

AGENDA FOR
BOARD OF SCHOOL TRUSTEES
REGULAR MEETING

Elkhart Community Schools
Elkhart, Indiana

February 14, 2017

CALENDAR

| | | | |
|-----|----|-----------------------|--|
| Feb | 14 | 5:30 p.m. | Public Work Session, Pinewood Elementary, 3420 E. Bristol Street |
| Feb | 14 | Immediately following | Executive Session, Pinewood Elementary, 3420 E. Bristol Street |
| Feb | 14 | 7:00 p.m. | Regular Board Meeting, Pinewood Elementary, 3420 E. Bristol Street |
| Feb | 21 | 7:00 a.m. | Public Work Session, J.C. Rice Educational Services Center |
| Feb | 28 | 5:00 p.m. | Regular Board Meeting, North Side Middle School, 300 Lawrence Street |
| Mar | 14 | 5:30 p.m. | Public Work Session, J.C. Rice Educational Services Center |
| Mar | 14 | Immediately following | Executive Session, J.C. Rice Educational Services Center |
| Mar | 14 | 7:00 p.m. | Regular Board Meeting, J.C. Rice Educational Services Center |
| Mar | 14 | Immediately following | Executive Session, J.C. Rice Educational Services Center |

- A. CALL TO ORDER/PLEDGE
- B. INVITATION TO SPEAK PROTOCOL
- C. SUPERINTENDENT'S STUDENT ADVISORY COUNCIL REPRESENTATIVES
Central High School – Anthony Vu
Memorial High School – Abegail Doncilovic
- D. SPECIAL RECOGNITION
Pierre Moran 7th Grade Basketball Big 11 Tournament Winners
- E. CORPORATE/COMMUNITY PARTNERSHIP OVERVIEW
Update on Corporate/Community Partnership
Recognition of Community Partners
Beardsley Project Update
Contingent Side Agreement
Elkhart Health, Fitness, Aquatics and Community Center Agreement
- F. BUILDING REPORT
Building Energy Report – Jeff Komins
Pinewood Principal - Mindy Shaw

G. MINUTES

January 24, 2017 – Public Work Session
January 24, 2017 – Regular Board Meeting
January 30, 2017 – Public Work Session

H. TREASURER'S REPORT

Consideration of Claims

Appropriation Transfers - The Business Office reports on the transfer of appropriations of the 2016 tax funds.

Gift Acceptance - The administration recommends Board acceptance with appreciation of recent donations made to Elkhart Community Schools.

Extra Curricular Purchase - The Business Office seeks Board approval of an extra-curricular purchase request.

Fundraisers - The Business Office recommends Board approval of proposed school fundraisers in accordance with Board Policy.

Timber Harvest Update

I. UNFINISHED BUSINESS

Redevelopment Commission Appointment

J. NEW BUSINESS

Amendment to Management Services Agreement – The administration recommends approval of a proposed amendment to the agreement with TransPar to provide transportation management services.

Administrative Regulation GDBA-10 – Miscellaneous Position Pay Schedule- The administration presents proposed revisions to Administrative Regulation GDBA-10 – Miscellaneous Position Pay Schedule for initial review.

Alternative Educational Services Agreement – The administration recommends Board approval for alternative educational services for an Elkhart Community Schools' student.

Grant Approval – It is recommended the Board approve submission of grants as recommended by the administration.

Overnight Trip Request - The administration seeks Board approval of overnight trip requests.

K. PERSONNEL

Conference Leaves - It is recommended the Board grant conference leave requests in accordance with Board Policy to staff members as recommended by the administration.

Certified and Classified Staff - See the report and recommendations of the administration.

L. INFORMATION AND PROPOSALS

From Audience

From Superintendent and Staff

From Board

M. ADJOURNMENT

CONTINGENT SIDE AGREEMENT

This Contingent Side Agreement is entered into between ELKHART COMMUNITY SCHOOLS (“**Schools**”) and the COMMUNITY FOUNDATION OF ELKHART COUNTY, INC. (“**Foundation**”) on _____, 2017.

RECITALS

A. The Foundation is one of two Members of Elkhart Health, Fitness and Aquatics, Inc., an Indiana nonprofit corporation (“**Elkhart Aquatics**”).

B. BEACON HEALTH SYSTEM, INC. (“**Beacon**”) is the other Member of Elkhart Aquatics, and Beacon has contracted with Elkhart Aquatics and the Foundation to manage the operations at Elkhart Aquatics.

C. The operations at Elkhart Aquatics will include four pools and certain related facilities in a new building (“**Aquatics Facilities**”) to be constructed on land to be owned by Elkhart Aquatics in Elkhart, Indiana.

