in order to obtain a building permit, including but not limited to Structural, Mechanical, and /or Electrical Engineering, stamped by a licensed professional engineer (California). As-built drawings in electronic format (AutoCAD & PDF) of the completed (phases) of the project are required deliverables for final acceptance by the client.
- 3. <u>Apply for Rebates and/or Incentives</u> Contractor shall complete and submit utility rebate and/or incentive reservations and applications for all applicable rebates or incentives available. The estimated amount of the rebate should be submitted with the Contractor's bid.
- 4. <u>Replace HVAC Systems</u> Contractor shall provide a fixed price for the replacement of the existing HVAC systems. Price shall be turnkey and include all equipment plus programmable thermostats, material, parts, and demolition and installation labor required to complete the installations, including the cost of equipment delivery to the site, and crane to set the new equipment on the roof, and remove the old equipment from the roof. Contractor shall include in its price the cost of replacing or re- configuring roofing curbs to fit the new equipment if, and as, needed. Contractor shall hire and pay as a subcontractor, the School's roofing contractor, that will repair and fit roofing material as needed on equipment curbs, as well as patch any damage to the roof resulting from the demolition and/or installation. Contractor shall hire and pay as a subcontractor, an electrical contractor, that will disconnect the existing equipment, and connect the new equipment, providing service disconnects, wiring and over-current protection devices if and as needed, or required by code. Contractor shall test and verify system operation. Again, this is a Design-Build construction process. Contractor is responsible for obtaining final approval from the local jurisdiction.
- 5. Additionally, the following specifications are requirements and shall be included in the Contractor's bid price:
 - a. <u>Economizers</u>: Outdoor air temperature economizers are required for the Packaged Rooftop Unit Heat Pumps and AC units. <u>Yes</u>, even if they are less than 5 tons capacity.
 - b. <u>Minimum Efficiency Specification:</u> All replacement heat pump systems shall be SEER-15 or better. All replacement rooftop packaged AC systems shall be SEER 14 or better. All replacement mini-split heat pump systems shall be SEER-18 or better. All replacement wall mounted AC and heat pump units shall be 11.0 EER at full load and have a minimum Integrated Part Load Value (IPLV) of 14.0. Condensing furnaces shall be AFUE 0.92 or better. If the equipment is rated in EER, not SEER, the systems shall be EER 12.2 or better.
- 6. <u>Removal and Disposal of Old Equipment and Material</u> Contractor shall remove from the premises and provide for proper and lawful disposal of the old HVAC equipment as well as any waste material resulting from the demolition. Contractor shall remove, transport, and properly and lawfully dispose of any refrigerants in the existing systems.
- 7. <u>Repair and seal plenum & outdoor-exposed ductwork as needed</u> Contractor shall seal with mastic the installed HVAC unit to the supply and return plenums, as well as any outdoor-exposed ductwork as part of the installation.



8. <u>Commissioning of installed HVAC systems</u> – Contractor shall integrate to the existing thermostats and field verify set-points and schedules.

Bid Submittal Requirements

- 1. **Company Profile:** Please submit a company profile including the following information:
 - a. Company name, entity type, address, telephone, email.
 - b. Number of employees,
 - c. Number of years in business,
 - d. Professional certifications,
 - e. Number of commercial HVAC projects completed in the last five years.
 - f. Please provide the name of the company owner, president or CEO.
 - g. Please provide the name and contact information of the designated project and/or construction manager for this project.
- 2. **Project Experience:** Please provide brief project descriptions for similar Design-Build projects your firm has performed, including engineering through system commissioning.
- 3. **Project Schedule Narrative:** Please provide a narrative for your anticipated, proposed project schedule couched in terms of number of days from receiving a signed contract *for critical needs phase*. Please indicate the amount of time you anticipate it will take to obtain a building permit, if needed. Please describe your installation approach. Please explain how you plan to coordinate your installation so that roofing repairs are accomplished as needed at roof curbs to prevent roof leaks.
- 4. **Project References:** Please provide references for three (3) completed projects, of the same approximate size and scope, including contact information for the client you were directly responsible to. Name, address, telephone, email, and a brief project description.
- 5. **Warranty:** Please provide a copy of your Standard Warranty.
- 6. **Product Information:** Please provide cut sheet information for the exact products proposed for this project, including heat pumps, rooftop A/C systems, split-system A/C systems, smart thermostats and user interface software.
- 7. Bid Form: Please complete the following Bid Form & Schedule of Values.



Bid Form - Schedule of Values – Magnolia Science Academy 2, HVAC

For your bid to be accepted as responsive, all blanks in both tables below must be filled in with a price, or "N/A", or "included". Leaving blanks may result in your bid being rejected.

17125 Victory Blvd.

		Total
1	Prepare and Submit Feasibility Study	
2	Obtain Engineering and Permits	
3	Secure and Assist with Collection of Rebates & Incentives	
4	Replace (16) Wall Mounted Heat Pumps	
5	Install (16) programmable, networking, smart thermostats	
6	Removal/Disposal	
7	Repair & Seal Ductwork	
8	System Commissioning	
9	Other Costs	
	Fixed Turnkey Price, 17125 Victory Blvd.	\$

Certification: I, (name) ______, am qualified to make this bid-offer commitment on behalf of my company. The fixed, turnkey price provided is all-inclusive. I understand that this bid is provided to the client without expectation for compensation of any kind for the cost of preparing it, and that the Client (Magnolia Science Academy 2), or its designated Energy Manager (First Note Finance inc) may reject this bid if it is not responsive, complete or submitted after the <u>due date of 4:00 PM on March 26, 2018</u>.

(signature)

(date)

(title)

Please submit your bid via email attachment on or before the date and time due to <u>Amanda@FirstNoteFinance.com</u>





Cover Sheet

Approval of Prop 39 Energy Efficiency Grant Agreement for MSA-7

Section:	II. Approval Recommendation Items
Item:	C. Approval of Prop 39 Energy Efficiency Grant Agreement for
MSA-7 Purpose: Submitted by:	Vote
Related Material:	II C HVAC Contract for MSA7 (Prop 39 EEG).pdf



Facilities Committee Item #:	Item II C – Action Item (recommendation)
Board Agenda Item #:	Item II C- Consent Item
То:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (" MPS ") Board of Directors Facilities Committee (the " Facilities Committee ")
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Approval for MSA-7 to Make HVAC Upgrades to its Campus Using MSA-7's Prop 39 Energy Efficiency Grant From the State of California

I. Proposed Committee Recommendation

Staff recommends that the Facilities Committee approve and recommend that the full Board of Directors of MPS (the "**MPS Board**") approve the agreement between MPS and Masterbuilt Construction Corp., attached as Exhibit A, for the installation of new A/C units at Magnolia Science Academy 7's ("**MSA-7**") campus located at 18355 Roscoe Boulevard (the "**Project**"). The Project will be paid for <u>solely</u> from the Prop 39 energy efficiency grant received by MPS for the benefit of MSA-7.

II. Background

A. The Lease & Space

MSA-7 is located at 18355 Roscoe Boulevard in Northridge. It leases space at that location from the First Lutheran Church of Northridge. MSA-7 entered into the lease as of December 1, 2011 with an initial term running from December 1, 2012 to July 31, 2017. The lease contains two five year renewal options. The first renewal option has been exercised such that the current term expires on July 31, 2022. The second renewal option, if exercised, would extend the lease until July 31, 2027.

The space consists of two one story buildings that previously housed a private school run by the church. The total square footage of the buildings is approximately 22,000 square feet. The facilities are quite old – each building has a certificate of occupancy dating from 1969. One of the two buildings has a certificate of occupancy for an addition to the building dating from 1988. The HVAC units have largely outlived their useful life and in any event are inefficient.



MSA-7's landlord has consented to the HVAC upgrade described herein.

B. Prop 39 Background

MPS applied for and received grants for its schools under the Proposition 39 California Clean Energy Jobs Act ("**Prop 39**"), a state program providing funding to local educational agencies for improving energy efficiency and creating clean energy jobs. Under Prop 39, MSA-7 received funding of <u>\$264,781</u>. According to Prop 39 rules and regulations, Prop 39 projects must be under contract by June 30, 2019. Otherwise, Prop 39 funds received must be returned to the State of California.

MPS signed an agreement with First Note Finance, inc. ("**FNF**") to manage MPS's Prop 39 projects. FNF is only paid if and when projects are completed. After the payment of fees to FNF of <u>\$26,371</u> under its contract, a balance of <u>\$238,410</u> remains to be spent on various energy efficiency projects for MSA-7.

C. Procurement

On MPS's behalf FNF issued an RFP to various vendors for the Project. See attached Exhibit B. Two bids were received. FNF and Mr. Ontiveros reviewed the two bids and after said review determined that Masterbuilt's bid of \$78,334.00 represented the best value to MPS and MSA-7.

D. The Agreement

The proposed Agreement between MPS and Masterbuilt Construction Corp. has been reviewed by MPS's general counsel and found to be acceptable.

III. Budget Impacts

Since the Project will be paid entirely from the Prop 39 funds already received by MPS, there is no budget impact to either MSA-7 or MPS.

Exhibits (attachments):

- A. Agreement between MPS and Masterbuilt Construction Corp.
- B. RFP

250 E. 1st Street Suite 1500, Los Angeles, CA 90012 | www.magnoliapublicschools.org 181002 - MERF Facilities Committee - Board Cover Sheet for Approval of HVAC Contract for MSA7 (Prop 39 EEG).docx



Agreement between MPS and Masterbuilt Construction Corp.

AGREEMENT BETWEEN OWNER AND CONTRACTOR

A G R E E M E N T made as of the 20th day of August, 2018.

BETWEEN the Owner:

Magnolia Science Academy 7 18355 Roscoe Blvd. Northridge, CA 91325-4104

and the Contractor:

Masterbuilt Construction Corp. Mehdi Ahmadi 3806 Malibu Country Drive Malibu, CA 90265 Tel: (818) 903 – 9178 Fax: (818) 369 - 6879 Email: masterbuiltco@yahoo.com

the Project is:

Magnolia Science Academy 7 18355 Roscoe Blvd. Northridge, CA 91325-4104

The Owner and Contractor agree as follows.

ARTICLE 1 THE WORK OF THIS CONTRACT

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

The Contractor shall fully execute the Work described in the Contract Documents, described as follows:

The Work is generally described as the construction work necessary to provide turnkey installation of seven (7) Packaged A/C units with SEER-14 replacements & replacement of two (2) manual thermostats. The project is to be implemented at a timeframe of the Owner's choosing. Includes development of all documentation required for permit from the local jurisdiction.

A more detailed Scope of Work is provided by attaching a TASK ORDER (Exhibits "A", "B", and "C") to this Contract, and the terms and conditions of the Task Order will take precedence

ARTICLE 2 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, the information required by the Contractor to perform the Work and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be per a Notice to Proceed to be issued by the Owner.

3.2 The Contractor shall have a reasonable period of time to complete this Project, consistent with the timing of the information provided by the Owner concerning the scope of work to be performed.

ARTICLE 4 BASIS FOR PAYMENT

4.1 CONTRACT SUM

4.1.1 The Owner shall pay the Contractor the Cost of the Work for the scope of work as defined in the Scope and Work Schedule attached hereto as TASK ORDER Exhibit "A" and the Fixed Turnkey Price attached hereto under as TASK ORDER Exhibit "B" Price and Payment Terms.

ARTICLE 5

5.1 **PROGRESS PAYMENTS**

5.1.1 The Contractor shall, once every month, deliver to the Owner an application for payment ("Application for Payment") setting forth the amount which the Contractor believes it is entitled to be paid for the current period. Such Application for Payment shall be supported by such data substantiating the Contractor's right to payment as the Owner may reasonably require including, without limitation, copies of invoices from Subcontractors and material suppliers, receipts and vouchers, <u>a Prevailing Wage Report using the standard California Department of Industrial Relations form, attached hereto as TASK ORDER Exhibit "C"</u>, and a conditional release of lien upon progress payment and a Conditional Release upon Progress Payment. Upon payment, Contractor shall supply Owner with an Unconditional Release of Lien upon Progress Payment.

5.1.2 The Owner will review each Application for Payment, and will pay the amount due within thirty (30) days after Owner's receipt of the Application for Payment.

5.1.3 The Contractor shall promptly pay each Subcontractor upon receipt of payment out of the amount paid to the Contractor on account of each Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work.

5.1.4 The Contractor agrees to keep the Work on the site(s) on which Work is to be performed or materials to be furnished pursuant to the Contract Documents free and clear of all mechanic's liens and claims of liens, provided that the Owner has paid the Contractor the amount due for the labor, services and materials which are the subject of the lien.

5.2 FINAL PAYMENT

5.2.1 Upon receipt of written notice from the Contractor that the Work is complete and ready for final inspection, all corrections made, all reports and there is no other unfinished Work, and upon receipt of a final Application for Payment, <u>including all completed and signed Prevailing</u> Wage Reports using the standard California Department of Industrial Relations form, attached <u>hereto as TASK ORDER Exhibit "C"</u>, the Owner will promptly make such inspection and, when it finds the Work acceptable and the Contract fully performed, the Owner will promptly approve final payment.

5.2.2 Final payment, constituting the unpaid balance of the Contract Sum, if any, (subject to any retention with respect to minor work or defective work) shall be due and payable thirty (30) days following the receipt of a final Application for Payment provided that as a condition to such payment the Owner has approved the Work, and Contractor has provided an Unconditional Release of Lien upon final payment for itself and all subcontractors or supplier.

5.2.3 If there should remain minor items to be completed, the Contractor and the Owner shall list such items and the Contractor shall deliver, in writing, its unconditional promise to complete said items within a reasonable time following substantial completion of the work. The Owner may retain an amount equal to one and one-half (1-1/2) times the cost to complete the minor work ("punch-list work"), as reasonably determined by Owner, until such time as the punch-list work is completed.

ARTICLE 6 THE CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement Between Owner and Contractor, the bid set of Construction Documents, and the Contractor's proposal attached as Exhibit "A". 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 Change Order. The Contract Documents shall not be construed to create a contractual relationship between the Owner and a Subcontractor or sub-subcontractor between any persons or entities other than the Owner and Contractor.

6.2 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.

ARTICLE 7 OWNER

7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

7.1.1 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.

7.1.2 The Contractor shall pay for the building permit and final inspection. Owner shall pay other permits, governmental fees and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

7.2 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the 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 is 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.

7.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after ten (10) days written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

8.1 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, unless the Contract Documents give other specific instructions concerning these matters.

8.2 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.

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

8.4 WARRANTY

8.4.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.4.2 Pursuant to the terms of this warranty, the Contractor shall promptly correct Work rejected by the Owner for failing to conform to the requirements of the Contract Documents if discovered within one year after the date of Substantial Completion of the Work, provided that the Owner gives the Contractor prompt written notice of the discovery of the condition. The Contractor shall correct it promptly after receipt of written notice from the Owner to do so.

8.5 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

ARTICLE 9 CHANGES IN THE WORK

9.1 The Owner, without invalidating the Contract, may 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. Such changes in the Work shall be authorized by written Change Order signed by the Owner and Contractor or by a written Construction Change Directive signed by the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. 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; and
- (3) other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property 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, except for damage or loss attributable to acts or omissions of the Owner, and not attributable to the fault or negligence of the Contractor.

10.2 PROTECTION OF STUDENTS – WORK DURING SCHOOL HOURS

10.2.1 Fingerprinting and Criminal Records Check of Contractor's Employees.

Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees.

Contractor shall not permit any employee to have any contact with Magnolia Science Academy 7 pupils until such time as Contractor has verified in writing to the Magnolia Science Academy 7 that such employee has not been convicted of a felony, as defined in Education Code §45125.1.

ARTICLE 11 INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

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

Worker's Compensation and Employer's Liability Insurance with limits of not less than required by law.

Commercial General Liability Insurance, (Insurance Services Office, Form CG 00 01 or equivalent), including

- Personal Injury, including accidental death, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Property Damage, including Broad Form Property Damage Coverage, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate;
- Products Liability/Completed Operations Liability, with limits of not less than One Million Dollars (\$1,000,000) in the aggregate; and
- Automobile Liability One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Before commencing the Work, the Contractor shall furnish a) certificate, satisfactory to Owner, from each insurance company showing that the above insurance is in force, stating policy numbers, dates of expiration, and limit of liability thereunder and b) a certificate naming Owner as an additional insured on a combination of a ISO form CG 20 37 and an ISO CG 20 10 10/01 form or its approved equivalent.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

12.2 GOVERNING LAW

The Contract shall be governed by the laws of the State of California.

12.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. 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. The Owner shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

ARTICLE 13 INDEMNIFICATION

13.1 To the fullest extent permitted by law, Contractor agrees to indemnify, hold harmless and defend Owner and its Officers, Agents and Employees from and against any and all claims, losses, damages, liability including defects in the work arising out of the negligent acts, errors or omissions and/or breaches of this agreement except to the extent caused by the active or sole negligence, or willful misconduct of the Owner.

ARTICLE 14 DISPUTES

14.1 All disputes not settled by negotiation or mediation shall be resolved by resort to such rights and remedies as the parties each may have at law or in equity. Except to the extent that this AGREEMENT expressly permits a party to suspend performance, pending final resolution of a dispute, the parties shall each proceed diligently and faithfully with performance of their respective obligations under this AGREEMENT. CONTRACTOR acknowledges and agrees that, should a dispute proceed pursuant to this Section, the only issues that the CONTRACTOR may raise in such proceedings are those that were specifically included in its written claim submitted in accordance with this AGREEMENT, as applicable to the type of WORK. Failure to specifically describe an issue in the written claim within 10 days constitutes a waiver of that claim and shall preclude CONTRACTOR from raising such claim in any court or arbitration proceeding.

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

Magnolia Science Academy 7

Masterbuilt Construction Co.

OWNER (Signature)

By: <u>Fatih Metin</u> Its: Principal CONTRACTOR (Signature)

By: <u>Mehdi Ahmadi</u> Its: President <u>898722</u> License Number

898935.1

Form of TASK ORDER Exhibit A

Scope of Work and Schedule

Facility: Magnolia Science Academy 7

Address: 18355 Roscoe Boulevard, Northridge, CA 91325

Primary Contact for Site: Fatih Metin, Tel: (818) 886-0585; Email: <u>fmetin@magnoliapublicschool.org</u>

Project Manager Name and Contact Info:

Michelle Nguyen, First Note Finance *inc*; Cell: (619) 381-0359; Email: Michelle@FirstNoteFinance.com

Amanda Kielian, First Note Finance *inc*; Cell: (650) 534-8102; Email: <u>Amanda@FirstNoteFinance.com</u>

Scope of Work:

This project includes the turnkey (Design-Build) Engineering, Design, Electrical, Permitting, Installation, and Commissioning Support of five (5) 3-Ton packaged A/C with SEER-14 replacement units with economizers, two (2) 5-Ton packaged A/C with SEER-14 replacement units with economizers, and the replacement of two (2) manual thermostats with (2) networked, programable thermostats. Project shall be turnkey and include all equipment plus programmable thermostats, material, parts, and demolition and installation labor required to complete the installations, including the cost of equipment delivery to the site, and crane to set the new equipment on the roof, and remove the old equipment from the roof. Contractor will disconnect the existing equipment, and connect the new equipment, provide service disconnects, wiring and over-current protection devices if and as needed, or required by code. Contractor shall test and verify system operation. Contractor is responsible for obtaining final approval from the local jurisdiction. Contractor shall remove, transport, and properly and lawfully dispose of any refrigerants in the existing systems. Contractor shall seal with mastic the installed HVAC units to the supply and return plenums, as well as any outdoor-exposed ductwork as part of the installation. Contractor shall integrate to the existing thermostats and field verify setpoints and schedules.

