



Board Agenda Item #:	VI. A Potential Action Item.
Date:	December 13, 2018
To:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (“MPS”) Board of Directors
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Description of PrimeSource Project Management LLC (Construction Manager) Services for MSA – 1 and Recommendation for Continued Services

I. Proposed Committee Recommendation(s)

Staff recommends that the full Board of Directors of MPS (the “**MPS Board**”) agree to amend the existing PrimeSource Project Management LLC (“**PrimeSource**”) contract so that PrimeSource continues providing construction management services for both MSA-1’s new construction project at 18220 Sherman Way and its rehab investigation project and rehab project for the existing building at 18238 Sherman Way (collectively, the “**Project**”) to and through completion for a fee consisting of (i) a fixed sum component and an (ii) incentive component, as described below.

The fixed sum component would be \$90,000 split evenly over the remaining term of the Project (assumed to be 8 months) with such amount adjusted as the Project schedule changes. For example, if the Project is expected to be 8 months the monthly fixed sum component would be \$11,250. However, if after two months the Project is expected to be extended an additional two months (i.e., total duration is 10 months), the monthly payment would be readjusted to be \$8,437.50 (calculated as follows – $[\$90,000 - (\$11,250 \times 2)] \div 8 = \$8,437.50$). Similarly, if the Project timeline is expected to be decreased by 2 months (i.e., total duration is 6 months), the monthly payment would be readjusted to be \$16,875.00 (calculated as follows – $[\$90,000 - (\$11,250 \times 2)] \div 4 = \$16,875.00$)

The incentive component would be calculated as a “shared savings” if the actual hard costs and soft costs for the New Construction Project come in less what is currently budgeted for both. MPS Staff proposes 10%. Current hard and soft costs are budgeted at \$9,477,235.50. For example,



if the actual costs are \$100,000 less than the shared savings to PrimeSource would be \$10,000 (calculated as follows $\$100,000 \times 10\% = \$10,000$).

Therefore, total fee to PrimeSource would be \$100,000 [$\$90,000 + \$10,000$] if the Project realizes savings of \$100,000. The total fee to PrimeSource would be \$110,000 if the Project realizes savings of \$200,000 [$\$90,000 + \$20,000$].

II. Background

A. Project Descriptions

There are two projects currently underway at MSA-1: (i) a new construction project at 18220 Sherman Way that will eventually house MSA-1's high school population (the "**New Construction Project**") and (ii) a rehabilitation investigation project of the existing building at 18220 Sherman Way that will eventually house MSA-1's middle school population (the "**Rehab Investigation Project**"). The contract for the New Construction Project was awarded to Oltmans Construction Co. The New Construction Project is approximately 30% complete. The Rehab Investigation Project entails various investigations into the state of the structural integrity of the existing building, seismic renovation design, and HVAC renovation design, the purpose of which is to clearly define a scope of work that can be bid out in an RFP process. Upon completion of the Rehab Investigation Project, MPS Staff will report back to the Facilities Committee with its findings and a proposed course of action to rehab the existing building.

B. PrimeSource Agreement and Services Provided to Date

1. PrimeSource Agreement

MPS entered into a Construction Management Consulting Agreement with PrimeSource as of August 21, 2017 (the "**Agreement**"). A copy is attached as Exhibit A. For the sake of clarity, a description of the typical duties of a construction manager (as compared to a general contractor) is attached as Exhibit B.

PrimeSource's scope of services is provided in two places in the Agreement—Section 2.2 and Exhibit A. Section 2.2 provides that "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")." While Section 2.2 references MSA-Santa Ana, Exhibit A does not make any reference to that project. Exhibit A describes the scope in relevant part as follows: "Provide construction management services at the following school: "Magnolia Science Academy 1 – Reseda". It further describes the scope of work under the Agreement as follows (emphasis added):

- *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.*

The Agreement is a time and materials contract. Section 3.5.1 of the 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 Agreement does not include a not to exceed provision, although in Exhibit B, it does state that “[t]otal estimated fees are \$308,000 based on attached spreadsheet of presumed project schedule and level of resources required.” The referenced spreadsheet is not in fact attached to the Agreement.

In sum, it is clear based on the language of the Agreement that MPS contemplated that PrimeSource’s scope of work was sufficiently expansive to include project and construction management services for both the New Construction Project and the Rehab Investigation Project. However, for the avoidance of doubt, MPS Staff recommends that if PrimeSource is further engaged to continue working on the Projects that the amendment clearly articulate the scope of work and PrimeSource’s duties. A sample description is included as Exhibit B.

2. Services Under the Existing Agreement

PrimeSource has been acting as a project manager and construction manager for both the New Construction Project and the Rehab Investigation Project. While they are separate projects—one is ground up construction and the other is investigatory work—both are for the benefit of MSA-1. Moreover, 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.