D. The Schools are negotiating an Agreement Concerning Aquatic Facilities with Elkhart Aquatics and Beacon, under which the Schools would have certain rights to use the pools and certain related facilities of Elkhart Aquatics, and under which the Schools would make certain payments with said payments being used to support the costs related to construction of the Aquatic Facilities, improvements to the Aquatic Facilities, and maintenance thereof.

E. Before entering into the Agreement Concerning Aquatic Facilities described above, the Schools desire assurances from the Foundation that the Schools will be included in the process involving the operations of Elkhart Aquatics. The Foundation is willing to provide these assurances, as provided in this Contingent Side Agreement.

The Schools and the Foundation accordingly agree as follows:

AGREEMENT

1. Representation on Elkhart Aquatics’ Board. Foundation will immediately cause the Articles of Incorporation and/or Bylaws of Elkhart Aquatics to be revised so as to provide for a Board of Directors consisting of seven (7) members. Prior to and during construction of the Aquatics Facilities, Foundation shall have five (5) directors designated by Foundation to serve on the Board of Directors of Elkhart Aquatics. Of the five (5) initial directors (subsequent to the amendment of the Articles of Incorporation and/or Bylaws) designated by Foundation, one (1) director shall be selected by Foundation from a list of nominees provided by Schools to Foundation. Foundation further agrees the size and allocation of the Board of Directors of Elkhart Aquatics shall not change except in the event of a unanimous vote by all Directors. In addition, with the exception of the management duties that have heretofore been assigned to Beacon by contract, the Foundation agrees the governance duties of the Directors shall not be delegated to any other committee or entity except in the event of a unanimous vote by all

Directors. Upon occupancy of the Aquatics Facilities, Foundation shall designate four (4) directors, Beacon shall designate two (2) directors and Schools shall designate (1) director to serve on the Board of Directors of Elkhart Aquatics.

2. Nature of Consultation. The parties acknowledge and agree the purpose of Section 1 is to ensure the Schools will have the opportunity to provide its input and perspective, and Elkhart Aquatics will benefit from the input and perspective of the Schools.

3. Agreement Concerning Aquatics Facility Unaffected. Schools acknowledge nothing in this Contingent Side Agreement is intended to give either Elkhart Aquatics or Schools the right to terminate or amend the Agreement Concerning Aquatics Facility except as provided for in that Agreement.

“SCHOOLS”

ELKHART COMMUNITY SCHOOLS

By: _____

Printed Name: _____

Title: _____

“FOUNDATION”

COMMUNITY FOUNDATION OF ELKHART COUNTY,
INC.

By: _____

Printed Name: _____

Title: _____

“BEACON”

BEACON HEALTH SYSTEMS, INC.

By: _____

Printed Name: _____

Title: _____

AGREEMENT
CONCERNING
AQUATICS FACILITY
ELKHART HEALTH, FITNESS AND WELLNESS CENTER
BETWEEN
ELKHART HEALTH, FITNESS AND AQUATICS, INC.
AND ITS MANAGER
BEACON HEALTH SYSTEM, INC.
AND
ELKHART COMMUNITY SCHOOLS

_____, 2017

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EXHIBITS

- EXHIBIT A Land, Improvements and Plan of Premises (Recital B)
- EXHIBIT B Rules (Section 4.5)

SCHEDULES

- Schedule 4.1 Permitted Uses
- Schedule 4.2 School Programming Schedule

AQUATICS FACILITY AGREEMENT

THIS Agreement (this “**Agreement**”), is made as of _____, 2016, by and between Elkhart Health, Fitness and Aquatics, Inc., an Indiana nonprofit corporation (“**EHFA**”), and EHFA’s manager Beacon Health System, Inc., an Indiana nonprofit corporation (“**BHS**”), and Elkhart Community Schools, an Indiana community school corporation (“**ECS**”), with reference to the following facts:

A. EHFA and BHS are each organized exclusively for educational or charitable purposes. ECS is a political subdivision of the State of Indiana and is exempt from federal income taxes under Section 115 of the Internal Revenue Code of 1986, as amended (the “Code”). BHS is part of a healthcare system and exempt from federal income taxes under 501(c)(3) of the Code. EHFA will apply for exemption from federal income taxes under 501(c)(3) of the Code.