Additionally, the kWh savings in the CEC approved plan for this scope is 13,118 kWh/year. The energy savings of the project shall be within 15% of 13,118 kWh/year.

Bill of Materials

Model Number	Description	SEER	TON	Quantity
48VLNC360605	Packaged AC Unit w/ ECON	14	3	5
48VLNC600905	Packaged AC Unit w/ ECON	14	5	2
T2800 VENSTAR	Programmable Thermostat	-	-	2

Warranty

Undersigned agrees to repair and/or replace any or all such work that may prove defective in workmanship and/or material within one a period of one (1) Full Year from the Substantial Competition date. In the event the undersigned fails to comply with warranty conditions within a reasonable time period, as determined by Magnolia Science Academy 7, but no later than ten (10) calendar days after written notification by Magnolia Science Academy 7, the undersigned authorizes Magnolia Science Academy 7 to proceed to have said defects repaired at the expense of the undersigned.

- 1 Year Warranty on Parts
- 5 Year Warranty on Compressor
- 5 Year Warranty on Heat Exchanger

8355 Roscoe Boulevard, Northridge, CA 91325

		Total
1 Pre	pare and Submit Feasibility Study	0
2 Obt	ain Engineering and Permits	\$1,450.00
3 Sec	are and Assist with Collection of Rebates & Incentives	0
4 Rep	lace the following:	\$68,608.33
	 7 packaged A/C units with SEER-14 replacements units 	
	 Existing central furnace N/A, There is none 	0
	 Two (2) manual thermostats 	\$275.00.00
5 Ren	noval/Disposal	\$ 2,500.00
6 Rep	air & Seal Ductwork	\$2,250.00
7 Syst	em Commissioning	\$1,450.00
8 Oth	er Costs	\$ 1,800.00
1.000	d Turnkey Price, 8355 Roscoe Boulevard, Northridge, 01325	\$ 78,333.33

CONTRACTOR will install the following equipment and ensure that the SEER-14 specification for each system is validated with an ARI certificate.

Project Budget: <u>\$ 78,334.00</u>

The project budget includes all costs of all contractors, including mechanical, electrical, permits, materials, supplies, demolition... everything.

Product Cut Sheets:

A comprehensive set of project cut sheets will be submitted by CONTRACTOR. Please see link below for a comprehensive set of project cut sheets.

https://www.dropbox.com/sh/04mirpbrhcnvnie/AAC6katYjLf5EvlnQ4bnp5oHa?dl=0

Exhibit B

Price and Payment Terms

Fixed Turnkey Price: \$78,334.00

(This is the fixed turnkey price to be paid to CONTRACTOR for its completion of the Work, including all products, parts, materials, labor, travel expenses, permits and overhead.)

Payment Terms:

- Four progress invoices per the following Schedule of Values. Payment terms at net 30 days.
- Joint-party checks to ensure payment to equipment suppliers shall be indicated on Invoice #2. All material & equipment suppliers shall be identified, so joint-party checks can be issued.
- Conditional Waiver and Release upon Progress Payment (California Civil Code 8132) to be submitted with each invoice.
- Unconditional Waiver and Release upon Progress Payment (California Civil Code 8134) is required from all equipment suppliers and/or subcontractors for payment of Invoice #2.
- Unconditional Waiver and Release upon Final Payment (California Civil Code 8138) from the CONTRACTOR is required for final payment.

Invoice #	Project Milestone	%Completed	Amount
1	Mobilization/Permits	30%	\$ 23,500.00
2	Equipment Delivered & Installation	35%	\$ 27,417.00
3	System Startup & Commissioning	25%	\$ 19,584.00
4	Pass Inspection, Warranty, & O&M Manuel	10%	\$ 7,833.00
		100%	\$ 78,334.00

Schedule of Values:

Exhibit C

CA Department of Industrial Relations Prevailing Wage Reporting Form - PWC 100

This project is funded in whole or in part using Proposition 39 State funding. This statute prohibits sole sourcing of contractors and requires registration with DIR as well as compliance with applicable Prevailing Wage law.

Please use your existing DIR login or register at:

DIR PWC 100 Log-in Site: https://www.dir.ca.gov/pwc100ext/LoginPage.aspx



Exhibit B

Request for Proposal

250 E. 1st Street Suite 1500, Los Angeles, CA 90012 | www.magnoliapublicschools.org 181002 - MERF Facilities Committee - Board Cover Sheet for Approval of HVAC Contract for MSA7 (Prop 39 EEG).docx Powered by BoardOnTrack Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM,

First Note Finance Energy Savings Made Sim



HVAC Contractor Statement of Work – Request for Proposals

Magnolia Science Academy 7 8355 Roscoe Boulevard, Northridge, CA 91325 Replace HVAC Systems, Duct Repair and Sealing, May 21, 2018

This document is an invitation to qualified HVAC contracting firms to bid on the turnkey (Design-Build) Engineering, Design, Electrical, Permitting, Installation, and Commissioning Support 7 packaged A/C with SEER-14 replacement units, a circa-1978 central furnace with a 94 AFUE condensing furnace and the replacement of two (2) manual thermostats. This document and all submittals will become a contract exhibit for the successful bidder. The HVAC projects is intended to be undertaken in Summer Break 2018. Funding has been approved under California Proposition 39, and the total cost of the HVAC system retrofit will need to fall within the State-approved budget for the included energy efficiency measures.

Clients:	Magnolia Science Academy 7, 8355 Roscoe Boulevard, Northridge, CA 91325
	Fatih Metin, Principle
Energy Manager:	First Note Finance inc., 831 Pomona Ave, Coronado, CA 92118
	James Richmond & Chris Ing, Energy Managers
	<pre>James@FirstNoteFinance.com ; Chris@FirstNoteFinance.com</pre>
Local Jurisdiction:	Los Angeles County Department of Regional Planning, 320 W Temple St, Los Angeles,
	CA 90012, Tel: (213) 974-6411

Contractor Pre-Bid Walk-Through: Tuesday, **May 29, 2018**. All bidding contractors will survey the premises at one time from **11:00 AM to 12:00 PM** at 8355 Roscoe Blvd., Northridge, CA 91325. This will be the only opportunity to survey the premises before proposals are due. **Please RSVP to** <u>amanda@firstnotefinance.com</u>.

Questions and Answers: Bidder questions shall be submitted by electronic mail by close of business on **Friday, June 1, 2018**. Answers to all questions will be provided in writing to all interested parties on or before **Wednesday, June 6, 2018**.

Proposal Due Date: Tuesday, June 12th, 2018, 4:00 PM. Please read and follow carefully all instructions on the *Bid Submittal Requirements* and *Bid Form and Schedule of Values*.

Facilities and Layout

HVAC system replacements for the North and South buildings are included in this RFP. These include the following units:

LEA (e.g. school)	Street Address	Floor Area (sf)	Inst. Schedule
Magnolia Science	8355 Roscoe Boulevard,	10,518 sf	Summer 2018
Academy 7	Northridge, CA 91325		



Equipment Scheduled for Replacement

#	Building	System (Existing)	Manufacturer/Model #	Quantity	Estimated Capacity (Existing)	Replacement Efficiency (Minimum)
1	North Building	Packaged A/C	Carrier, 542GN036	1	3 tons	SEER-14
2	North Building	Packaged A/C	Carrier, 542GN036	1	3 tons	SEER-14
3	North Building	Packaged A/C	Rheem, Nameplate Data Not Accessible	1	3 tons	SEER-14
4	North Building	Packaged A/C	Rheem, Nameplate Data Not Accessible	1	3 tons	SEER-14
5	North Building	Packaged A/C	Daikin, DP13CH600	1	5 tons	SEER-14
6	North Building	Packaged A/C	Rheem, RRKA-A036CK	1	3 tons	SEER-14
7	South Building	Packaged A/C	Armstrong, PGE10A60D100	1	5 tons	SEER-14
8	South Building	Central Furnace	Carrier, 585CB060125C	1	5 tons	94 AFUE condensing furnace

Note: Selected contractor shall verify system capacity before ordering replacement equipment.

<u>Minimum Efficiency Specification</u>: All replacement heat pump systems shall be SEER-15 or better. All replacement rooftop packaged AC systems shall be SEER 14 or better. All replacement mini-split systems shall be SEER-18 or better. All replacement wall mounted AC and heat pump units shall be 11.0 EER at full load and have a minimum Integrated Part Load Value (IPLV) of 14.0. Condensing furnaces shall be AFUE 0.92 or better. If the equipment is rated in EER, not SEER, the systems shall be EER 12.2 or better.

Thermostats: Contractor shall integrate its installation to the existing thermostats, or provide new programmable thermostats, at its option.

Schedule Summary

Facilities Pre-Bid Walk-Through:	May 29, 2018, 11:00AM	
RFP Questions Due:	June 1, 2018	
RFP Answers Provided:	June 6, 2018	
RFP Proposals Due:	June 12, 2018	
Contractor Selection:	Week of June 25, 2018	
Contracting:	Week of June 25, 2018	
Installation:	Summer 2018	





Preliminary Discussion

HVAC Inventory: An onsite survey performed by First Note Finance resulted in a comprehensive HVAC equipment inventory. Only some of the equipment inventoried is scheduled for replacement, and these units are identified in the tables on page 2. Bids shall be based on this inventory with regard to equipment quantities, types and sizes. Prospective bidders should also field-verify existing equipment to ensure inventory accuracy.

Responsiveness: Your complete and responsive bid is requested. Bids that are not responsive or incomplete, or are submitted after the due date and time, will be rejected. For your bid to be considered responsive and complete, the following turnkey services are required, and shall be accepted by the building owner (Client).

Best Value: Price of the HVAC retrofit is important. A responsive bid will be evaluated based on the price submitted, and whether it meets the budget parameters of the approved Proposition 39 funding. However, price is not the only consideration. Bids will also be evaluated based on the (perceived) quality of materials and equipment, warranty considerations, and company reputation, track record, and project references. The Client will choose the successful bidder and a contract awarded based on its own calculation of Best Value, at its sole discretion. The Client's decision will be final and Client withholds the right to reject any and all bids received without explanation.

Prevailing Wage: These projects are funded in whole or in part using Proposition 39 Clean Energy Jobs Act funding. This statute prohibits sole sourcing of contractors and requires compliance with applicable Prevailing Wage law. It also requires your firm to be registered with the CA Department of Industrial Relations, which involves paying them a \$400 registration fee, in order to be eligible to be paid from Proposition 39 funding.

No Payment for Bids: A bidder will not be compensated for its costs of submitting a bid.



Budget Considerations

Project implementation funding has been secured via the California Proposition 39 Clean Energy Jobs Act.

These (funded) energy efficiency measures are the basis of the Project for which a Scope of Work is included in this Request for Proposal. Project funding has been secured via the California Proposition 39 Clean Energy Jobs Act.

Scope of Work

- 1. Feasibility Study
- 2. Complete Engineering and Obtain Building Permits
- 3. Apply for Rebates and/or Incentives
- 4. Replace HVAC Systems and programmable thermostats
- 5. Removal and Disposal of Old Equipment and Material
- 6. Repair and seal ductwork as needed
- 7. Commission installed HVAC Systems

Scope of Work - Discussion

- <u>Feasibility Study</u> The selected contractor will perform a feasibility study in order to determine in advance of filing for permits or beginning construction, any issues that may arise that will affect the schedule or cost of the project. Contractor will have the opportunity to survey the premises including the roofs and plenums, possible locations for a crane, onsite staging of demolished equipment, condition of wiring and circuits, etc.
- <u>Complete Engineering and Obtain Building Permits</u> This is a Design-Build construction process. Contractor is responsible for obtaining building permits as well as obtaining any engineering drawings /and/or specifications that are required by the local jurisdiction in order to obtain a building permit, including but not limited to Structural, Mechanical, and /or Electrical Engineering, stamped by a licensed professional engineer (California). As-built drawings in electronic format (AutoCAD & PDF) of the completed (phases) of the project are required deliverables for final acceptance by the client.
- 3. <u>Apply for Rebates and/or Incentives</u>– Contractor shall complete and submit utility rebate and/or incentive reservations and applications for all applicable rebates or incentives available. The estimated amount of the rebate should be submitted with the Contractor's bid.
- 4. <u>Replace HVAC Systems</u> Contractor shall provide a fixed price for the replacement of the existing HVAC systems. Price shall be turnkey and include all equipment plus programmable thermostats, material, parts, and demolition and installation labor required to complete the installations, including the cost of equipment delivery to the site, and crane to set the new equipment on the roof, and remove the old equipment from the roof. Contractor shall include in its price the cost of replacing or re- configuring roofing curbs to fit the new equipment if, and as, needed. Contractor shall hire and pay as a subcontractor, the School's roofing contractor, that will repair and fit roofing material as needed on equipment curbs, as well as patch any damage to the roof resulting from the demolition and/or installation. Contractor shall hire and pay as a subcontractor, the existing equipment, and connect the new equipment, providing service disconnects,



wiring and over-current protection devices if and as needed, or required by code. Contractor shall test and verify system operation. Again, this is a Design-Build construction process. Contractor is responsible for obtaining final approval from the local jurisdiction.

- 5. Additionally, the following specifications are requirements and shall be included in the Contractor's bid price:
 - a. <u>Economizers</u>: Outdoor air temperature economizers are required for the Packaged Rooftop Unit Heat Pumps and AC units. <u>Yes</u>, even if they are less than 5 tons capacity.
 - b. <u>Minimum Efficiency Specification</u>: All replacement heat pump systems shall be SEER-15 or better. All replacement rooftop packaged AC systems shall be SEER 14 or better. All replacement mini-split systems shall be SEER-18 or better. All replacement wall mounted AC and heat pump units shall be 11.0 EER at full load and have a minimum Integrated Part Load Value (IPLV) of 14.0. Condensing furnaces shall be AFUE 0.92 or better. If the equipment is rated in EER, not SEER, the systems shall be EER 12.2 or better.
- 6. <u>Removal and Disposal of Old Equipment and Material</u> Contractor shall remove from the premises and provide for proper and lawful disposal of the old HVAC equipment as well as any waste material resulting from the demolition. Contractor shall remove, transport, and properly and lawfully dispose of any refrigerants in the existing systems.
- 7. <u>Repair and seal plenum & outdoor-exposed ductwork as needed</u> Contractor shall seal with mastic the installed HVAC unit to the supply and return plenums, as well as any outdoor-exposed ductwork as part of the installation.
- 8. <u>Commissioning of installed HVAC systems</u> Contractor shall integrate to the existing thermostats and field verify setpoints and schedules.

Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM



Bid Submittal Requirements

- 1. **Company Profile:** Please submit a company profile including the following information:
 - a. Company name, entity type, address, telephone, email.
 - b. Number of employees,
 - c. Number of years in business,
 - d. Professional certifications,
 - e. Number of commercial HVAC projects completed in the last five years.
 - f. Please provide the name of the company owner, president or CEO.
 - g. Please provide the name and contact information of the designated project and/or construction manager for this project.
- 2. **Project Experience:** Please provide brief project descriptions for similar Design-Build projects your firm has performed, including engineering through system commissioning.
- 3. **Project Schedule Narrative:** Please provide a narrative for your anticipated, proposed project schedule couched in terms of number of days from receiving a signed contract *for critical needs phase*. Please indicate the amount of time you anticipate it will take to obtain a building permit, if needed. Please describe your installation approach. Please explain how you plan to coordinate your installation so that roofing repairs are accomplished as needed at roof curbs to prevent roof leaks.
- 4. **Project References:** Please provide references for three (3) completed projects, of the same approximate size and scope, including contact information for the client you were directly responsible to. Name, address, telephone, email, and a brief project description.
- 5. Warranty: Please provide a copy of your Standard Warranty.
- 6. **Product Information:** Please provide cut sheet information for the exact products proposed for this project, including heat pumps, rooftop A/C systems, split-system A/C systems, smart thermostats and user interface software.
- 7. Bid Form: Please complete the following Bid Form & Schedule of Values.


Bid Form - Schedule of Values – Magnolia Science Academy 7, HVAC

For your bid to be accepted as responsive, all blanks in both tables below must be filled in with a price, or "N/A", or "included". Leaving blanks may result in your bid being rejected.

8355 Roscoe Boulevard, Northridge, CA 91325

		Total
1	Prepare and Submit Feasibility Study	
2	Obtain Engineering and Permits	
3	Secure and Assist with Collection of Rebates & Incentives	
4	Replace the following:	
	 7 packaged A/C units with SEER-14 replacements units 	
	Existing central furnace	
	Two (2) manual thermostats	
5	Removal/Disposal	
6	Repair & Seal Ductwork	
7	System Commissioning	
8	Other Costs	
	Fixed Turnkey Price, 8355 Roscoe Boulevard, Northridge,	\$
	CA 91325	

Certification: I, (name) ______, am qualified to make this bidoffer commitment on behalf of my company. The fixed, turnkey price provided is all-inclusive. I understand that this bid is provided to the client without expectation for compensation of any kind for the cost of preparing it, and that the Client (Magnolia Science Academy 7), or its designated Energy Manager (First Note Finance inc) may reject this bid if it is not responsive, complete or submitted after the <u>due date of 4:00 PM on June 12, 2018</u>.

(signature)	(date)	

(title)

Please submit your bid via email attachment on or before the date and time due to Amanda@FirstNoteFinance.com



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Figure 3: Example Nameplate



Figure 4: View of units on roof

Cover Sheet

Approval of Change Order from PrimeSource for the Magnolia Science Academy-1 Project

Section:II. Approval Recommendation ItemsItem:D. Approval of Change Order from PrimeSource for the MagnoliaScience Academy-1>-jectPurpose:VoteSubmitted by:VoteRelated Material:II D Change Order Reverse for MSA 1.pdf

II D Revised Change Order Request from Construction Manager.pdf



Facilities Committee Item #:	II D- Action Item (10/10/18)
Board Agenda Item #:	II E – Consent Item (10/11/18)
To:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (" MPS ") Board of Directors Facilities Committee (the " Facilities Committee ")
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Project Change Order Request from PrimeSource Project Management LLC (Construction Manager) for MSA – 1

I. Proposed Committee Recommendation(s)

Staff recommends that the Facilities Committee approve and recommend that the full Board of Directors of MPS (the "**MPS Board**") approve the change order request from PrimeSource Project Management LLC ("**PrimeSource**") for \$150,000 to continue providing construction management services for both MSA-1's new construction project at 18220 Sherman Way and its tenant improvement project for the existing building at 18238 Sherman Way (collectively, the "**Project**").