PrimeSource was hired to construction manage a “ready to go” new construction project. “Ready to go” in this context means that all plans are final and reviewed by the Los Angeles Department of Building and Safety and permits are ready to issue. However, the New Construction Project was not “ready to go” and, as a consequence, PrimeSource’s services expanded to include extensive pre-development services to get the New Construction Project “ready to go”. Plan check took many more months than expected. The design team required assistance in finalizing the plans. Notwithstanding the delay in permit issuance, PrimeSource was able to save time on the schedule by demolishing the then existing building at 18220 Sherman Way which served as a gymnasium for MSA-1. Upon the selection of a general contractor and the beginning of construction, PrimeSource actively managed the day to day operations. PrimeSource’s expertise was particularly helpful not only in addressing questions and issues as they arose but also anticipating issues that might arise. For example, PrimeSource was a principal driver in having the construction



and design teams re-visit the surface play area on the roof to make sure it was designed to last without leaking, a common problem with play areas placed on the roof. In addition, PrimeSource's services encompassed typical construction management duties, for example, reviewing RFIs, submittals, etc.

PrimeSource also commenced reviewing the existing building and identified and hired engineers to study various components of the building and to recommend improvements. It was this investigation that uncovered the structural deficiencies in the existing building. PrimeSource then tasked the same engineers with designing appropriate fixes.

C. Contract Extension and Amendment

MPS staff expects that if the Facilities Committee and MPS Board approve an extension of the Agreement, that PrimeSource's scope of work, unless modified, will include substantially the same scope of work as described herein. MPS Staff believes it would be prudent to continue to use PrimeSource both on the New Construction Project and on the Rehab Investigation Project as well as the resulting rehab project once the scope for the existing building has been fully developed. MPS's scope of work could include the following:

Continue to manage the New Construction Project (including site work but not zoning work and not FF&E procurement or move-in) to keep it on schedule and on or under budget; such services include but are not limited to

- Reviewing payment applications
- Troubleshoot and propose solutions in real time
- Review RFIs and submittals and insure that the design team responds in a timely manner
- Manage the engineers, architects, and inspectors; liaise with City utility companies as needed

Continue to manage the Rehab Investigation Project in order to develop a scope of work that can then be bid out, including but not limited to

- Manage the engineers and architect preparing plans for submission to the City of Los Angeles Department of Building and Safety
- Manage roof replacement and seismic retrofit
- Collaborate with First Note Finance to oversee the replacement of the HVAC units using Prop 39 Energy Efficiency Funds
- Manage the bid process for the Rehab Project

MPS Staff can work with PrimeSource to better define a scope based on fee considerations.

D. PrimeSource Fee Discussion

MPS Staff believes that the fee structure proposed herein is fair and reasonable.

As a percentage of the total budget for the New Construction Project, the total PrimeSource fee, inclusive of the additional fee described herein, will be 3% of the total New Construction Project budget previously approved by the MPS Board (\$375,000 ÷ \$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.

III. Budget Impacts

The MSA-1 New Construction Project budget, as adopted by the MPS including the anticipated intercompany loan, 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 November 27, 2018, is as follows:

Budget Summary	Approved Budget	Current Tracking Budget	Invoice Summary	
			Invoices Received to Date	Left-to-Pay
			31.0%	69.0%
Acquisition Cost Subtotal	\$1,000,000	\$1,000,000	\$1,000,000	\$0
Hard Costs Subtotal	\$8,448,979	\$8,527,158	\$1,583,246	\$6,943,912
Soft Costs Subtotal	\$968,490	\$950,078	\$622,026	\$328,052
Financing Costs Subtotal	\$55,000	\$55,000	\$25,000	\$30,000
Management Costs Subtotal	\$250,000	\$375,000 ^[1]	\$308,450	\$66,550 ^[2]
Subtotal Project Costs	\$10,722,469	\$10,907,236	\$3,538,722	\$7,368,514
Budget Contingencies	\$633,528	\$448,761 ^[3]	\$0	\$448,761
Total Project Budget	\$11,355,997	\$11,355,997	\$3,538,722	\$7,817,275

Notes:

[1] The original approved budget was set at \$250,000 because MPS Staff intended to allocate said amount to the New Construction Project and \$58,000 to the Rehab Project from the \$308,450 PrimeSource fee. However, since all fees to date have been paid from the 2017 Bond, the CM Fee has been re-adjusted. The above budget includes an allowance of \$66,550 to pay PrimeSource’s outstanding invoice of \$24,862 and to pay for remaining services on the New Construction Project. Any amounts over the \$375,000 will be paid from the 2014 Bond.

[2] “Left to Pay” amount reflects outstanding amount of \$24,862 for current invoice and \$41,688 for future invoices

[3] Reflects impact of PrimeSource change order. Also, reflects previously approved Oltmans Change Order #1.

Exhibits (attachments):

- A. *Professional Services Agreement is entered into on August 21, 2017 by and between Magnolia Educational & Research Foundation and PrimeSource Project Management LLC*
- B. *Construction Manager General Description*



C. Sample Scope of Service



Exhibit A

PrimeSource Project Management LLC and Magnolia Public Schools
Consulting Agreement

SCOPE OF WORK;
ALSO SEE EXHIBIT A

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
MAGNOLIA EDUCATIONAL & RESEARCH FOUNDATION AND
PRIMESOURCE PM, LLC

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

2.2. Project. 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. Scope of Services. 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. Control and Payment of Consultant and its Subordinates. 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. Conformance to Applicable Requirements. All work prepared by Consultant is subject to the approval of Client and any and all applicable regulatory State agencies.