II. Background

A. Project Background

There are two projects currently underway at MSA-1: (i) a new construction project that will eventually house MSA-1's high school population (the "**New Construction Project**") and (ii) a tenant improvement project of the existing building that will eventually house MSA-1's middle school population (the "**TI Project**"). The contract for the New Construction Project was awarded to Oltmans Construction Co. The New Construction Project is approximately 30% complete. The TI Project entails various investigations into the state of the structural integrity of the existing building, seismic renovation design, and HVAC renovation design.

PrimeSource has been acting as a project manager and construction manager for both the New Construction Project and the TI Project. While they are separate projects—one is ground up construction and the other is renovation, tenant improvement—both are for the benefit of MSA-1. In that vein, PrimeSource has been involved in managing the rezoning of the MSA-1 parking lot parcels and exploring a collaborative partnership with the City of LA to create a skating rink that would benefit MSA-1.



B. Policy

MPS Board policy requires that all project change orders be brought to the Board for review and approval.

PrimeSource Project Management, construction manager for MPS's MSA-1 project – new construction and tenant improvement of (the "**Project**"), has submitted a change order request for additional fees in the amount of \$150,000. See attached Exhibit A.

C. The PrimeSource Agreement

MPS entered into a Construction Management Consulting Agreement with PrimeSource as of August 21, 2017 (the "**PrimeSource Agreement**"). The PrimeSource Agreement provides that "[PrimeSource] shall receive compensation, including reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit 'B' attached hereto…". The PrimeSource Agreement is a time and materials contract.

D. PrimeSource Fee Discussion

MPS Staff believes that the change order request is fair and reasonable in light of the increased scope of work undertaken by PrimeSource and the extension of the project schedule from 12 months to 20 months.

As a percentage of the total budget for the New Construction Project, the total PrimeSource fee, inclusive of the change order request, will be 4% of the total New Construction Project budget previously approved by the MPS Board (\$458,000 ÷ \$11,369,252). This percentage is comparable to the construction management fee paid to Gafcon which equaled 4.25% of the total project cost for that project (\$191,439 ÷ \$4,501,128). Typically CM fees range from 5% to 10% of overall project costs. PrimeSource's scope of work is much more expansive than Gafcon's, including both the New Construction Project and the TI Project, and including pre-development as well as construction management scopes. Moreover, a portion of the PrimeSource fee will be paid from the Tenant Improvement Project budget sources (2014 bond proceeds and Charter School Facility Incentive Grant for renovations). As a result, as a percent of overall project costs for the New Construction Project, it should be less than 5%.



III. Budget Impacts

The MSA-1 New Construction Project budget has sufficient contingency to absorb the added change order cost. The previously approved New Construction Project budget remains unchanged. The current Project budget, as of October 3, 2018, is as follows:

			Invoice Summary	
			Invoices received to Date	Left-to-Pay
Budget Summary	Approved Budget	Tracking Budget	30.0%	70.0%
Acquisition Cost Subtotal	\$1,000,000	\$1,000,000	\$1,000,000	\$ <i>0</i>
Hard Costs Subtotal	\$8,478,979	\$8,527,158	\$1,583,246	\$6,943,912
Soft Costs Subtotal	\$958,208	\$950,078	\$571,593	\$378,485
Financing Costs Subtotal	\$55,000	\$55,000	\$20,000	\$35,000
Management Costs Subtotal	\$250,000	\$400,000	\$243,012	\$156,988
Subtotal Project Costs	\$10,742,187	\$10,932,236	\$3,417,851	\$7,514,385
Budget Contingencies	\$627,066	\$423,762	\$0	\$423,762
Total Project Budget	\$11,369,252	\$11,355,997	\$3,417,851	\$7,938,146

The table reflects impact of PrimeSource change order and approved Oltmans Change Order #1.

Note that under its contract, Oltmans carries a contingency of \$215,315 of which none has been spent to date. At the end of the project, any remaining contingency is split 25% to Oltmans and 75% to MPS.

Exhibits (attachments):

A. Change Order Request

B. Professional Services Agreement is entered into on August 21, 2017 by and between Magnolia Educational & Research Foundation and PrimeSource Project Management LLC.



Exhibit A

Change Order Request



Board Action: MSA-1 New Classroom Building PrimeSource Change Order #1

Date: August 30, 2018

Action Requested: Staff requests approval to issue Change Order #1 to PrimeSource Project Management in the amount of \$150,000.00. This change order is intended to extend services closer to the planned completion date of the new high school classroom project.

Background – MPS contracted with PrimeSource Project Management to provide construction management services for the MSA-1 New High School classroom building with an anticipated completion for the 2018-19 school year. The project schedule has since been extended considerably primarily due to delays and extra effort in obtaining building permits for the project. The PrimeSource Project Management scope of work has also expanded to include work to rezone the MSA-1 campus, conduct building investigations, seismic renovation design, and HVAC renovation design for the existing MS classroom building, and to explore joint use potential with the adjacent City of LA Ice Rink project.

The original contract was structured as a reimbursable cost agreement with a not to exceed amount of \$308,000.00. There have been no other changes to the contract. The originally authorized amount has been largely used. This augmentation is intended to cover the bulk of services required to complete the new high school classroom building. Additional authorizations may be required depending on actual progress of the new high school classroom building and Board decisions on proceeding with seismic renovation, and HVAC renovation, and general renovation work at the existing MS building and site development. It is premature to estimate the requirements for those services at this time.

PrimeSource base contract -	\$308,000.00
Change Order #1 -	<u>\$150,000.00</u>
Total Not to Exceed amount -	\$458,000.00

The revised project budget adopted by the Board in May 2018 anticipated this added cost and included a budget of \$381,680.00 for additional soft costs, primarily for professional services including construction management.



Exhibit B

PrimeSource Contract

1. Parties and Date.

1.1.This Agreement ("Agreement") is made and entered into this 21st day of August, 2017, by and between the MAGNOLIA EDUCATIONAL & RESEARCH FOUNDATION ("Client") and PRIMESOURCE PM, LLC ("Consultant") (collectively referred to as the "Parties" and each individually as "Party").

2. Recitals.

2.1. <u>Consultant</u>. Consultant is a professional consultant, experienced and properly certified/licensed to provide the professional services described herein.

2.2. <u>Project</u>. Client desires to engage Consultant to render its services in connection with Client's Facilities Program at Magnolia Science Academy/Santa Ana and Magnolia Science Academy/Reseda ("Project").

- 3. Terms.
 - 3.1. <u>Scope of Services</u>. Consultant promises and agrees to furnish all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply professional services, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (collectively "Services"). All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.
 - 3.2. Responsibilities of Consultant.
 - 3.2.1. <u>Control and Payment of Consultant and its Subordinates</u>. Client retains Consultant on an independent contractor basis and Consultant is not an employee of Client. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by Law. Consultant shall be responsible for all reports and obligations respecting such employees, including, but not limited to, social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance. If Client is using State funds for the Project and is required to enforce a Labor Compliance Program ("LCP"), then Consultant shall be required to enforce Client's LCP as applicable.
 - 3.2.2. <u>Conformance to Applicable Requirements</u>. All work prepared by Consultant is subject to the approval of Client and any and all applicable regulatory State agencies.
 - 3.2.3. <u>Reports</u>. Consultant shall provide copies of all reports required to be submitted to applicable regulatory State agencies to Client, whether or not such reports must be submitted to the Client.
 - 3.2.4. <u>Work Authorization</u>. Consultant shall obtain from Client a work authorization for the Project prior to commencing work. Such work authorization shall reiterate Consultant's duties outlined herein.

- 3.2.5. <u>Coordination of Services</u>. Consultant agrees to work closely with Client staff in the performance of Services and shall be available to Client's staff, consultants and other staff at all reasonable times.
- 3.2.6. <u>Standard of Care</u>. Consultant shall perform all Services under this Agreement in a skillful, competent and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all of Consultant's employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents that it, its employees and subcontractors or subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement.
- 3.2.7. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services provided by Consultant.
- 3.3.<u>Insurance</u>. Consultant shall comply with the following insurance provisions, unless one or more paragraphs are specifically waived by the Client in writing:
 - 3.3.1. <u>Time for Compliance</u>. Consultant shall not commence Services under this Agreement until it has provided evidence satisfactory to Client that it has secured all insurance required under this Section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to Client that the subcontractor has secured all insurance required under this Section.
 - 3.3.2. <u>Minimum Requirements and Limits</u>. Consultant shall, at its expense, procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:
 - 3.3.2.1. *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); \$2,000,000 per occurrence for bodily injury, personal injury and property damage;
 - 3.3.2.2. Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); \$1,000,000 per accident for bodily injury and property damage;
 - 3.3.2.3. Workers' Compensation and Employers' Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance; and

Page 2 of 9

- 3.3.2.4. *Professional Liability*: Coverage which is appropriate to the Consultant's profession, or that of its consultants or subcontractors, but not less than \$1,000,000 per claim/ \$1,000,000 aggregate.
- 3.3.3. <u>Insurance Endorsements</u>. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the Client to add the following provisions to the insurance policies:
 - 3.3.3.1. General Liability. The general liability policy shall be endorsed to state that: (1) the Client, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the Client, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Client, its directors, officials, officers, employees, agents and volunteers and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.
 - 3.3.3.2. Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Client, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Client, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant 's scheduled underlying coverage. Any insurance or self-insurance maintained by the Client, its directors, officials, officers, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.
 - 3.3.3.3. *Professional Liability*. Consultant and its sub- consultants and subcontractors shall procure and maintain liability insurance with limits discussed in this Section.
 - 3.3.3.4. All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to Client ; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to Client , its directors, officials, officers, employees, agents and volunteers.
- 3.3.4. <u>Separation of Insureds; No Special Limitations</u>. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the Client, its directors, officials, officers, employees, agents and volunteers.

Page 3 of 9

- 3.3.5. <u>Verification of Coverage</u>. Consultant shall furnish Client with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to Client. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by Client if requested. Client reserves the right to require complete, certified copies of all required insurance policies, at any time.
- 3.4. <u>Safety</u>. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its employees and subcontractors appropriate to the nature of the Services and the conditions under which the Services are to be performed.
- 3.5. Fees and Payments.
 - 3.5.1. <u>Compensation</u>. Consultant shall receive compensation, including reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.
 - 3.5.2. <u>Payment of Compensation</u>. All fees shall be reimbursed monthly. Consultant shall submit to Client on a monthly basis an itemized statement which indicates work completed and hours of Services rendered by Consultant. Client shall pay Consultant within thirty days and in accordance with this Agreement.
 - 3.5.3. <u>Extra Work</u>. At any time during the term of this Agreement, Client may request that Consultant perform Extra Work. As used herein, "Extra Work" means any Services which are determined by Client to be necessary, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written supplemental work authorization from Client.
 - 3.5.4. <u>Maintenance of Accounting Records</u>. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of Client during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of two years from the date of final payment under this Agreement.

4. General Provisions.

- 4.1.Termination of Agreement.
 - 4.1.1. <u>Grounds for Termination</u>. Either Client or Consultant may, by written notice to the other party, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Upon termination, Consultant shall be compensated for those services which have been adequately rendered to Client and Consultant shall be entitled to no further compensation.

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- 4.1.2. <u>Effect of Termination</u>. If this Agreement is terminated as provided in this Section, Client may require Consultant to provide all finished or unfinished documents, data, programming source code, reports or any other items prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within thirty (30) days of the request.
- 4.1.3. <u>Additional Services</u>. In the event this Agreement is terminated in whole or in part as provided herein, Client may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.
- 4.2.<u>Delivery of Notices</u>. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose: CONSULTANT:

PrimeSource PM, LLC Attn: Karen McLaurin Buresh 655 Deep Valley Drive, Suite 335 Rolling Hills Estates, CA 90274 424/903-0980 karen.buresh@primesourcepm.com

CLIENT:

Magnolia Educational & Research Foundation Attn: Frank Gonzalez 250 East 1st Street, Suite 1500 Los Angeles, CA 90012 213/628-7419 fgonzalez@magnoliapublicschools.org

Such notice shall be deemed made when personally delivered to the address set forth above; forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed as set forth above; forty-eight (48) hours after deposit in the U.S. Mail, registered or certified mail, postage prepaid, return-receipt requested and addressed as set forth above; upon confirmation of delivery to the address set forth above, fees prepaid, by a nationally recognized overnight courier; or upon when delivered via email to the address set forth above. Notice shall be deemed adequate on the date actual notice occurred, regardless of the method of service.

5. <u>Mediation</u>. Disputes arising from this Agreement may be submitted to mediation if mutually agreeable to the Parties hereto. The type and process of mediation to be utilized shall be subject to the mutual agreement of the Parties.

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- 6. <u>Attorney's Fees</u>. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.
- 7. <u>Indemnification</u>. To the fullest extent permitted by law, Consultant shall defend (with counsel of Client 's choosing), indemnify and hold the Client , its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent such claims, damages, losses, etc., arise out of, pertain to, or are incident to the alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all direct damages, expert witness fees and attorneys' fees and other related costs and expenses.
- 8. <u>Entire Agreement</u>. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.
- 9. <u>Governing Law</u>. This Agreement shall be governed by the laws of the State of California. Any action brought to enforce the terms of this Agreement shall be brought in a state or federal court located in the County of Los Angeles, State of California.
- 10. <u>Time of Essence</u>. Time is of the essence for each and every provision of this Agreement.
- 11. <u>Successors and Assigns</u>. This Agreement shall be binding on the successors and assigns of the Parties, and shall not be assigned by Consultant without the prior written consent of Client.
- 12. <u>Amendments/Waiver</u>. This Agreement may not be amended except by a writing signed by the Client and Consultant. No waiver, alternation or modification of the provisions of this Agreement shall be effective unless signed by both Parties.
- 13. <u>Severability</u>. If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to this Agreement.
- 14. <u>Interpretation</u>. In interpreting this Agreement, it shall be deemed that it was prepared jointly by the Parties with full access to legal counsel of their own. No ambiguity shall be resolved against any party on the premise that it or its attorneys were solely responsible for drafting this Agreement or any provision thereof.
- 15. <u>Fingerprinting Requirements</u>. Consultant hereby acknowledges that, if applicable, it is required to comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the Client's pupils. The Consultant shall also ensure that its consultants on the Project also comply with the requirements of Section 45125 .1. If required by Education Code Section 45125 .1, the Consultant must provide for the completion of a Fingerprint Certification form, in the Client 's required format, prior to any of the Consultant's employees, or those of any other consultants, coming into contact with the Client 's pupils. Consultant further acknowledges that other fingerprinting requirements may apply, as set forth in Education Code Section 45125 et seq., and will comply with any such requirements.

Page 6 of 9

- 16. <u>TB Testing</u>. Consultant shall require that all regular and substitute employees provide verification of having been tested for tuberculosis and cleared to work with minors as evidenced by a state licensed medical doctor's signature prior to any of the Consultant's employees, or those of any other consultants, coming into contact with the Client 's pupils. Consultant shall keep a copy of said information in the employee file.
- 17. <u>Confidentiality</u>. Consultant hereby acknowledges that certain records and information maintained by the Client, or by Consultant on behalf of the Client, are protected by law and shall not be released to third parties without express authorization from the Client. Such records include, but are not limited to, student records (i.e., any item of information relating to an identifiable student) and personnel records. In addition, all ideas, memoranda, plans, strategies, and documents shared with Consultant by Client in connection with the performance of this Agreement, not generally known to the public, shall be held confidential by Consultant. Consultant agrees that information acquired by Consultant during meetings with the Client's administrative team, or during closed session Board discussions are deemed confidential and, except to the extent required by law, shall not be shared with third parties without express authorization from the Client.
- 18. <u>Drug/Tobacco-Free Facilities</u>. All of Client's facilities are drug and tobacco-free facilities. Any drug and/or tobacco use (smoked or smokeless) is prohibited at all times on all areas of Client facilities.
- 19. <u>Board Approval Required</u>. This Agreement shall not be binding nor take effect unless approved or ratified by the Client Governing Board. Any amendments to this Agreement shall require Board approval or ratification.
- 20. <u>Exhibits and Recitals</u>. All Exhibits and Recitals contained herein are hereby incorporated into this Agreement by this reference.
- 21. <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their authorized officers as of the day and year first written above.

CLIENT MAGNOLIA EDUCATIONAL & RESEARCH FOUNDATION

Caprice Goung

By: Caprice Young, Ed.D.__

Dated: August 21, 2017

Title: CEO & Superintendent

PRIMESOURCE PM, LLC, a California Limited Liability Company

Dated: August 21, 201) Karen McLaurin Buresh

Title: CEO/Managing Member

Federal Tax I.D. Number: 46-3940017

EXHIBIT "A" SCOPE OF SERVICES

Consultant shall provide facilities program support and assistance to the Client as follows:

Provide construction management services at the following school: Magnolia Science Academy 1 - Reseda 18238 Sherman Way, Reseda, CA 91335

This is the flagship school for Magnolia. Campus is occupied with approximately 540 students. Magnolia has obtained additional land, already in possession, for expansion and modernization projects including:

- Alterations to existing main classroom building including elevator installation design complete and in DSA submission building is occupied, modifications must work around school operations, improvements to be completed in SY17-18.
- Abatement and demolition of existing commercial building Magnolia soliciting bids at this time, abatement and demolition to take place as soon as possible
- Construction of new classroom building design complete, now in DSA construction to begin as soon as possible, completion for start of SY18-19, by August 2018.
- Interim modifications to existing parking lot to accommodate school athletics and outdoor activities - interim until construction of new cafegymatorium planned for construction starting in 2018 - design not done - improvements to be made during SY17-18.
- All projects will be DSA approved and Field Act compliant, or approved by appropriate City departments as required.
- Magnolia has retained a designer for all projects. Designer is Franco Architects.
- Projects are privately funded, total project cost estimated at \$6,900,000 excluding \$3.8 million in site acquisition.
- Services shall not include:
 - Project design
 - Testing and inspection
 - Permits and fees
 - Demolition and abatement
 - Construction
 - Utilities
 - FF&E
 - Temporary field office space, if required, will be provided by Magnolia either within existing space or within contractor provided facilities.
 - Magnolia will be the point of contact with the City of Los Angeles and the State Department of Education for all approvals, expediting, and final certifications.

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> EXHIBIT B Page 1 Of 1

EXHIBIT "B" COMPENSATION FOR SERVICES

The Magnolia Science Academy - 1 Reseda Classroom Project and services described in Exhibit A hereto shall be performed by Consultant on a reimbursable fee basis at the hourly rates shown below and shall be invoiced by Consultant to Client on a monthly basis.

Additional services requested by Client ("Extra Work" as defined in the within Agreement) shall be billed at the following hourly rate schedule and shall be invoiced by Consultant to Client on a monthly basis:

Principal	\$ 250.00
Project Manager	\$ 165.00
Field Engineer	\$ 125.00
Scheduler	\$ 150.00
Estimator	\$ 150.00
Admin Assistant	\$ 55.00

Consultant rates are fully loaded. Consultant will not charge for mileage or office reimbursables or personal equipment. Consultant will not markup project reimbursable costs that are passed through Consultant. Consultant will not markup subconsultant fees.

Total estimated fees are \$308,000 based on attached spreadsheet of presumed project schedule and level of resources required.

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Facilities Committee Agenda Item #:	II D – Action Item (10/10/18)
Board Agenda Item #:	II E – Consent Item (10/10/18)
Date:	October 10, 2018
То:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (" MPS ") Board of Directors Facilities Committee (the " Facilities Committee ")
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Project Change Order Request from PrimeSource Project Management LLC (Construction Manager) for MSA – 1

I. **Proposed Committee Recommendation(s)**

Staff recommends that the Facilities Committee approve and recommend that the full Board of Directors of MPS (the "**MPS Board**") approve the change order request from PrimeSource Project Management LLC ("**PrimeSource**") for \$150,000 to continue providing construction management services for both MSA-1's new construction project at 18220 Sherman Way and its tenant improvement project for the existing building at 18238 Sherman Way (collectively, the "**Project**").

II. Background

A. Project Background

There are two projects currently underway at MSA-1: (i) a new construction project that will eventually house MSA-1's high school population (the "**New Construction Project**") and (ii) a tenant improvement project of the existing building that will eventually house MSA-1's middle school population (the "**TI Project**"). The contract for the New Construction Project was awarded to Oltmans Construction Co. The New Construction Project is approximately 30% complete. The TI Project entails various investigations into the state of the structural integrity of the existing building, seismic renovation design, and HVAC renovation design.

PrimeSource has been acting as a project manager and construction manager for both the New Construction Project and the TI Project. While they are separate projects—one is ground up construction and the other is renovation, tenant improvement—both are for the benefit of



MSA-1. In that vein, PrimeSource has been involved in managing the rezoning of the MSA-1 parking lot parcels and exploring a collaborative partnership with the City of LA to create a skating rink that would benefit MSA-1.

B. Policy

MPS Board policy requires that all project change orders be brought to the Board for review and approval.

PrimeSource Project Management, construction manager for MPS's MSA-1 project – new construction and tenant improvement of (the "**Project**"), has submitted a change order request for additional fees in the amount of \$150,000. See attached Exhibit A.

C. The PrimeSource Agreement

MPS entered into a Construction Management Consulting Agreement with PrimeSource as of August 21, 2017 (the "**PrimeSource Agreement**"). The PrimeSource Agreement provides that "[PrimeSource] shall receive compensation, including reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit 'B' attached hereto...". The PrimeSource Agreement is a time and materials contract.

D. PrimeSource Fee Discussion

MPS Staff believes that the change order request is fair and reasonable in light of the increased scope of work undertaken by PrimeSource and the extension of the project schedule from 12 months to 20 months.

Note that the total estimated fees under PrimeSource's contract was at \$308,000. In the budget approved by the Board, MPS Staff allocated \$250,000 to the New Construction Project and the balance of \$58,000 to the TI Project. MPS Staff intends to allocate \$100,000 of the change order cost to the New Construction Project resulting in a balance of \$350,000 to the New Construction Project and allocate \$50,000 to the TI Project resulting in a balance of \$100,000 to the TI Project.

As a percentage of the total budget for the New Construction Project, the total PrimeSource fee, inclusive of the change order request, will be 3% of the total New Construction Project budget previously approved by the MPS Board ($$350,000 \div $11,355,997$). This percentage compares favorably to the construction management fee paid to Gafcon which equaled 4.25% of the total project cost for that project ($$191,439 \div $4,501,128$). Typically CM fees range from 5% to 10% of overall project costs. PrimeSource's scope of work is much more expansive than Gafcon's, including both the New Construction Project and the TI Project, and including pre-development as well as construction management scopes.

250 E. 1st Street Suite 1500, Los Angeles, CA 90012 | www.magnoliapublicschools.org 181010 - Facilities Committee - Board Cover Sheet for Change Order Request from Construction Manager.docx



Moreover, as indicated MPS Staff intends to allocate a portion of the total PrimeSource fee to the Tenant Improvement Project budget sources (2014 bond proceeds and Charter School Facility Incentive Grant for renovations). As a result, as a percent of overall project costs for the New Construction Project, it should be less than 4%.

III. Budget Impacts

The MSA-1 New Construction Project budget has sufficient contingency to absorb the added change order cost. The previously approved New Construction Project budget remains unchanged. The current Project budget, as of October 3, 2018, is as follows:

				Invoice Summary	
				Invoices Received to Date	Left-to-Pay
Budget Summary	Approved Budget	September 2018 Budget	Current Tracking Budget	30.0%	70.0%
Acquisition Cost Subtotal	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$0
Hard Costs Subtotal	\$8,448,979	\$8,527,158	\$8,527,158	\$1,583,246	\$6,943,912
Soft Costs Subtotal	\$958,490	\$950,078	\$950,078	\$571,593	\$378,485
Financing Costs Subtotal	\$55,000	\$55,000	\$55,000	\$20,000	\$35,000
Management Costs Subtotal	\$250,000	\$250,000	\$350,000	\$243,012	\$156,988
Subtotal Project Costs	\$10,722,469	\$10,782,236	\$10,882,236	\$3,417,851	\$7,514,385
Budget Contingencies	\$633,528	\$719,823 ^[1]	\$473,761[2][3]	\$0	\$473,761
Total Project Budget	\$11,355,997	\$11,355,997	\$11,355,997	\$3,417,851	\$7,938,146

Notes:

[1] reflected savings from P+P bond but did not reflect Oltmans change order #1

[2][3] reflects impact of PrimeSource change order and previously approved Oltmans Change Order #1. Note that under its contract, Oltmans carries a contingency of \$215,315 of which none has been spent to date. At the end of the project, any remaining contingency is split 25% to Oltmans and 75% to MPS.

Exhibits (attachments):

- A. Change Order Request
- B. Professional Services Agreement is entered into on August 21, 2017 by and between Magnolia Educational & Research Foundation and PrimeSource Project Management LLC

Cover Sheet

Approval of MSA- Santa Ana Change Order Request

Section:	II. Approval Recommendation Items
Item:	E. Approval of MSA- Santa Ana Change Order Request
Purpose:	Vote
Submitted by:	
Related Material:	II E Change Order for MSA-SA.pdf



Facility Committee Item #	II E – Action Item (Recommendation)
Board Item #	II D – Consent Item
Date:	October 10, 2018 / October 11, 2018
To:	MPS Facility Committee Meeting / Board Meeting
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Project Change Order Requests for MSA – Santa Ana Gymnasium Project (the " Project ")

I. **Proposed Board Recommendation(s)**

Staff recommends and moves that the MPS Board Facilities Committee approve the change order requests (each, a "<u>COR</u>" and together, the "<u>CORs</u>") described below in the aggregate amount of **\$87,964.07** for the Project and recommend approval of the same to the full MPS Board.

Gafcon Inc.'s report on these CORs was previously provided to the Facilities Committee and the MPS Board. It is not re-attached here.

II. Background

A. GENERAL

Board policy requires that all project change orders be brought to the Board for review and approval. General contractor "RC Construction Services, Inc." has submitted CORS 12 through 26 for approval.

B. MSA-SANTA ANA CORs

All Project CORs are paid from the **\$114,107.92** contingency carried by the general contractor. The total amount of all previously MPS Board approved CORs 1 to 11 yielded a credit of **\$1,551.23**. With the cost of the current CORs presented for approval totaling **\$87,964.07**, there will be a positive net savings of **\$27,695.08** (that is, **\$114,107.92** *plus* **\$1,551.23** *minus* **\$87,964.07**) which per contact is to be split 50/50 with the contractor.

Each COR and its cost is summarized below. The "Agreed Amount" reflected in the table is the amount negotiated by Gafcon and RC Construction. In several cases the negotiated amount was less than amount originally requested by RC Construction.

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COR	Description	Agreed Amount	Reason for COR*
12	Changes to the servery <u>and the</u> <u>restrooms</u> required by the Orange County Health Department (" OCHD ")	\$16,503.96	Plan check comments received from the OCHD This change order included approximately \$9,500 in changes for other parts of the gym—for example, installing hot water to bathrooms.
13	Weld continuous plate at metal decking	\$0.00	Rejected due to subcontractor error
14	Intrusion Hardware – Main Entry to Gym	\$10,647.00	Design omission
15	Skirting of HVAC equipment on roof	\$2,304.00	Required to obtain roofing warranty; design omission
16	Fire Sprinkler Riser	\$4,167.34	Design omission
17	Premium Polyester 4000 UV Stable Binder	\$2,961.00	Owner requested to extend longevity of play surface. The change will increase the useful life of the playground surface and ultimately save more money
18	Upgrade to 8 mm Rubberized Flooring	\$2,747.00	Upgrade required in order to have project completed on time because previously selected 6mm product would be delayed in delivery
19	Additional Landscape	\$0.00	Owner requested; withdrawn/removed
20	Additional Clean Up Behind Gym	\$1,007.66	Performed on a T&M basis; Owner requested
21	Control Panel Enclosure	\$442.35	Owner requested
22	Power to Hand Dryers	\$2,149.95	Design omission

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COR	Description	Agreed Amount	Reason for COR*
23	Add Catch Basins at Fire Lane	\$33,325.01	The elevations in the field were not as set forth in the drawings. To provide for adequate drainage additional work was required.
24	Add Fire Alarm (Heat Detectors at Drop Ceiling)	\$1,208.80	Design omission
25	Add concrete @ east side of gym	\$8,500.00	Landscaping was removed and without concrete add it will remain plain dirt; owner requested
26	Paint Exterior Doors and Frames at North Side of Gym	\$2,000.00	Design omission
Total CORs 12 to 26		\$87,964.07	
Total of Previously Approved CORs 1 to 11		(\$1,551.23)	
Total All CORs (1 to 26)		\$86,412.84	
Total Contingency		\$114,107.42	
Remaining Balance [Savings/(Deficit)] [Contingency minus Total of All CORs]		\$27,695.08	
50% of Savings to Owner		\$13,847.54	

The architect disputes that all the CORs described above as being caused by design error or omission. They draw a distinction between "errors" and "omissions", a distinction that CM Gafcon recognized in their reporting. They accept that there were some omissions. They also note, correctly according to MPS Staff's opinion, that the costs due to "Design Omission" would have borne by the Project anyway. Design errors would have resulted in cost increases. Architect has agreed to discount its fee by \$7,500.

III. Budget Impacts

The Board previously approved the revised project budget for MSA-Santa Ana (\$4,671,177) which included an inter-company/school loan to cover overages above the previously approved project budget (\$3,859,380). The current budget is as follows:

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II E Change Order for MSA-SA.docx



	USES		
	BUDGET ⁽¹⁾	TO DATE EXPENSES	LEFT TO PAY
SOFT COSTS			
Construction Management	\$191,349.00	\$148,787.78	\$42,561.22
Architect	\$209,027.00	\$138,801.83	\$70,225.17
Inspections	\$150,000.00	\$91,228.75	\$58,771.25
Legal	\$30,134.90	\$30,134.90	\$0.00
Agency Fees ⁽²⁾	\$56,616.69	\$56,616.69	\$0.00
Subtotal	\$637,127.59	\$465,569.95	\$171,557.64
HARD COSTS			
Construction ⁽³⁾	\$3,864,000.00	\$1,328,629.91	\$2,535,370.09
TOTAL COSTS	\$4,501,127.59	\$2,259,769.81	\$2,706,927.73

SOURCES	
Bond Funds Available	\$3,859,380.00
Expected Savings (4)	\$29,347.54
TOTAL SOURCES	\$3,888,727.54

Deficit (to be paid with 0%	
interest inter-school loan)	\$612,400.05

Notes:

(1) Current budget including change orders, both approved and in process;

(2) Agency Fees include Division of State Architect Fees, certain environmental work, surveying, advertising of hid in paper of general circulation, and a portion of MERE employee Erding Acar's tir

advertising of bid in paper of general circulation, and a portion of MERF employee Erdinc Acar's time spent on the project.

(3) All Change Orders are paid from GC carried contingency of \$114,107.42

(4) Inclusive of \$7,500 credit/discount from architect plus unused reimbursables of about \$8,000

Project cost may go down if the budgeted inspection fees are lower than expected.

IV. Exhibit (attachments)

None

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Cover Sheet

Approval of Master Contract and Work Orders 1 and 2 for the MSA-1 Tenant Improvement Project

Section:	II. Approval Recommendation Items	
Item:	F. Approval of Master Contract and Work Orders 1 and 2 for the	
MSA-1 Tenant Improvement Project		
Purpose:	Vote	
Submitted by:		
Related Material:	II F Work Order 1 & 2 for MSA 1 Tenant Improvement.pdf	



Facilities Committee Agenda Item #:	IIF (10/10/18)
Board Agenda Item #:	II F (10/11/18)
То:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (" MPS ") Board of Directors Facilities Committee (the " Facilities Committee ")
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Approval of Master Contract and Work Orders 1 and 2 for the MSA-1 Tenant Improvement Project

I. **Proposed Committee Recommendation(s)**

Staff recommends that the Facilities Committee approve and recommend that the full Board of Directors of MPS (the "**MPS Board**") approve

(1) the Standard Form of Master Agreement between Owner and Contractor (AIA Document A121TM-2014) (the "Master Agreement") for tenant improvement work to be performed on MSA-1's existing facility, attached as Exhibit A; and

(2) Work Orders #1 and #2 on AIA Document A221TM-2014 (the "**Work Order Agreement**") for, respectively (a) masonry infill along the wall adjacent to the new construction project for MSA-1 at 18220 Sherman Way and (b) removal and replacement of drywall for seismic engineering investigation of the existing building (18238 Sherman Way) connections per drawings and direction of Structural Engineer Brandow & Johnston.

The amount of Work Order #1 is \$3,946 and the amount of Work Order #2 is \$22,659. Each was completed on a time and material basis. Work Orders #1 and #2 are attached as Exhibit B and Exhibit C, respectively.

II. Background

A. Project Background

There are two projects currently underway at MSA-1: (i) a new construction project that will eventually house MSA-1's high school population (the "**New Construction Project**") and (ii) a tenant improvement project of the existing building that will eventually house MSA-1's middle school population (the "**TI Project**"). The contract for the New Construction Project was awarded



to Oltmans Construction Co. The TI Project entails various investigations into the state of the structural integrity of the existing building, seismic renovation design, and HVAC renovation design. Upon approval by the Facilities Committee and the MPS Board, Oltmans may be selected to perform further tenant improvement work.

MPS Staff and its construction manager, PrimeSource Project Management LLC, believe that it is in the best interests of MPS and MSA-1 to retain Oltmans on a case by case basis to perform work on the Tenant Improvement Project. As previously reported to the Facilities Committee, Oltmans was directed to fill in certain penetrations in the existing building caused by the demolition of the previously existing gymnasium building before the New Construction Project progresses to a stage where it is more difficult and costly to do so. The foregoing work is described in Work Order #1. In addition, as previously reported to the Facilities Committee, Oltmans was directed to remove and replace drywall for seismic engineering investigation of the existing building connections per direction of MPS's structural engineer Brandow & Johnston. The foregoing work is described in Work Order #2. Work Order #2 was necessary in order to determine the full scope of seismic work needed to bring the existing 18238 Sherman Way building into seismic code compliance.

B. The Master Agreement and Work Orders

Rather than co-mingle the work of the New Construction Project and the TI Project, the Facilities Committee with the concurrence of MPS Staff agreed that the best option for documenting any work done on the TI Project with a separate contract distinct from the contract for the New Construction Project. The Master Agreement is an American Institute of Architects ("AIA") form agreement that does not commit to a particular scope of work but rather allows discrete scopes of work to be contracted for separately under individual work orders documented on AIA Document A221-2014.

III. Budget Impacts

The MSA-1 TI Project will be paid for with proceeds from the 2014 bond issuance. As of October 3, 2018, the balance in the 2014 bond account is approximately \$680,000. In addition, MPS Staff believes that it will be able to repurpose a portion of the Charter School Facility Incentive Grant ("**CSFIG**") awarded to MSA-1 from the New Construction Project to the TI Project. It expects that it will repurpose up to \$500,000 of the CSFIG award.

Exhibits (attachments):

- A. Master Agreement
- B. Work Order #1
- C. Work Order #2

250 E. 1st Street Suite 1500, Los Angeles, CA 90012 | www.magnoliapublicschools.org 180927 - MERF Facilities Committee - Board Cover Sheet for Approval of Master Agreement and Work Orders 1 and 2.docx



Exhibit A

Master Agreement

DRAFT AIA Document A121^m - 2014

Standard Form of Master Agreement Between Owner and

Contractor where work is provided under multiple Work Orders

AGREEMENT made as of the «20th » day of « September » in the year «2018 » (*In words, indicate day, month and year.*)

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

«Magnolia Education & Research Foundation, DBA Magnolia Public Schools »« » «250 East 1st Street, Suite 1500 » «Los Angeles, CA 90012 » «Telephone 213/628-3634»

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

«Oltmans Construction Company »« » «1005 Mission Mill Road PO Box 985 » «Whittier, CA 90608-0985 » «Telephone 562/948-4242 »

for the following:

(Insert information related to types of projects, location, facilities, or other descriptive information as appropriate.)

«This Agreement anticipates a series of work orders for tenant improvements for the MSA-1 Reseda – existing building and site. Those improvements may include, but may not be limited to, a seismic retrofit and general renovation of an existing classroom building and modifications to associated site areas on the campus. »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

This document does not contain a description of the Contractor's scope of Work or establish payment terms or the dates of commencement of the Work or Substantial Completion. This document is intended to be used in conjunction with AIA Document A221™-2014, Work Order for use with Master Agreement Between Owner and Contractor



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ARTICLE 1 MASTER AGREEMENT TERM AND PARTY REPRESENTATIVES

§ 1.1 This Master Agreement shall be effective for one year after the date first written above ("Date of this Master Agreement").

§ 1.2 This Master Agreement shall apply to all Work Orders agreed to within the term of this Master Agreement until completion of the Work Order. In the event of a conflict between the terms and conditions of this Master Agreement and a Work Order, the terms of the Work Order shall take precedence for the Work provided pursuant to the Work Order.

§ 1.3 This Master Agreement will renew on an annual basis, on the day and month of the Date of this Master Agreement, unless either party provides notice of their intent not to renew this Master Agreement. Notice must be provided at least 15 days prior to the renewal date. In the event either party elects not to renew this Master Agreement, the terms of this Master Agreement shall remain applicable until all Work Orders executed under this Master Agreement are completed or terminated.