3.2.3. Reports. 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. Work Authorization. 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. Coordination of Services. 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. Standard of Care. 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. Insurance. Consultant shall comply with the following insurance provisions, unless one or more paragraphs are specifically waived by the Client in writing:
- 3.3.1. Time for Compliance. 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. Minimum Requirements and Limits. 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

- 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. Insurance Endorsements. 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 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, 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. Separation of Insureds; No Special Limitations. 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.

3.3.5. Verification of Coverage. 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. Safety. 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. Compensation. 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. Payment of Compensation. 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. Extra Work. 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. Maintenance of Accounting Records. 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. Grounds for Termination. 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.

- 4.1.2. Effect of Termination. 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. Additional Services. 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. Delivery of Notices. 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. Mediation. 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.

6. Attorney's Fees. 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. Indemnification. 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. Entire Agreement. 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. Governing Law. 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. Time of Essence. Time is of the essence for each and every provision of this Agreement.
11. Successors and Assigns. 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. Amendments/Waiver. 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. Severability. 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. Interpretation. 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. Fingerprinting Requirements. 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.

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
MAGNOLIA EDUCATIONAL & RESEARCH FOUNDATION AND
PRIMESOURCE PM, LLC

16. TB Testing. 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. Confidentiality. 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. Drug/Tobacco-Free Facilities. 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. Board Approval Required. 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. Exhibits and Recitals. All Exhibits and Recitals contained herein are hereby incorporated into this Agreement by this reference.
21. Counterparts. 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 Young

By: Caprice Young, Ed.D. _____ Dated: August 21, 2017

Title: CEO & Superintendent

PRIMESOURCE PM, LLC, a California Limited Liability Company

By: *Karen McLaurin Buresh* Dated: August 21, 2017
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:

1. **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 cafegymnasium 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.

COMPENSATION
IS ON A TIME AND
MATERIAL BASIS
WITH NO CAP

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.

NOTE: ESTIMATE OF FEES



Exhibit B

General Construction Manager Description

Construction managers are responsible for setting and keeping schedules, monitoring finances, and making certain that everybody is doing what they should every day. They help ensure that the workplace is free of safety hazards and deal with the various working relationships that exist on a job site.

To put a finer point on it, construction managers oversee and lead a range of building projects from beginning to end. Construction runs the gambit between smaller renovation and remodeling jobs to larger commercial projects, like office buildings, hospitals, and schools.

Construction Manager vs. General Contractor

While the terms “construction manager” and “general contractor” are often used interchangeably, there are actually distinct differences between them. Typically, construction managers are involved in a given project from start to finish. They help clients with initial planning, along with the selection of the project's general contractor and architect..

Responsibilities of a Construction Manager

There are certain tasks that are performed by construction managers. These include:

Quality management. Construction projects quite often involve a number of contractors and subcontractors. One of the most important jobs of the construction manager is making certain everyone is doing quality work and not cutting any corners along the way.

Cost management. A good construction manager is constantly on top of costs and makes the necessary adjustments when unexpected complications or issues arise.

Safety management. Construction managers need to be able to identify and eliminate possible safety hazards for the good of everyone on the job site.

Contract administration. It is the job of the construction manager to ensure that every provision of the contract is being met and that all parties involved are happy.

Beyond everything else, construction managers need to keep all parties involved well informed throughout the whole project. It includes the client, the architect, and any contractor or subcontractor involved. If issues arrive, the manager must be in the position to deal with them immediately.



Exhibit C

Sample Scope of Services

The Scope of Work shall include the following and any ancillary services reasonably related to the

- Coordinate permits & entitlement processing, as needed
- Coordinate strategy with the appropriate municipal and government departments and other public officials in order to gain approvals, as needed
- Develop, maintain and update master Project schedule; review and report on schedule changes and update Client accordingly
- Develop, maintain and update master Project budget, including estimating, tracking expenditures, approving invoices for payment, and providing cost-to-completion estimates
- If requested by Client, design and publish RFP for construction services in connection with the rehabilitation of the existing school building Project
- Oversee and manage design team and general contractor and their respective performance both on the new construction project and the existing school building
- Project administration, including Client/architect/contractor meetings, shop drawing processing, requests for information, submittals and design team coordination
- Oversee implementation of cost-saving proposals, testing & inspection processes, and/or Client-directed and Client-approved changes to the design
- Provide reports reasonably required by Client, architect, state and public agencies and such other parties as may require them in order to successfully complete and fund the Project
- Initial coordination for start-up activities and site preparation, including utility will-serve letters, as needed
- Manage construction close-out, including punch list, and systems training
- Manage project close-out
- Coordinate move-in, if and as requested by Client

The Scope of Services does not include any service not clearly articulated above and the following:

- FF&E procurement
- Any zoning change work