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§ 1.4 The Owner identifies the following representative authorized to act on the Owner's behalf with respect to this Master Agreement (hereinafter, "Owner's Representative" or "Construction Manager"):

«Tim Buresh, Construction Manager » «PrimeSource PM LLC, DBA PrimeSource Project Management » «655 Deep Valley Drive, Suite 335 » «Rolling Hills Estates, CA 90274 » «Telephone 424/903-0981 (office) 424/903-9412 (cell) » « tim.buresh@primesourcepm.com »

§ 1.4.1 In each Work Order, the Owner will identify a representative authorized to act on the Owner's behalf with respect to the Work Order.

§ 1.5 The Contractor identifies the following representative authorized to act on the Contractor's behalf with respect to this Master Agreement:

«Tere Meredith, Project Manager Oltmans Construction Company » «1005 Mission Mill Road » « PO Box 985 » «Whittier, Ca 90608-0985 » «Telephone 562/948-4242 (office) » «terencem@oltmans.com »

§ 1.5.1 In each Work Order, the Contractor will identify a representative authorized to act on behalf of the Contractor with respect to the Work Order.

ARTICLE 2 THE WORK

§ 2.1 The Contractor shall execute the Work set forth in each agreed upon Work Order, consisting of AIA Document A221-2014, Work Order, or such other document as the Owner and Contractor may mutually agree upon. Each Work Order shall state the name, location and detailed description of the Project; identify the Architect; state the Contract Time; state the Contract Sum; describe the Work; and enumerate the Contract Documents.

§ 2.2 The Contractor may refuse to agree to any Work Order issued by the Owner.

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds in accordance with each individual Contract.

§ 3.2 Where the Contract Sum is based on the Cost of the Work under Section 3.3 or 3.4 of the Work Order, the Cost of the Work is defined in Exhibit A, Determination of the Cost of the Work.

ARTICLE 4 PAYMENT

§ 4.1 Progress Payments

§ 4.1.1 Based upon Applications for Payment for individual Contracts submitted to the Architect or Owner's Representative by the Contractor, and Certificates for Payment issued by the Architect or Owner's Representative, as applicable, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

«period ending the 25th day of each month»

§ 4.1.3 Provided that an Application for Payment is received by the Architect or Owner's Representative, as applicable, not later than the « 25th» day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the « 30th » day of the «following » month. If an Application for Payment is received by

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the Architect or Owner's Representative, as applicable, after the date fixed above, payment shall be made by the Owner not later than «45» («calendar») days after the Construction Manager receives the Application for Payment. (Federal, state or local laws may require payment within a certain period of time.)

§ 4.1.4 Retainage, if any, shall be withheld as follows:

«TEN PERCENT (10%) »

§ 4.1.5 Payments due and unpaid under a Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

«the lower of (i) SEVEN PERCENT (7%) per annum, 0.58% per month, or (ii) the highest rate allowed by law » «

§ 4.2 Final Payment

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

- the Contractor has fully performed the Work except for the Contractor's responsibility to correct .1 Work as provided in Section 17.2, and to satisfy other requirements, if any, which extend beyond final payment;
- the Contractor has submitted a final accounting for the Cost of the Work, where payment is on the .2 basis of the Cost of the Work with or without a guaranteed maximum price; and
- .3 a final Certificate for Payment has been issued by the Architect.

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

« »

ARTICLE 5 DISPUTE RESOLUTION

§ 5.1 Binding Dispute Resolution

For any claim subject to, but not resolved by, mediation pursuant to Section 20.3, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.)

[«»] Arbitration pursuant to Section 20.4 of this Master Agreement

[« »] Litigation in a court of competent jurisdiction

[« X »] Other: *(Specify)*

«Judicial reference as codified in California Code of Civil Procedure Section 638 et seq. »

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Work

The term "Work" means the construction and services required by the Contract Documents enumerated in a Work Order, 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 under the Work Order and related Contract. The Work may constitute the whole or a part of the Project identified in a particular Work Order.

§ 6.2 The Contract Documents

The Contract Documents are enumerated in each Work Order and consist of this Master Agreement; the Work Order executed by the Owner and Contractor (including, if applicable, Supplementary and other Conditions applicable to the Work Order); all Drawings, Specifications, and Addenda issued in connection with the Work Order; other

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documents listed in the Work Order; and Modifications issued after execution of the Work Order. 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 Construction Manager or Architect, as authorized by Owner. 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 to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 6.3 The Contract

The Contract Documents for each Work Order form a separate Contract for construction of the Work ("The Contract"). The Contract represents the entire and integrated agreement between the parties hereto for construction of the Work and supersedes prior negotiations, representations or agreements, either written or oral. A 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 between any persons or entities other than the Owner and the Contractor.

§ 6.4 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 Engineers, Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models, and other similar materials.

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

§ 6.5.1 The Engineers, Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment 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 a Project is not to be construed as publication in derogation of the Engineers, Architect's or Architect's consultants' reserved rights.

§ 6.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them 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 material or equipment suppliers may not use the Instruments of Service on other projects or for additions to a Project outside the scope of a Contract without the specific written consent of the Owner, Engineers, Architect and the Architect's consultants.

§ 6.6 Transmission of Data in Digital Form

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmission. Unless otherwise agreed, the Parties will use AIA Document E203TM-2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

ARTICLE 7 OWNER

§ 7.1 The Owner is not required to issue any Work Orders under this Master Agreement.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish all necessary surveys and a legal description of sites referenced in a Work Order.

§ 7.2.2 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.

§ 7.2.3 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 8.6.1, the Owner shall secure and pay for other necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 7.3 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the 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 is 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.

§ 7.4 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 ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner, without prejudice to any other remedy the Owner may have, may correct such deficiencies and, subject to Section 14.2.5, may deduct the reasonable cost thereof, including Owner's expenses and compensation for the Architect's services made necessary thereby, from the payment then or thereafter due the Contractor.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of a Work Order by the Contractor is a representation that the Contractor has visited the relevant 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.

§ 8.1.2 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 7.2.1, 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 Owner any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Owner 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.

§ 8.1.3 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 Owner any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 8.2 Supervision and Construction Procedures

§ 8.2.1 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 a Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 8.2.2 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.

§ 8.3 Labor and Materials

§ 8.3.1 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.

§ 8.3.2 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 skilled in tasks assigned to them.

§ 8.3.3 The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Engineers or Architect and in accordance with a Modification.

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§ 8.4 Warranty

The Contractor warrants to the Owner, Engineers and Architect that materials and equipment furnished under a Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The foregoing warranty shall be for no less than a period of one year from date of Final Completion. The Contractor's guarantees and warranties apply equally to the Work performed by Contractor's Subcontractors and lower tier subcontractors. The warranty for any Work corrected under this warranty shall continue for an additional year from the date of correction, or the time remaining on the original applicable warranty, whichever is longer. 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 under normal usage. Nothing other than Owner's express written acceptance acknowledging the specific deficiencies in the Work shall constitute acceptance of such Work not performed in accordance with the Contract Documents, nor shall Contractor otherwise be relieved of its warranty responsibilities. Following timely notice of non-conforming Work within the applicable warranty period, Owner may continue to operate and use such non-conforming Work until such time that it can be corrected without further damage to Owner, and such continued use shall not affect Contractor's warranty obligations.

§ 8.5 Taxes

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

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

§ 8.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as 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 a Contract and legally required at the time bids are received or negotiations concluded.

§ 8.6.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Contractor performs Work knowing it 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 shall bear the costs attributable to correction.

§ 8.7 Allowances

The Contractor shall include in the Contract Sum for each Work Order all allowances stated in the Contract Documents for that Work Order. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Allowance amounts shall not include the Contractor's costs for unloading and handling at the site, labor, installation, overhead, and profit.

§ 8.8 Contractor's Construction Schedules

§ 8.8.1 The Contractor, promptly after executing a Work Order, shall prepare and submit for the Owner's information a Contractor's construction schedule for the Work described in that Work Order. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 8.8.2 The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Owner.

§ 8.9 Submittals

§ 8.9.1 The Contractor shall review for compliance with the Contract Documents and submit to the Engineers or Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in coordination with the Contractor's construction schedule and in such sequence as to allow the appropriate party

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reasonable time for review. By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner, Engineers and Architect that the Contractor has (1) reviewed and approved them; (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals.

§ 8.9.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 8.10 Use of Site

The Contractor shall confine operations at the site(s) 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(s) with materials or equipment.

§ 8.11 Cutting and Patching

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 8.12 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under a Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material from and about the Project.

§ 8.13 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, Engineers and Architect harmless from loss on account thereof, but shall not be responsible for such 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, Engineers or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Owner.

§ 8.14 Access to Work

The Contractor shall provide the Owner, Engineers and Architect access to the Work in preparation and progress wherever located.

§ 8.15 Indemnification

§ 8.15.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Construction Manager, Engineers, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 8.15.1.

§ 8.15.2 In claims against any person or entity indemnified under this Section 8.15 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 8.15.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 9 ENGINEERS AND ARCHITECT

§ 9.1 The Owner shall retain an Engineer(s) and Architect to perform the services enumerated in this Article 9 and as described elsewhere in this Master Agreement. If an Engineer or Architect is not required by law, or otherwise not engaged on the Project, the Owner shall perform such services.

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§ 9.2 The Owner's Representative listed above will provide administration of the Contract and will be an Owner's representative during construction, until the date the Owner's Representative issues the final Certificate for Payment for the Contract. The Owner's Representative will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 9.3 As requested by Owner or Owner's Representative, Engineers and Architect will visit the site at intervals appropriate to the stage of the construction 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 Engineers and Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Construction Manager, Engineers and Architect will 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, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 9.4 On the basis of the site visits, the Construction Manager, Engineers and Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Construction Manager, Engineers and Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager, Engineers and Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 9.5 Based on the Owner's Representative's evaluations of the Work and of the Contractor's Applications for Payment, the Owner's Representative will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 9.6 The Owner's Representative, Engineers and Architect have authority to reject Work that does not conform to the Contract Documents and to require inspection or testing of the Work.

§ 9.7 The Engineers and Architect will 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.

§ 9.8 The Engineers and Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Owner's Representative in consultation with the Architects and Engineers will make initial decisions on all claims, disputes and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions rendered in good faith.

§ 9.9 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

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

ARTICLE 10 SUBCONTRACTORS

§ 10.1 A Subcontractor is a person or entity that has a direct contract with the Contractor to perform a portion of the Work at a Project site.

§ 10.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after execution of a Work Order, shall furnish in writing to the Owner the names of the Subcontractors or suppliers for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Owner has made reasonable written objection within ten days after receipt of the Contractor's

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list of Subcontractors and suppliers. 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. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 10.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the 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, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner.

ARTICLE 11 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 11.1 The Owner reserves the right to perform construction or operations related to a Project with the Owner's own forces, and to award separate contracts in connection with other portions of a Project or other construction or operations on the site under conditions of the contract identical or substantially similar to these, including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make a claim as provided in Article 20.

§ 11.2 The Contractor shall afford the Owner and the Owner's separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

§ 11.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

ARTICLE 12 CHANGES IN THE WORK

§ 12.1 By appropriate Modification, changes in the Work may be accomplished after execution of a Work Order. The Owner, without invalidating this Master Agreement or a Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner and Contractor, or by written Construction Change Directive signed by the Owner.

§ 12.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Construction Manager will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Construction Manager will prepare a Change Order.

§ 12.3 The Construction Manager will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

§ 12.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted as mutually agreed between the Owner and Contractor; provided that the Contractor provides notice to the Owner and Construction Manager promptly and before conditions are disturbed.

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ARTICLE 13 TIME

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

§ 13.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

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

§ 13.4 The date of Substantial Completion is the date certified by the Architect in accordance with Section 14.4.3.

§ 13.5 If the Contractor is delayed at any time in the commencement or progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor's control, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine, subject to the provisions of Article 20.

ARTICLE 14 PAYMENTS AND COMPLETION

§ 14.1 Applications for Payment

§ 14.1.1 Applications for Payment will be submitted individually for each Contract.

§ 14.1.2 Where a Contract is based on a Stipulated Sum or the Cost of the Work plus a Contractor's fee with or without a Guaranteed Maximum Price, the Contractor shall submit to the Owner's Representative, before the first Application for Payment, a schedule of values, allocating the entire Contract Sum to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Owner's Representative, shall be used in reviewing the Contractor's Applications for Payment.

§ 14.1.3 With each Application for Payment based upon the Cost of the Work, or the Cost of the Work plus a Contractor's fee with or without a Guaranteed Maximum Price, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor, less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 14.1.4 Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 14.1.5 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 other encumbrances adverse to the Owner's interests.

§ 14.2 Certificates for Payment

§ 14.2.1 The Owner's Representative will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Owner's Representative determines is properly due, or notify the Contractor and Owner in writing of the Owner's Representative reasons for withholding certification in whole or in part as provided in Section 14.2.3.

§ 14.2.2 The issuance of a Certificate for Payment will constitute a representation by the Owner's Representative to the Owner, based on the Owner's Representative evaluations of the Work and the data comprising the Application for Payment, that, to the best of the Owner's Representative knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor

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deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Owner's Representative. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Owner's Representative 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 material 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.

§ 14.2.3 Subject to Section 14.2.5, the Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Owner's Representative opinion the representations to the Owner required by Section 14.2.2 cannot be made. If the Owner's Representative is unable to certify payment in the amount of the Application, the Owner's Representative will notify the Contractor and Owner as provided in Section 14.2.1. If the Contractor and the Owner's Representative cannot agree on a revised amount, the Owner's Representaitve will promptly issue a Certificate for Payment for the amount for which the Owner's Representaitve is able to make such representations to the Owner. The Owner's Representative may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Owner's Representaitve's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 8.2.2, because of

- defective Work not remedied; .1
- .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 for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

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

§ 14.2.5 The Owner's Representative may not withhold a Certificate for Payment in whole or in part, and the Owner shall not withhold payment to the Contractor to impose a penalty or liquidated damages on the Contractor, unless the Contractor agrees or has been found liable for the amounts in a binding dispute resolution proceeding. In any event, the Owner's Representative may not withhold a Certificate for Payment in whole or in part, and the Owner shall not withhold payments to the Contractor, pertaining to one Contract to offset amounts in dispute under a separate Contract.

§ 14.3 Progress Payments

§ 14.3.1 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment, 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 similar manner.

§ 14.3.2 Neither the Owner nor Engineers or Architect shall have an obligation to pay or see to the payment of money to a Subcontractor except as may otherwise be required by law.

§ 14.3.3 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.

§ 14.4 Substantial Completion

§ 14.4.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

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§ 14.4.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Owner's Representative 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.

§ 14.4.3 Upon receipt of the Contractor's list, the Owner's Representative, Engineers and Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. When the Engineers or Architect determines that the Work or designated portion thereof is substantially complete, the Engineer or Architect will issue a Certificate of Substantial Completion which 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.

§ 14.4.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such 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.

§ 14.5 Final Completion and Final Payment

§ 14.5.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner's Representative will promptly make such inspection and, when the Owner's Representaitve finds the Work acceptable under the Contract Documents and the Contract fully performed, the Owner's Representaitve will promptly issue a final Certificate for Payment stating that to the best of the Owner's Representaitve's knowledge, information and belief, and on the basis of the Owner's Representaitve's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of 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 Owner's Representaitve's final Certificate for Payment will constitute a further representation that conditions stated in Section 14.5.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 14.5.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of the Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien 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 such lien, including costs and reasonable attorneys' fees.

§ 14.5.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from

- .1 liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

§ 14.5.4 Acceptance of final payment by the Contractor, a Subcontractor or material 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.

ARTICLE 15 PROTECTION OF PERSONS AND PROPERTY § 15.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of a Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- employees on the Work and other persons who may be affected thereby; .1
- .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 or the Contractor's Subcontractors or Subsubcontractors; and

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.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.

The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property 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 15.1.2 and 15.1.3, except for damage or loss attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 8.15.

§ 15.2 Hazardous Materials

§ 15.2.1 The Contractor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials. 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 report the condition to the Owner and Architect in writing. 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 in the amount of the Contractor's reasonable additional costs of shutdown, delay and start-up.

§ 15.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Construction Manager, Engineers, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 15.2.1 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.

§ 15.2.3 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 indemnify the Contractor for all cost and expense thereby incurred.

ARTICLE 16 **INSURANCE AND BONDS**

§ 16.1 The Contractor shall purchase from, and maintain in, a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, insurance for protection from (1) claims under workers' compensation acts and other employee benefit acts which are applicable; (2) claims for damages because of bodily injury, including death; and (3) claims for damages, other than to the Work itself, to property which may arise out of or result from the Contractor's operations and completed operations under the Contract, whether such operations be by the Contractor or by a Subcontractor or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in Section 16.1.2, or as specified in a Work Order or elsewhere in the Contract Documents, or required by law, whichever coverage is greater, and shall include contractual liability insurance applicable to the Contractor's obligations under Section 8.15. Certificates of Insurance, acceptable to the Owner, evidencing required coverages, shall be filed with the Owner prior to commencement of the Work. The Contractor shall cause the commercial liability coverage to include (1) the Owner, the Architect and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 16.1.1 Only at the written request of Owner, the Contractor shall furnish bonds covering faithful performance of a Contract and payment of obligations thereunder as specified in Section 16.1.2, or as specified in a Work Order or elsewhere in the Contract Documents, or required by law, whichever coverage is greater. Upon the request of any

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

§ 16.1.2 The Contractor shall purchase and maintain insurance of the types and with the limits set forth below, and provide bonds as set forth below, for each Contract created pursuant to this Master Agreement. (State bonding requirements, if any, and limits of liability for insurance required.)

Type of insurance or bond	Limit of liability or bond amount (% of Contract Sum)						
General liability	Two Million dollars (\$21,000,000) per incident or aggregate						
Property Insurance	Two Million dollars (\$2,000,000) per incident or aggregate						
Automobile	One Million dollars (\$1,000,000) per incident or aggregate						
Design liability (only for subs to GC) One Million dollars (\$1,000,000) per incident or aggregat							
Workers Compensation	Statutory coverage						

§ 16.1.3 The Contractor shall provide written notification to the Owner of the cancellation or expiration of any of the insurance required by this Section 16.1. The Contractor shall provide such written notice within five (5) business days of the date the Contractor is first aware of the cancellation or expiration or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ 16.2 Owner's Liability Insurance

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

§ 16.3 Property Insurance

§ 16.3.1 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 on an "all-risk" or equivalent policy form, including builder's risk, in the amount of the initial Contract Sum, plus the value of subsequent modifications and cost of materials supplied and 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 14.5 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 16.3.1 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 16.3.2 The Owner shall file a copy of each policy with the Contractor before an exposure to loss may occur. The Owner shall provide written notification to the Contractor of the cancellation or expiration of any insurance required by Section 16.2 and 16.3. The Owner Shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ 16.3.3 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, subsubcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 11, if any, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section 16.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 11, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 16.3.4 A loss insured under the Owner's property insurance 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 the Contract Documents. The Contractor shall pay Subcontractors their just

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shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.

ARTICLE 17 CORRECTION OF WORK

§ 17.1 The Contractor shall promptly correct Work rejected by the Construction Manager. Engineer or Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after 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, Engineer or Architect's services and expenses made necessary thereby, shall be at the Contractor's expense, unless compensable under Section A.2.7.3 in Exhibit A, Determination of the Cost of the Work.

§ 17.2 In addition to the Contractor's obligations under Section 8.4, 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 14.4.3, or by terms of an 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 written 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.

§ 17.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.4.

§ 17.4 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.

§ 17.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 17.

ARTICLE 18 **MISCELLANEOUS PROVISIONS**

§ 18.1 Assignment of Contract

Neither party to a Contract shall assign the Contract without written consent of the other, except that 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 such assignment.

§ 18.2 Governing Law

A Contract shall be governed by the law of the place where the Project described in the Contract is located, except. that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 20.4.

§ 18.3 Tests and Inspections

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities shall be made at an appropriate time. 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 Owner's Representative timely notice of when and where tests and inspections are to be made so that the Owner's Representative, Engineer or Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating the costs to the Contractor.

§ 18.4 Commencement of Statutory Limitation Period

The Owner and 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 a Contract in accordance with the requirements of

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the final dispute resolution method selected in this Master Agreement 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 18.4.

ARTICLE 19 TERMINATION

§ 19.1 Termination of a Contract

A Contract may be terminated in accordance with this Article 19. Termination of a Contract under this Article 19 shall not be deemed a termination of any other Contract created pursuant to this Master Agreement.

§ 19.1.1 Termination by the Contractor

If the Owner's Representative fails to certify payment as provided in Section 14.2.1 for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment as provided in Section 4.1.3 for a period of 30 days, the Contractor may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 19.1.2 Termination by the Owner for Cause

§ 19.1.2.1 The Owner may terminate a Contract if the Contractor

- repeatedly refuses or fails to supply enough properly skilled workers or proper materials; .1
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .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.

§ 19.1.2.2 When any of the above reasons exists, the Owner, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate a Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon 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.

§ 19.1.2.3 When the Owner terminates a Contract for one of the reasons stated in Section 19.1.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 19.1.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Engineer and Architect's services and expenses made necessary thereby, and other damages ineurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Owner's Representative, upon application, and this obligation for payment shall survive termination of the Contract.

§19.1.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate a Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination.

ARTICLE 20 CLAIMS AND DISPUTES

§ 20.1 Claims, disputes and other matters in question arising out of or relating to a Contract executed pursuant to this Master Agreement, including those alleging an error or omission by the Architect but excluding those arising under Section 15.2, shall be referred initially to the Owner's Representative for decision. Such matters, except those waived as provided for in Section 20.8 and Sections 14.5.3 and 14.5.4, shall, after initial decision by the Owner's Representative or 30 days after submission of the matter to the Owner's Representative, be subject to mediation as a condition precedent to binding dispute resolution.

§ 20.2 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

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§ 20.3 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Master Agreement. A request for mediation shall be made in writing, delivered to the other party to this Master Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the 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 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.

§ 20.4 If the parties have selected arbitration as the method for binding dispute resolution in this Master 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 the Construction Industry Arbitration Rules in effect on the date of this Master Agreement. Demand for arbitration shall be made in writing, delivered to the other party to this Master Agreement, and filed with the person or entity administering the arbitration. 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.

§ 20.5 Either party, at its sole discretion, may consolidate an arbitration conducted under this Master 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).

§ 20.6 Any party to an arbitration 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 a Claim not described in the written Consent.

§ 20.7 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Master Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 20.8 Claims for Consequential Damages

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to any Contracts formed pursuant to this Master Agreement. 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 19. Nothing contained in this Section 20.8 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

ARTICLE 21 SCOPE OF THIS MASTER AGREEMENT

§ 21.1 This Master Agreement represents the entire and integrated Master Agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Master Agreement may be amended only by written instrument signed by both Owner and Contractor.

§ 21.2 This Master Agreement is comprised of the following documents listed below:

- .1 Exhibit A, Determination of the Cost of the Work, if applicable.
- .2 AIA Document E203[™]–2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

« »

.3 Other documents: (List other documents incorporated into this Master Agreement.)

« »

DWNER (Signature)	CONTRACTOR (Signature)
Alfredo Rubalcava »«CEO and Superintendent »	«James Woodside »«Vice President »
Printed name and title)	(Printed name and title)
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Exhibit B

Work Order #1

MATA Document A221™ – 2014

Work Order for use with Master Agreement Between Owner and Contractor

WORK ORDER number 001 made as of the 20TH day of September in the year 2018 (In words, indicate day, month and year.)

THE OWNER: (Name, legal status and address) Magnolia Education & Research Foundation, DBA MPS 250 East 1st Street, Suite 1500 Los Angeles, CA 90012

THE CONTRACTOR: (Name, legal status, and address) Oltmans Construction Company 1005 Mission Mill Road, PO Box 985 Whittier, CA 90608-0985

THE ARCHITECT: (Name, legal status, address and other information) None None None

for the following PROJECT: (Name, location and detailed description) MS Building Renovation 18258 Sherman Way Reseda, CA 91335 This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document provides the Contractor's scope of Work, and related information, for the Work Order only, and is intended to be used with AIA Document A121TM– 2014, Standard Form of Master Agreement Between Owner and Contractor where Work is provided under multiple Work Orders.

THE CONTRACT

This Work Order, together with the Master Agreement between Owner and Contractor dated the 20th day of September in the year 2018 (In words, indicate day, month, and year.)

form a Contract. A Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations, or agreements, either written or oral. A Contract may be amended or modified only by a Modification.

Init.

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TABLE OF ARTICLES

- 1 THE WORK OF THIS WORK ORDER
- 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 3 CONTRACT SUM
- 4 PARTY REPRESENTATIVES
- 5 ENUMERATION OF CONTRACT DOCUMENTS
- 6 INSURANCE AND BONDS

ARTICLE 1 THE WORK OF THIS WORK ORDER

The Contractor shall execute the Work described in the Contract Documents enumerated in Article 5 of this Work Order, and any modifications issued after execution of this Work Order, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be the date of this Work Order unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner. (Insert the date of commencement, if it differs from the date of this Work Order or, if applicable, state that the date will be fixed in a notice to proceed.)

6/18/18

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

§ 2.3 The Contractor shall achieve Substantial Completion of the entire Work not later than 6/20/18 () days from the date of commencement, or as follows: (Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work PCI -004 Masonry infill of existing wall openings on East wall Substantial Completion Date 6/19/18

, subject to adjustments of this Contract Time as provided in the Contract Documents. (Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

N/A

		- Agenda - Wednesday	

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following: *(Check the appropriate box.)*

	Stipulated Sum, in accordance with Section 3.2 below
X	Cost of the Work plus the Contractor's Fee, in accordance with Section 3.3 below
	Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below
	Other, in accordance with Section 3.5 below

(Based on the selection above, complete Section 3.2, 3.3, 3.4 or 3.5 below.)

§ 3.2 Stipulated Sum

§ 3.2.1 The Stipulated Sum shall be N/A (\$), subject to additions and deductions as provided in the Contract Documents.

§ 3.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Work Order, attach a schedule of such other alternates showing the change in the Stipulated Sum for each and the deadline by which the alternate must be accepted.)

N/A

§ 3.2.3 Unit prices, if any: (Identify item, state the unit price, and state any applicable quantity limitations.)

ltem	Units and Limitations	Price per Unit (\$0.00)
N/A		

§ 3.2.4 Allowances included in the Stipulated Sum, if any: (Identify allowance and state exclusions, if any, from the allowance price.)

ltem N/A Price

§ 3.3 Cost of the Work plus Contractor's Fee

§ 3.3.1 The Cost of the Work is as defined in Section 3.2 of the Master Agreement unless otherwise set forth below.

Work performed on a time and materials basis per direction given at OAC meeting to fill existing doorway openings in the east wall of the MS building before CMU placement of the new HS building, fill to include masonry fill plus waterproofing per attached photos. Cost based on actual costs and fees to be calculated per the master agreement. Final cost of this work order including all fees and markups is \$3,946.00 per attached PCI-004 worksheet.

§ 3.3.1.1 The following costs are subject to the Owner's prior approval:

§ 3.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the fee for changes in the Work.)

§ 3.4 Cost of the Work plus Contractor's Fee with a Guaranteed Maximum Price

§ 3.4.1 The Cost of the Work is as defined in Section 3.2 of the Master Agreement unless otherwise set forth below.

§ 3.4.1.1 The following costs are subject to the Owner's prior approval:

§ 3.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the fee for changes in the Work.)

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§ 3.4.3 Guaranteed Maximum Price

§ 3.4.3.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed
(\$), subject to additions and deductions by changes in the Work as provided

in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

(Insert specific provisions if the Contractor is to participate in any savings.)

§ 3.4.3.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Work Order, attach a schedule of such other alternates showing the change in the Stipulated Sum for each and the deadline by which the alternate must be accepted.)

§ 3.4.3.3 Unit Prices, if any: (Identify item, state the unit price, and state any applicable quantity limitations.)

Item

Units and Limitations

Price Per Unit (\$0.00)

§ 3.4.3.4 Allowances included in the Guaranteed Maximum Price, if any: (Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

item

Allowance

§ 3.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

1

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Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM

§ 3.5 Other

§ 3.5.1 The Contract Sum shall be determined in accordance with the following: (Insert a description of how the Contract Sum will be determined.)

ARTICLE 4 PARTY REPRESENTATIVES

§ 4.1 The Owner identifies the following representative in accordance with Section 1.4.1 of the Master Agreement: (List name, address and other information.)

Tim Buresh, Construction Manager PrimeSource Project Management 655 Deep Valley Drive, Suite 335 Rolling Hills Estates, CA 90274 424/903-9412 tim.buresh@primesourcepm.com

§ 4.2 The Contractor identifies the following representative in accordance with Section 1.5.1 of the Master Agreement: (List name, address and other information.)

Devin Ulibarri, Project Manager Oltmans Construction Company 1005 Mission Mill Road Whittier, CA 90601 562/948-4242 devinu@oltmans.com

ARTICLE 5 ENUMERATION OF CONTRACT DOCUMENTS

§ 5.1 The Contract Documents are defined in Section 6.2 of the Master Agreement and, except for Modifications issued after execution of this Work Order, are enumerated in the sections below.

§ 5.1.1 This Work Order

§ 5.1.2 The Master Agreement

§ 5.1.3 The Supplementary and other Conditions of the Contract:

Document

Title

Date

Pages

§ 5.1.4 The Specifications: (Either list the Specifications here or refer to an exhibit attached to this Work Order.)

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Section	Title	Date	Pages
			•

§ 5.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Work Order.)

Number	Title	Date
§ 5.1.6 The Addenda, if any:		
Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are enumerated in this Article 5.

§ 5.1.7 Additional documents, if any, forming part of the Contract Documents: (List here any additional documents that are intended to form part of the Contract Documents.)

ARTICLE 6 INSURANCE AND BONDS

Insurance and bonds will be in accordance with Article 16 of the Master Agreement, except as indicated below:

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Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM

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

OWNER (Signature)

CONTRACTOR (Signature)

Alfredo Rubalcava, CEO and Superintendent

(Printed name and title)

(Printed name and title)

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Oltmans CONSTRUCTION CO.

10005 Mission Mill Road Whittler, CA 90601 Phone: (562) 948-4242 Fax: (562) 61

Phone: (562) 948	-4242 Fax (562) 595-9267		
TITLE:	Masonry Infill at (E) Building	DATE:	06/18/2018
PROJECT:	Magnolia Science Academy	PROJECT NO.:	1804 9
TO			

TO:

.

Magnolia Educational and Research Foundation 250 E. 1st St., 1500 Los Angeles, CA

We respectfully request your approval of the following change to the original scope of work:

DESCRIPTION:

This Change Order Request includes costs associated with infill at existing building.

Vendor	Description	Amount
Majestic Masonry	Masonry Infill at Existing Building	3,107,00
	SUBTOTAL:	3,107.00
	(OCCO JWO #001)	540.00
	GL	36.00
	SDI	46.00
	Bond	30.00
	Fee	187.00
	SUBTOTAL:	839.00
	TOTAL COST FOR THIS CHANGE ORDER REQUEST:	3,946.00

APPROVA	L:	APPROVAL:
Oltmans C	onstruction Co.	Magnolia Educational and Research
BY:	Devin Ulibarri	BY:
DATE:		DATE:
		Page 1 of 1

Majestic Masonry Inc.

SUBCONTRACTOR CHANGE ORDER REQUEST

Date:	6/19/2018	Project number:	
Subcontractor Name:	Majestic Masonry, Inc.	Project Name:	MAGNOLIA
Address:	1357 O'Malley Way	Project Address:	18222 SHERMAN WAY
City & State:	Upland, CA. 91786	City & State:	RESADA,CA
COR#:	1		
Change Order For:	TWO FILL INS		

	Description	of Work			Ļ							
Equipment	Quantity	Unit Of Measure	Unit Cost	Equipment Costs								
				\$ -								
				\$ <u>-</u> \$-	1							
Subtotal				\$ -	1							
		1 11 11 01	4.5		100	1.20			1			
Materials & Labor	Quantity	Unit Of Measure			U	nit Cost	Mate	rials Costs				
4x8x16	60	BLOCK			\$	2.50	\$	150.00	1			
			_				\$	-				
SPEC MIX	7	BAGS			\$	8.00		56.00				
REBAR	5	PCS			\$	14.00		70.00	J			
EPOXY	2	TUBES			\$	55.00	\$	110.00				
									÷.			
<u> </u>							\$	-				
Subtotal					_	_	\$	386.00			-	
		Unit Of			1		-					
Labor	Quantity	Measure							U	nit Cost	Lá	bor Costs
Forman/Mason	16									\$61.00	\$	976.00
											\$	
Tender	16								\$	40.00	\$	640.00
Truck	6								\$	85.00	\$	510.00
SUPT	2								\$	95.00	\$	190.00
	Î							_			\$	-
L											\$	-
Subtotal	· · · · · · · · · · · · · · · · · · ·			•••••••••••••••••••••••••••••••••••••••							\$	2,316.00
		<u> </u>				1.00						
Total Columns:				\$ -			\$	386.00			\$	2,316.00
Taxes (8.5%): see note below)								0.00%			-	
Total Costs:				\$ -			\$	386.00			\$	2,316.00

San Bernardino

NOTE: Please use appropriate tax rate for your county

Total Costs:	\$ 2,702.00
Mark-Up % 15	\$ 405.00
Total:	\$ 3,107.00

Oltmans

CONSTRUCTION CO.

Project: Magnolia Science Academy Job #: 18049 JWO #: 1 JWO Date: 6/18/2018 Description: Carpentry and Paint for block wall infills.

By:	Jeff Rich	PM:	Devin Ulib	arri		
Date Entered:						
				Equip/		
	Description	Qty.	Labor	Mat'l.	Labor	Equip/
			Rate	Rate		Mat'l.

	Classifications					
1	Superintendent	4.0	hrs	\$ 90.00	\$360.00	
2			hrs		\$0.00	_
3			hrs		\$0.00	
4			hrs		\$0.00	
5			hrs		\$0.00	
	T		la n			

TOTAL 4.0 hr

	Equipment / Materials					
1	Plywood	2.0		20.00		\$20.00
2	Paint, roller	1.0		34.00		\$34.00
3	Pans, exterior pole	1.0		40.00		\$40.00
4	Screws	1.0		10.00		\$10.00
			22			
_						
	Subtotals				\$360.00	\$104.00
	Small Tools			1.50%	\$5.40	
	Subtotal				\$365.40	
	Labor Burden			0.00%	\$0.00	
	Material & Equipment				\$104.00	
	Subtotal			<u></u>	\$469.40	
	Liability Insurance			0.00%	\$0.00	
	Subtotal				\$469.40	
	Self-Performed OH&P			15.00%	\$70.41	

EXCLUDES:

TOTAL

a) All subcontractor work (if any).

IMPORTANT:

When JWO is approved, notify the estimator so the Labor and Material Report can be updated.

\$539.81



Work Order #2

250 E. 1st Street Suite 1500, Los Angeles, CA 90012 | www.magnoliapublicschools.org 180927 - MERF Facilities Committee - Board Cover Sheet for Approval of Master Agreement and Work Orders 1 and 2.docx Powered by BoardOnTrack



Work Order for use with Master Agreement Between Owner and Contractor

20th

WORK ORDER number 002 made as of the day of September in the year 2018 (In words, indicate day, month and year.)

THE OWNER: (Name, legal status and address) Magnolia Education & Research Foundation, DBA MPS 250 East 1st Street, Suite 1500 Los Angeles, CA 90012

THE CONTRACTOR: (Name, legal status, and address) Oltmans Construction Company 1005 Mission Mill Road, PO Box 985 Whittier, CA 90608-0985

THE ARCHITECT: (Name, legal status, address and other information) None None None

for the following **PROJECT**: (Name, location and detailed description) MS Building Renovation 18258 Sherman Way Reseda, CA 91335 This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document provides the Contractor's scope of Work, and related information, for the Work Order only, and is intended to be used with AIA Document A121[™]– 2014, Standard Form of Master Agreement Between Owner and Contractor where Work is provided under multiple Work Orders.

THE CONTRACT

This Work Order, together with the Master Agreement between Owner and Contractor dated the 20th day of September in the year 2018 (In words, indicate day, month, and year.)

form a Contract. A Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations, or agreements, either written or oral. A Contract may be amended or modified only by a Modification.

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- 1 THE WORK OF THIS WORK ORDER
- 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 3 CONTRACT SUM
- 4 PARTY REPRESENTATIVES
- 5 ENUMERATION OF CONTRACT DOCUMENTS
- 6 INSURANCE AND BONDS

ARTICLE 1 THE WORK OF THIS WORK ORDER

The Contractor shall execute the Work described in the Contract Documents enumerated in Article 5 of this Work Order, and any modifications issued after execution of this Work Order, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be the date of this Work Order unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner. (Insert the date of commencement, if it differs from the date of this Work Order or, if applicable, state that the date will be fixed in a notice to proceed.)

June 18, 2018

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

§ 2.3 The Contractor shall achieve Substantial Completion of the entire Work not later than

fifteen (15) days from the date of commencement, or as follows: (Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work PCI-009 - Remove and replace drywall for seismic engineering investigation of existing building connections per marked up drawings and direction of Structural Engineer Brandow & Johnston, multiple passes may be required Substantial Completion Date 8/3/18

, subject to adjustments of this Contract Time as provided in the Contract Documents. (Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

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§ 3.1 The Own Contract. The	ONTRACT SUM er shall pay the Contractor the Contra Contract Sum shall be one of the follo propriate box.)		or the Contractor's performance of the
	Stipulated Sum, in accordance wit	th Section 3.2 below	
X	Cost of the Work plus the Contrac	tor's Fee, in accordance v	vith Section 3.3 below
	Cost of the Work plus the Contrac Section 3.4 below	tor's Fee with a Guarante	ed Maximum Price, in accordance with
	Other, in accordance with Section	3.5 below	
(Based on the	selection above, complete Section 3.2,	, 3.3, 3.4 or 3.5 below.)	
§ 3.2 Stipulated § 3.2.1 The Stip	I Sum pulated Sum shall be	(\$), subject to additions and deductions

§ 3.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Work Order, attach a schedule of such other alternates showing the change in the Stipulated Sum for each and the deadline by which the alternate must be accepted.)

§ 3.2.3 Unit prices, if any:

lte

as provided in the Contract Documents.

(Identify item, state the unit price, and state any applicable quantity limitations.)

n	Units and Limitations	Price per Unit (\$0.00)

§ 3.2.4 Allowances included in the Stipulated Sum, if any: (Identify allowance and state exclusions, if any, from the allowance price.)

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Price

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§ 3.3 Cost of the Work plus Contractor's Fee

§ 3.3.1 The Cost of the Work is as defined in Section 3.2 of the Master Agreement unless otherwise set forth below.

Work performed on a time and materials basis per direction given at OAC meetings and site walk meetings with Brandow & Johnston to remove and then replace after Structural Engineer inspection and release existing drywall covering strutural connections in MS Building. Cost based on actual costs and fees to be calculated per the master agreement. Final cost of this work order including all fees and markups is \$22,659.00 per attached PCI-009 worksheet.

§ 3.3.1.1 The following costs are subject to the Owner's prior approval:

§ 3.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the fee for changes in the Work.)

§ 3.4 Cost of the Work plus Contractor's Fee with a Guaranteed Maximum Price § 3.4.1 The Cost of the Work is as defined in Section 3.2 of the Master Agreement unless otherwise set forth below.

§ 3.4.1.1 The following costs are subject to the Owner's prior approval:

§ 3.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the fee for changes in the Work.)

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§ 3.4.3 Guaranteed Maximum Price

§ 3.4.3.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum

Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

(Insert specific provisions if the Contractor is to participate in any savings.)

§ 3.4.3.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Work Order, attach a schedule of such other alternates showing the change in the Stipulated Sum for each and the deadline by which the alternate must be accepted.)

§ 3.4.3.3 Unit Prices, if any: (Identify item, state the unit price, and state any applicable quantity limitations.)

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Units and Limitations

Price Per Unit (\$0.00)

§ 3.4.3.4 Allowances included in the Guaranteed Maximum Price, if any: (Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

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Allowance

§ 3.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

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§ 3.5 Other

§ 3.5.1 The Contract Sum shall be determined in accordance with the following: (Insert a description of how the Contract Sum will be determined.)

ARTICLE 4 PARTY REPRESENTATIVES

§ 4.1 The Owner identifies the following representative in accordance with Section 1.4.1 of the Master Agreement: *(List name, address and other information.)*

Tim Buresh, Construction Manager PrimeSource Project Management 655 Deep Valley Drive, Suite 335 Rolling Hills Estates, CA 90274 424/903-9412 tim.buresh@primesourcepm.com

§ 4.2 The Contractor identifies the following representative in accordance with Section 1.5.1 of the Master Agreement: (List name, address and other information.)

Devin Ulibarri, Project Manager Oltmans Construction Company 1005 Mission Mill Road Whittier, CA 90601 562/948-4242 devinu@oltmans.com

ARTICLE 5 ENUMERATION OF CONTRACT DOCUMENTS

§ 5.1 The Contract Documents are defined in Section 6.2 of the Master Agreement and, except for Modifications issued after execution of this Work Order, are enumerated in the sections below.

§ 5.1.1 This Work Order

§ 5.1.2 The Master Agreement

§ 5.1.3 The Supplementary and other Conditions of the Contract:

Document

Title

Date

Pages

§ 5.1.4 The Specifications: (Either list the Specifications here or refer to an exhibit attached to this Work Order.)

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Section	Title	Date	Pages

§ 5.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Work Order.) Brandow & Johnston investigation plans dated 6/1/18 + field modifications as directed by Structural Engineer

Number	Title	Date
§ 5.1.6 The Addenda, if any:		
Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are enumerated in this Article 5.

§ 5.1.7 Additional documents, if any, forming part of the Contract Documents: (List here any additional documents that are intended to form part of the Contract Documents.)

ARTICLE 6 INSURANCE AND BONDS Insurance and bonds will be in accordance with Article 16 of the Master Agreement, except as indicated below:

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

OWNER (Signature)

Alfredo Rubalcava, CEO and Superintendent (Printed name and title) **CONTRACTOR** (Signature)

James Woodside, Vice President (Printed name and title)

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	Team Member						
POLB Organization	Dewberry	IEM	Prime Source	MBI			
Engineering Svc Bureau							
Construc Mgt Div	V						
Engineering Design Div							
Maintenance Div	V						
Program Mgt Div							
Project Control Div	V						
Survey Div	V	V					
Planning & Env Bureau	I	V					
Finance & Admin Bureau							

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CONSTRUCT 10005 Mission I Whittier, CA 900 Phone: (562) 94	CTION CO. Mill Road	POTENTIAL CHANGE ITEM PCI009
TITLE:	Structural Investigation at MSA-1 Building	DATE: 06/18/2018
PROJECT:	Magnolia Science Academy	PROJECT NO.: 18049
TO:		
	Magnolia Educational and Research Foundation	
	250 E. 1st St., 1500	
	Los Angeles, CA	

We respectfully request your approval of the following change to the original scope of work:

DESCRIPTION:

This Change Order Request includes costs associated with structural investigation at MSA-1 building, per Owner's request,

Vendor	Description	Amount
Oltmans Drywall/Door	Drywall tape and finish patches after structural observation (OCCO Wall EWO 4)	5,446.00
Oltmans Drywall/Door	Demo specified areas for structural investigation at MSA-1 building, from 6-13-18 to 6-18-18. Includes clean-up and protection of surfaces. (OCCO Wall EWO 1)	7,422.00
Oltmans Drywall/Door	Finish demo and clean up (OCCO Wall EWO 2)	1,210.00
Oltmans Drywall/Door	Drywall and framing demo areas (OCCO Wall EWO 3)	5,097.00
	SUBTOTAL:	19,176.00
	Equipment Rental	1,775.00
	GL	204.00
	SDI	262.00
	Bond	172.00
	Fee	1,071.00
	SUBTOTAL:	3,484.00
	TOTAL COST FOR THIS CHANGE ORDER REQUEST:	22,659.00

APPROVAL:	APPROVAL:
Ditmans Construction Co.	Magnolia Educational and Research
3Y: Devin Ulibarri	BY:
DATE:	DATE:





6/29/2018

Project:

Date:

Magnolia Academy DW - 18177

Attn: Oltmans Construction Co. 10005 Mission Mill Road Whittier, CA 90601

Extra Work Order No. 4

Description of work performed as a change to the contract: Material, Equipment, and Labor to tape and finish all reconstructed areas as directed by Oltmans Superintendent.

*Oltmans Superintendent's Authorization to proceed:

LABOR RATES	Straight Hours	Base Rate*	OT Hours	Overtime	Premium Hrs	Premium time	Total
Superintendent		\$107.00		\$160.00		\$55.25	\$ -
Foreman		\$76.00		\$116.00		\$40.20	\$ -
Carpenter	64	\$74.00		\$114.00		\$37.85	\$ 4,736.00

Labor Total \$4,736.00

*All Labor Rates include base rate, taxable benefits, insurance, workers comp, and other SUI Union Fringe Benefits.

Material	· · · · · · · · · · · · · · · · · · ·	Piece count	Amount used	Price	Total	
Invoice 1		EA		0.000	\$	-
5/8" Drywall		SQFT		0.285	\$	-
3 5/8" 20ga Studs		LF		1,490	\$	-
3 5/8" 20ga Track		LF		0.000	\$	-
Taping Mud		BOX		7.900	\$	-
Plastic Roll		ROLL		35.000	\$	-
Таре		ROLL		5.500	\$	-
1 1/2" 20ga Angle		LF		2.900	\$	-
				0.000	\$	-
				0.000	\$	-
	· · ·			0.000	\$	•
			Material Total		\$	•
Subcontractor Total	\$0.00		Material Total		\$	-
OH&P on Subcontractor	\$0.00		Tax 9	9.75%	\$	-
Labor Total	\$4,736.00		OH&P 1	15%	\$	710.40

Grand Total \$5,446.40 **Oltmans Superintendant's Labor and Material Verification:

Oltmans Wall Representative:



Oltmans Wall

Date: 6.29.18

Project: MAGNOL'A SCIENCE CENTEZ

Attn:

Oltmans Construction Co. 10005 Mission Mill Road Whittier, CA 90601 Extra Work Order No.

Description of work performed as a change to the contract: THIS GWO JS FO CAPTURE ALL THE LABOR HOURS

ACCUMULATED DURING THIS JUB FOR THE TAPERS DRYWALL THPING FROM DEMOLITION -48

DRYWALL TAPING EXISTING PATCHES -16

*Oltmans Superintendant's Authorization to proceed:

LABOR RATES	Straight Hours	SAT Hours	SUN Hours	Total
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	64			S
I shee Total	50.00			

*All Labor Rates include base rate, taxable benfits, insurance, workers comp, and other SUI Union Fringe Benefits.

Material			Amount used	Price	Total	
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Subcontractor Total	\$0.00		Material Total		\$	*
OH&P on Subcontractor	\$0.00		Tax	9.25%	\$	•
Labor Total	\$0.00		OHAP	15%	\$	-
Grand Total	\$0.00					
**Oltmans Superintendant's Lat	-	fication: 🧹 💡				
Ounans Superintendance Lac						
	//	611				
Oltmans Wall Representative:	1-1	1.La	La _			
	1 to	4 1000		-		
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Date:

6/18/2018

Project:

Magnolia Academy DW - 18177

Attn: Oltmans Construction Co. 10005 Mission Mill Road Whittier, CA 90601

Extra Work Order No. 1

Description of work performed as a change to the contract: Material, Equipment, and Labor to demo areas specified on plans as directed by Oltmans Superintendent.

*Oltmans Superintendent's Authorization to proceed:

LABOR RATES	Straight Hours	Base Rate*	OT Hours	Overtime	Premium Hrs	Premium time	Total
Superintendent		\$107.00		\$160.00		\$55,25	\$ -
Foreman	32	\$76.00		\$116.00		\$40.20	\$ 2,432.00
Carpenter	48	\$74.00		\$114.00		\$37,85	\$ 3,552,00

Labor Total \$5,984.00

*All Labor Rates include base rate, taxable benefits, insurance, workers comp, and other SUI Union Fringe Benefits,

Material		Piece count	Amount used	Price	Total	
Invoice 1		EA	1	433.520	\$	433.52
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			Material Total		\$	433.52
Subcontractor Total	\$0.00		Material Total		s	433.52
OH&P on Subcontractor	\$0.00			9.75%	\$	42.27
Labor Total	\$5,984.00		OH&P 1	15%	\$	962.63

Grand Total \$7,422.42 **Oltmans Superintendant's Labor and Material Verification:

Oltmans Wall Representative:

	5 0.			Oltma	ns Wa		
Date: 6-18-18							
Project: MBGNOUL	SCIENCE ACA	DEMY					
Attn: Oltmans Construction Co. 10005 Mission Mill Road Whittier, CA 90601		,		Extra We	ork Order No	. 1	
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veman	32					s -	1
Carpenter	48						
Labor Total	\$0.00				1	5	
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Grand Total **Oltmans Superintendan	\$0.00	Verification:)	\$	_	
oitmans Wall Representa	tive:		0	_			
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GENERAL LOG: (BRIEF DESCRIPTION OF WORK DONE)

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More saving. More doing."

ISSA KHOURYUHOMEDEPOT.COM 16800 ROSCOE BLVD VAN NUYS CA 91406 6661 UUUUO 36056 U6/15/18 U6.50 AM CASHIER MICHAEL 0/3257012829 12' PLASTIC -A- 34 98 12' X400' 7MLL CLR PLASTIC 761475978231 CLICK DUST -A- 0.90 UNGER MICROFIBER (LICK & DUST DUSTER 051115036835 2090 -A-3001CHBLUE 1 SC 2001 13.16 SUBTOTAL 55.12 SLUETOTAL 55.12 SLUETOTAL 55.24 TCCAS TAX 560.36





6/20/2018

Project:

Date:

Magnolia Academy DW - 18177

Attn: Oltmans Construction Co. 10005 Mission Mill Road Whittier, CA 90601

Extra Work Order No. 2

Description of work performed as a change to the contract: Material, Equipment, and Labor to demo and clean up areas specified on plans as directed by Oltmans Superintendent.

*Oltmans Superintendent's Authorization to proceed:

LABOR RATES	Straight Hours	Base Rate*	OT Hours	Overtime	Premium Hrs	Premium time	 Total
Superintendent		\$107.00		\$160.00		\$55.25	\$ -
Foreman	8	\$76.00		\$116.00		\$40.20	\$ 608.00
Carpenter	6	\$74.00		\$114.00		\$37.85	\$ 444.00

Labor Total \$1,052.00

*All Labor Rates include base rate, taxable benefits, insurance, workers comp, and other SUI Union Fringe Benefits.

Material		Piece count	Amount used	Price	Total	
Invoice 1		EA		0.000	\$	-
				0.000	\$	
				0.000	\$	-
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			Material Total		\$	-
Subcontractor Total	\$0.00		Material Total		s	-
OH&P on Subcontractor	\$0.00		Тах	9.75%	\$	-
Labor Total	\$1,052.00		OH&P	15%	\$	157.80
Grand Total	\$1,209.80					

**Oltmans Superintendant's Labor and Material Verification:

Oltmans Wall Representative:



Oltmans Wall

Date: 6-20-18

Project: MAGNOLIA SCIENCE ACADEMY

Attn: Oltmans Construction Co. 10005 Mission Mill Road Whittier, CA 90601

Extra Work Order No. 2

Description of work performed as a change to the contract:

PROVIDED FIELD SUPERINTENDENT JEFFRICH WITH ASSITANCE IN LIGHT DEMOLITION & GENERAL SITE CLEANUP

*Oltmans Superintendant's Authorization to proceed:

LABOR RATES	Straight Hours	SAT Hours	SUN Hours	Total
réman	8			s :
Carpenter	6			s
Labor Total	\$0.00			

"All Labor Rates include base rate, taxable benfits, insurance, workers comp, and other SUI Union Fringe Benefits.

Material		Amount used	Price	Total	
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Rude an also star Tatal	£0.00	Manager 1 and 10 and 10 and 10 and 10 and 10 and 10 and 10 and 10 and 10 and 10 and 10 and 10 and 10 and 10 and	1		
Subcontractor Total OH&P on Subcontractor	\$0,00 \$0,00	Material Tota Tax	9.25%	۲ ۲	•
Labor Total	\$0.00	OH&P	15%	\$	
Grand Total	\$0.00				
"Oltmans Superintendant's L	abor and Material Verifica	llon:	<u> </u>		
	1				
utmans Wall Representative:	1 roll	chile -			
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6/26/2018

Project:

Date:

Magnolia Academy DW - 18177

Attn: **Oltmans Construction Co.** 10005 Mission Mill Road Whittier, CA 90601

Extra Work Order No. 3

Description of work performed as a change to the contract: Material, Equipment, and Labor to reframeand drywall all affected areas including 59 drywall patches as directed by Oltmans Superintendent.

*Oltmans Superintendent's Authorization to proceed:

LABOR RATES	Straight Hours	Base Rate*	OT Hours	Overtime	Premium Hrs	Premium time	Total
Superintendent		\$107.00		\$160.00		\$55.25	\$ -
Foreman	32	\$76.00		\$116.00		\$40.20	\$ 2,432.00
Carpenter	16	\$74.00		\$114.00		\$37,85	\$ 1,184.00
1	0.040.00						

Labor Total \$3,616.00

*All Labor Rates include base rate, taxable benefits, insurance, workers comp, and other SUI Union Fringe Benefits.

Material		Piece count	Amount used	Price	Total	
Invoice 1		EA		0.000	\$	
5/8" Drywall		SQFT	192	0.285	\$	54.72
3 5/8" 20ga Studs		LF	100	1.490	\$	149.00
3 5/8" 20ga Track		LF	28	0.000	\$	4
Taping Mud		BOX	15	7.900	\$	118.50
Plastic Roll		ROLL	3	35.000	\$	105.00
Таре		ROLL	17	5.500	\$	93.50
1 1/2" 20ga Angle		LF	80	2.900	\$	232.00
				0.000	\$	2
				0.000	\$	<u>_</u>
				0.000	\$	
	· · ·		Material Total		\$	752.72
Subcontractor Total	\$0.00		Material Total		\$	752.72
OH&P on Subcontractor	\$0.00		Tax	9.75%	\$	73.39
Labor Total	\$3,616.00		OH&P	15%	\$	655.31

Grand Total

\$5,097.42 **Oltmans Superintendant's Labor and Material Verification:

Oltmans Wall Representative:



Oltmans **Wal**

Date: 6.26.18

Project: MAGNOLIA SCIENCE CENTER

Attn:

Oltmans Construction Co. 10005 Mission Mill Road Whittier, CA 90601

Extra Work Order No. 3

Description of work performed as a change to the contract: AFTER DEMOLITION & CLEARANCE FROM ON SITE SUPERINTENDENT WE PROCEEDED TO REFRAME & DRYWALL ALL THE AFFECTED APEAS - WE HAD 59 AREAS THAT WERE DRYWALLED OR REFRAMED. AND 3 AREAS WITH FRAMING LATH

59 DRYWALL PATCHES "Oltmans Superintendant's Authorization to proceed:

LABOR RATES	Straight Hours	SAT Hours	SUN Hours	Total
eman	32			\$ +
Carpenter	16			S 😒
Labor Total	\$0.00			

*All Labor Rates include base rate, taxable benfits, insurance, workers comp, and other SUI Union Fringe Benefits

Material			Amount used	Price	Total	
4×8× 5/8 DR	IWALL.	6				
35/8×10 206.5	TUD	10				
1/2 × 10 7176.1		8				
TNT MUD.		7				
LITESETZU		8				
.7 Mil 400 PLASTIC	2011	3				
		10				
2- MASKING TAPE MESH TAPE Subcontractor Total OH&P on Subcontractor Labor Total	\$0.00 \$0.00 \$0.00	7	Material Total Tax OH&P	9.25% 15%	\$ \$ \$	11 = = +
Grand Total **Oltmans Superintendant's Labo	\$0.00 or and Material Ve	erification:	×		<u>. </u>	
Oltmans Wall Representative: Oltmans Superintend	ant's signature is re	quired to direct (Ditmans Wall to pro	coed with wo	ork outside contract so	сора

Oltmans Superintendance ag "Oltmans Superintendant's signature is required to verify hours worked and material used on work outside contract scope

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GENERAL LOG: (BRIEF DESCRIPTION OF WORK DONE)

• SPENT THE DAY WALKING WITH THE PROJECT ENGINEER NORAIR TO VERIFY AREAS OF DEMOLITION TO CLARIFY STRUCTURL AREAS OF THE BUILDING.

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· STARTED REPATCHING & FRAMING, AREAS OF DEMOLITION/ AREAS:

- -column on BRIDLING 7 5 DX 6 -EXTERIOR WALL AT RAADOT X 2 -SOFFITS AT FM \$107 X 2
- Soffits AT EME 129 X2
- -Perimeter wall AT FM#129×2
- -WALLE column IN Frans 131X2
- -IND FLOOR RAMP TEMOLITION
- GRIDLINE 44E Column Demo
- -EAST CORRYOR X2

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Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM

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Magnolia Public Schools - Regular Eacilities

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OLTMANS CONSTRUCTION CO. 10005 MISSION MILL ROAD WHITTIER CA 90601-1739	18049	8 Payment optic	FILE 51122	with nitice 212-333 NTALS (NORTH	AMERICA),INC.
ENTAL ITEMS:		Alter and the second second	THE PERSON NO. TO CO.	ALLOUP-CONST.LINE	THE PROPERTY AND INCOME.
Ocy Bquipment Description	Minimum	Day	Week	4 Week	Anount
1 10139699 ROOM 30-33' ARTICULATING Make: GENIE Model: Z-30/	DC 368.00	368.00	Week 1117.00	4 Week 2459.00	Amount: 368.00
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THIS INVOICE IS ISSUED SUBJECT TO THE TERMS AND CONDITIONS OF THE RENTAL AGREEMENT, WHICH ARE INCORPORATED HEREIN BY REFERENCE. A COPY OF THE MENTAL AGREEMENT IS AVAILABLE UPON REQUEST.

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Image: Second second	
CANOGA PARK CA 91304-4914 # 13010/9/9/9-00 \$18-340-0035 FAX JUL 03 2010 Customer # : 3032899 Invoice Date : 06/26/18 Rental Out : 06/13/18 07 Rental Tu : 06/25/18 02)1
JOB# 18049 MAGNOLIA SCHOOL	
Customer Job ID:	2:00 AM 2:00 PM N WAY, R
Reserved By : SUSANA PACHE Salesperson : CHRISTOPHER	LESSING
	2
OLTMANS CONSTRUCTION CO. Terms: Due Upon Receipt 10005 MISSION MILL ROAD Payment options: Contact our credit office 212-333 WHITTIER CA 90601-1739 REMIT TO: UNITED RENTALS (NORTH FILE 51122 LOS ANGELES CA 90074-11)	AMERICA), JNC.
RENTAL ITEMS: <u>Qty</u> Equipment Description Minimum Day Week 4 Week	Amount
1 10529722 SCISSOR LIFT 19' ELECTRIC 179.00 179.00 364.00 727.00 Make: SKYJACK Model: SJIII3219 Serial: 22102059 Meter out: 64.10 Meter in: 65.60	727.00
SALES/MISCELLANEOUS ITEMS: Rental Subtotal:	727.00
Qty Item Price Unit of Measure	Extended Amt. 5,45
1 ENVIRONMENTAL SERVICE CHARGE (ENV/MCI) 9,450 EACH	9.45
1 DELIVERY CHARGE 18049 133.000 EACH 1 PICKUP CHARGE 0/5/0.00 133.000 EACH	133.00
1 PICKUP CHARGE ALGIN MAN 133.000 EACH	133.00
Sales/Misc Subtotal:	280.90
Agreement Subtotal:	1,007.90
Tax: Total:	83.13 1,091.03
COMMENTS/NOTES: CONTACT: JEFF RICH CELL#: 562-217-5741 CAN PRE DELIVER BEFORE 3PM	
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	2 ⁴
THIS INVOICE IS ISSUED SUBJECT TO THE TERMS AND CONDITIONS OF THE RENTAL AGREEMENT, WHICH ARE INCORPORATED HEREIN BY REFEREN A COPY OF THE RENTAL AGREEMENT IS AVAILABLE UPON REQUEST.	ICE.
You Can Now Access Invoice History and Update Purchase Orders Online P	age: 1


























































Cover Sheet

Facility Updates

Section:	III. Information Items	
Item:	A. Facility Updates	
Purpose:	Discuss	
Submitted by:		
Related Material:	III A Facilities Update.pdf	



Facilities Committee Item:	III A- Information Item (10/10/18)
Board Agenda Item #:	IV C- Information Item (10/11/18)
To:	Magnolia Board of Directors Facilities Committee
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	FACILITIES UPDATES

Background

No action recommended. Information only.

SCHOOL	UPDATES	NEXT STEPS
MSA-1	 New High School Building Construction Update: Project is on schedule and on budget; no red flags. See attached PrimeSource Update Middle School Tenant Improvement Update: See attached PrimeSource Update 	 New High School Building Construction: Continue with construction activities Middle School Tenant Improvement Update: See attached PrimeSource Update
MSA-2	 Campus Improvements: Draft of development agreement for improvements to campus was pending cost estimates to LAUSD; such cost estimates were provided LAUSD provided LAUSD specs for cameras; RFP responses reflect LAUSD specs 	 Campus Improvements: RFPs for design team and CM will be issued during the month of October Award contract for camera installation
	Prop 39 Energy Efficiency Grant:LAUSD approved HVAC upgrade project	At Facility Committee, MPS Staff requested approval to sign agreement to complete HVAC upgrade project
MSA-3	Commencing search for private site.	Continue with site search
MSA-4	Commencing search for alternative site.	Continue with site search

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SCHOOL	UPDATES	NEXT STEPS
MSA-5	No updates	
MSA-6	No updates	
MSA-7	Contract for HVAC upgrade work to be paid for with Prop 39 energy efficiency grant money submitted to facilities committee for approval	At Facility Committee, MPS Staff requested approval to sign agreement to complete HVAC upgrade project
	RFP for playground and restrooms issued to be paid for with Charter School Facility Incentive Grant money	
MSA-8	No updates	
MSA-SAN DIEGO	Project in close out mode:	Follow up with close-out activities:
	SILVER CREEK:	SILVER CREEK:
	 Silver Creek supposedly completed their punch-list work but we need to walk the site with the architect and inspector to confirm completion 	 Site walk with Silver Creek, architect and inspector
	NEXGEN:	NEXGEN:
	 NexGen has agreed to complete its few remaining punchlist items and accept as payment in full all outstanding amounts less the billed for but never obtained subcontractor bonds (a savings of approximately \$90,000) 	 NexGen to finish up punch-list work and IOR to inspect and sign off on work
	Williams Scotsman:	Williams Scotsman:
	 Hal is trying to negotiate a larger cash refund to MPS based on the ramp issue, the failure to address punchlist items, and faulty wiring found in some classrooms. 	 Continue with negotiation for larger cash refund.
	Additional Campus Improvements – MSA San Diego would like to add cabinets to classrooms, a permanent lunch shelter immediately adjacent to MPR, and install synthetic turf in the dirt playground	Additional Campus Improvements:
		 Director of Facilities to find out if the desired improvements can be financed with savings from the construction project and if it can be started before official DSA close-out
		Patrick to find out if the utilities will pay for a solar shade structure
	DSA will not close out project without restoration of landscaping that was value engineered out of the project.	 MPS to contract directly with a landscape contractor to perform the work.

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SCHOOL	UPDATES	NEXT STEPS
	Prop 39 Energy Grant: Consultants walked site to come up with energy saving improvements.	Prop 39 Energy Grant: Consultants will provide list of recommended improvements; report in process
MSA-SANTA ANA	Project is completed.	Complete California State Division of State Architect close out.

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PRIMESOURCE MSA-1 UPDATE

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MSA-1 New High School Project October,2018





MSA-1 New High School Project Scope of Work

- New High School Classroom Building
- Existing Middle School Classroom Building
- Solar Shade Shelter
- Master Planning
- Site Development

MSA-1 New High School Project New High School Classroom Building



New building has twenty classrooms, plus admin space, plus rooftop basketball court. New building will hold high school, existing building will hold middle school.

MSA-1 New High School Project New High School Classroom Building Administration

- Subcontracts being written all early packages done – finishes 90% complete
- Cost reporting system and control systems working well
- Progress payment system working second payment made, 3rd pay application in – project is ~30% complete
- Pending changes roofing system change for Board approval this month – contingency budget remains strong

There are no administrative issues at this time.

MSA-1 New High School Project New High School Classroom Building Design

- Technical submittal process continues more than 60% complete – 5 open submittals turnaround times remain good
- Requests for Information 77 submitted/8 outstanding – turnaround times good
- Architect has prepared sketches of supplemental information and clarification
- Revising rooftop design details to go with panel/pedestal system – changes component elevations
- There are no design issues at this time.

MSA-1 New High School Project New High School Classroom Building Permits and Inspection

- Building Permits
 - deferred approvals/permits outstanding for fire sprinklers and alarms (normal and in process) – submitted in August, to be approved in September
- Inspection
 - All required City inspections current and passed all inspectors and contractor collaborating well
 - Utility inspections for DWP power, AT&T, Charter completed and passed

There are no permit or inspection issues at this time.

Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM

MSA-1 New High School Project New High School Classroom Building Construction

- Work shifted to wood framing of first floor walls – 70% complete
- Second floor joists, decking have started 20% complete – concrete for the second floor follows
- It is now starting to look like a building
 There are no construction issues at this time.

Excavation was completed in July...



The top 4 feet of soil was removed and re-compacted... work inspected and complete



Next came underground utilities, footings and first structural steel...



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Slab on grade is prepped, placed and done...







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CMU exterior walls and bond beam are complete.



No surprises – completing CMU walls define building exterior on two sides – completing these walls releases the entire building for wood framing.

And up we go...stairs first, then framing...



Treated wood has arrived on site. Plates are going down on the slab on grade. First floor walls will follow this month.

MSA-1 New High School Project New High School Classroom Building Schedule

Contract Schedule – 330 days from full NTP

- Goal now is to get building up and enclosed before winter rains
- Schedule is not overly aggressive or overly conservative, looks practical
- All work elements are on time.

There are no schedule issues at this time. The building will be ready for a spring move-in.

MSA-1 New High School Project New High School Classroom Building Budget and Cost

Contract awarded with GMAX of \$7,392,479

- Risk the risks of subcontractor and material buy out is behind us, contingency increased
- Risk the risk of design changes is now reduced as we move into framing
- Risk the excavation risk is gone, bad soil allowance released
- Changes there is only a short list of pending changes not yet ready to be finalized
- Scope We are comfortable enough with the budget to recommend a roof improvement change – will still leave adequate contingency

There are no budget or cost issues at this time. Project on track to finish under budget.

MSA-1 New High School Project New High School Classroom Building Oltmans Summary

Oltmans is well underway. Everything remains on track. Work on site is ramping up fast. There are no significant issues.
The PrimeSource Change

- Project schedule has increased from 12 months to 20 months
- Scope of work has expanded to include zoning change, permit clearance, master planning, MS building seismic renovation
- Change order #1 will fund services through completion of new HS building
- Added services will be required if MS seismic renovation proceeds
- This change was anticipated and included in project estimate approved by Board in May

The roofing change order

- Current design concrete slab over membrane concrete cracks and leaks happen, and are expensive difficult to repair
- Current design chosen to reduce project cost
- Changed design raised concrete panels on pedestals leaks rare and easy to fix
- Play surface better, flatter surface stays high quality
- Cost up front cost of \$150,000 less \$39,000 credit for roof surface eliminated – long term cost savings
- Contingency remains adequate and conservative even with this change

Initial cost is far outweighed by long term cost savings

Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM MSA-1 New High School Project Board action required to support New High School building

- Approve PrimeSource CO#1 (this month)
- Approve addition of CMU wall to site plan (next month)

Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM

MSA-1 New High School Project New High School Classroom Building Interim Capacity





- MSA-1 shifted 6th grade to Bible Fellowship campus – five classrooms, admin space, outdoor recreation space, cafeteria
- LACOE last minute required new fire alarm system – then LADBS required other changes – almost done
- School now fully moved in and happy with facilities
- Potential long-term relationship, expand MSA-1 to add elementary grades
- Now up and running

There are no other issues with interim space. No Board action is anticipated or required.

Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM MSA-1 Tenant Improvement Project Existing Middle School Classroom Building SCOPE



- Seismic Upgrades floor and roof connections to walls
- Expand 2nd floor gain 4 classrooms, improve circulation
- Prop 39 Improvements
 LED lighting, modern
 HVAC
- General Renovation facelift

Messy project – exact scope depends on existing conditions investigation and balancing funding sources.

Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM MSA-1 Tenant Improvement Project Existing Middle School Classroom Building SEISMIC ISSUES

Structural design team underway

- Design concept complete working on details
- Completed roof investigation to confirm structural condition and connection details
- Goal is to complete design sufficient for plan check submission in October
- Will submit to LADBS as a limited voluntary upgrade to avoid overall building upgrade.

There are no structural surprises, work is on track.



MSA-1 Tenant Improvement Project Existing Middle School Classroom Building Seismic Retrofit Schedule

Third round of seismic investigation completed. Proposed 2nd floor expansion/seismic renovation remains practical and cost-effective

- Will complete structural design fall 2018
- Will present cost estimate and financing plan fall 2018
- Permit process then bidding and award fall 2018/winter 2019
- Begin portion of seismic retrofit Christmas break 2018
- Will have to defer Sherman Way side of building until new HS building complete, and able to vacate Sherman Way side of MS building – Spring 2019

We are pushing forward with seismic renovation design ASAP. There have been no surprises in the third round of investigation. LADBS schedule is uncertain.

MSA-1 Tenant Improvement Project Existing Middle School Classroom Building Mechanical and Electrical Renovation

- Current HVAC system failing and cannot be replaced in kind (wrong equipment, bad installation, illegal refrigerant)
- Mechanical and electrical engineers completed preliminary HVAC replacement design
- Now preparing Design/Build procurement package goal to release in October for bidding
- Contract will be CSGIG and Prop 39 eligible

We are pushing forward with this work as quickly as possible. System is barely supporting school right now. This is urgent work!

MSA-1 Tenant Improvement Project Existing Middle School Classroom Building Architectural Design Support

- HVAC replacement and seismic renovation both require architectural support
- Stern Architects now on board and has developed room layouts that are compatible with structural changes
- Only doing enough architectural work to allow HVAC replacement and seismic renovation to get permitted – not designing a general renovation
- LADBS may force us to do more work
- Existing conditions (e.g. the bad roof) may force us to do more work

Stern was selected because of similar experience and cost competitiveness. Initial contract likely to be expanded.

MSA-1 Tenant Improvement Project MS Building Renovation - Roof

- Existing roof well beyond warranty and falling apart there are numerous leaks
- Reflective coating applied in 2002 bought time now it is failing and will soon fall apart
- Seismic retrofit and HVAC will require removal of +30% of roof and cause damage in work areas
- It may be possible but not practical to patch existing roofing would only last a couple years
- Recommended that roof be replaced after HVAC and roof level seismic retrofit are complete
- Doing temporary repairs of holes in roof this week

The HVAC and roof conditions will drive phasing. Need to do HVAC and roof level structural, then do roof replacement. Weather impacts are likely.

MSA-1 Tenant Improvement Project Board action required to advance MS Building renovation...

Board action required this month:

- Approve Oltmans master contract for MS Building
- Work Order #1 masonry infill of old doorways in MS walls
- Work Order #2 seismic investigation inside building
- Work Order #3 seismic investigation of roof and roof repairs Board action required next month:
- Direction on future MS scope
- Roof patch or replace snow?
- Seismic retrofit scope roof level only or do all?
- Seismic retrofit phasing begin work over breaks or defer until Spring 2019? Break into two phases?
- Funding approach

Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM

MSA-1 New High School Project Master Planning



- Master planning required for zoning change application and MPS planning
- Initial goal was to support zone change application – this work is done
- Current goal support Ice Rink partnership as it develops – depends on City

MSA-1 New High School Project Master Planning

- MSA needs outdoor dining, recreation and parking fits on site, but tight, little room for future gymnasium
- Ice Rink does not fit on City parcels City needs more space for support spaces (lockers)
- Sharing parcels allows combined parking, shared support space, maybe gymnasium, and leaves more space for outdoor recreation – both sides benefit
- Initial meeting with City very positive. Cannot do substantive discussion until land transfer completed this summer.

City officially adopted project in August – then went on vacation. City has now resumed negotiations with LA Kings... Nothing will happen until September...beginning negotiations now. No Board action required now.

MSA-1 New High School Project Zoning

- Goal is to change zoning of parking lots to allow more full school usage and reduce parking.
- Zoning application cleared by staff
- CEQA analysis complete indicated need for CMU wall separating residential property from campus (voluntary mitigation)
- Final application will go in shortly then +6 months for City process

Neighbors complaining of sports activities on back fence – need the CMU separation wall ASAP. Will pursue separate building permit for CMU wall ASAP.

MSA-1 New High School Project Site Development

- Placeholder site development plan was permitted and included in Oltmans scope
- Oltmans scope will be modified based on Master Planning + City negotiations
 - could be pulled if Ice Rink progresses
 - If no Ice Rink, will require minimal refinement
- Zoning application requires installation of CMU wall along residential border of campus (not a surprise) – will have to design now and add to Oltmans contract
- Now putting solar on hold allow more flexibility in Ice Rink negotiations
- Final decision not required until 2019, leaves room to fully explore Ice Rink potential.

No change. We have the time and flexibility to work this deal. The CMU wall can go in without impacting Ice Rink plans.

Magnolia Public Schools - Regular Facilities Committee Meeting - Agenda - Wednesday October 10, 2018 at 7:00 PM

MSA-1 New High School Project Board action required to support zoning and site development

- Approve design CO for CMU wall (next month)
- Approve Franco CO to change site plan (next month)
- Approve Oltmans CO for CMU wall (two months)
- Approve "tie" legally combining both campus parcels (two months)
- Wait and see on Ice Rink then adjust MSA-1 design and scope (four months)

MSA-1 New High School Project Overall Budget

- New High School Building Adopted Budget \$11,355,997
 - Budget remain adequate, no changes since adoption
 - Buyout done, under budget
 - Small changes to date will come from contingency
 - Forecast remains to meet budget
 - Will still require interschool loan of Walton grant
- Prop 39 projects Placeholder Budget \$250,000
 - Must keep scope within budget
 - Materials costs increasing rapidly
 - Prioritize HVAC over lighting to ensure adequate funds
- Existing MS Building Placeholder Budget \$700,000
 - Seismic scope will drive budget
 - Must decide whether doing in phases or all at once
 - Available funds inadequate, cannot do estimate until design and investigations complete
- Site work (in Oltmans contract)
 - Need to do CMU wall now; the Budget has a line item placeholder for this work
- Solar Shade Shelter Placeholder Budget \$-0-
 - On hold, looking for alternative plan

No change – HS building and Prop 39 work remains on approved budget and current financing. MS building budget being fleshed out to determine needs.