B. BHS is developing the building and other improvements located at premises that are in Elkhart, Indiana (the “**Improvements**”) on land (the “**Land**”) contributed to EHFA by BHS. BHS will operate the Improvements and use the Land for purposes in furtherance of BHS’s healthcare mission to promote health and wellness and EHFA’s charitable purposes. The Land and Improvements are identified on attached Exhibit A. The Improvements include the construction of a community wellness center and natatorium in Elkhart, Indiana, which facility is depicted on Exhibit A and which will include a fitness and wellness area, community gathering space, offices for local non-profit organizations and a regional natatorium for aquatic competition, recreation and physical therapy, including four pools – a competition and training pool with diving well (“**Competition and Training Pool**”), a teaching and fitness pool (“**Teaching and Fitness Pool**”), a therapy and rehab pool (“**Therapy and Rehab Pool**”) and a whirlpool (“**Whirlpool**”) (the four pools are collectively referred to as the “**Pools**”).

C. For educational purposes, ECS provides aquatics, swimming and diving programs (including, but not limited to competitive, educational and instructional programs) and other organized swimming and diving programs to its students, and participates in competitive aquatics, swimming and diving events with other schools, including events through the Indiana High School Athletic Association (“**IHSAA**”).

D. ECS and EHFA and BHS desire to partner together by entering into a relationship in which ECS will, in exchange for the Payments provided for and defined in this Agreement, have certain rights, on a non-exclusive basis, to use the portion of the Improvements shown on Exhibit A as the aquatics facility, including the Competition and Training Pool and the Teaching and Fitness Pool, lockers and dry training areas, and access to seating identified on Exhibit A under the color key as either “Elkhart Community Schools”, “Aquatics Center” or “General” (the “**Premises**”) for the Permitted Purposes defined in Section 4.1 on all of the terms and conditions set forth in this Agreement (including with respect to dates and times), so that ECS may offer such Permitted Uses for educational purposes including, but not limited to, aquatics, swimming and diving programs, and educational and instructional uses to its students, participation in competitive aquatics, swimming and diving events with other schools, including through the IHSAA or similar organizations, and including members of the public as spectators at such events. In its use of the Premises for Permitted Uses (defined in Section 4.1), ECS shall also have non-exclusive use of the Pools and surrounding area required for swim meets and other events at

the Pools; areas provided for spectators; locker room facilities to be used by students, teachers, athletes, coaches and other required personnel; portions of common areas utilized for warm-up activities by the students and athletes; and portions of the common areas needed to provide access the Pools and spectator areas.

E. Except as otherwise provided herein and when exclusively reserved to ECS, ECS acknowledges that the Premises including the Pools, may be used by or made available to others by BHS. Except as otherwise provided herein, ECS also acknowledges that the Improvements including the Pools, are a multi-use facility, including portions that will be accessible by the general public, as well as portions reserved for specific therapeutic, clinical and other programs and activities.

F. In addition to the payments to be made by ECS, that will be used by BHS for the construction of and improvements to the Premises, and for operations and maintenance of the Premises under this Agreement, other funding for the Facilities is anticipated to be provided by other sources, including the Community Foundation of Elkhart County, Inc. (the “**Foundation**”), BHS, City of Elkhart and Regional Cities Grant Program, and the payments to be made by ECS toward the capital costs of the project constitute a substantial portion of the local government match that is required in order to obtain funding through the Regional Cities Grant Program. The funding by the Foundation, BHS and ECS will be used ratably for the Improvements.

Therefore, in consideration of the foregoing premises and other good and valuable consideration given and received, BHS and ECS agree as follows:

**ARTICLE 1
SCHEDULE OF DEFINITIONS**

The definitions of the following capitalized terms used in this Agreement are located at the Section of this Agreement indicated below after the respective terms.

| <u>Definition</u> | <u>Agreement Section</u> |
|-------------------------------|--------------------------|
| Abandons or Abandonment | 12.1(e) |
| Additional Payments | 3.5 |
| Affiliate | 15.2 |
| Agreement Year | 2.2 |
| Alterations | 10.1 |
| Architect’s Opinion | 13.1 |
| Building Requirements | 10.1 |
| Commencement Date | 2.2 |
| Common Area | 4.3 |
| Competition and Training Pool | Recital C |
| Condemnation | 14.1 |
| Default Rate | 12.7 |
| Environmental Laws | 7.2 |
| Event of Default | 12.1 |
| Exclusive School Uses | 4.2 |
| Hazardous Materials | 7.2 |
| IHSAA | Recital C |
| Improvements | Recital B |

| | |
|-------------------------------|--------------------------------|
| Land | Recital B |
| BHS | Introduction, and Section 17.3 |
| Agreement | Introduction |
| Legal Requirements | 9.1 |
| Lender | 16.1 |
| Mid-Term Capital Amount | 3.3 |
| Mortgage | 16.1 |
| Operational Costs | 3.4 |
| Operational Payments | 3.4 |
| Permitted Transfer | 15.2 |
| Permitted Uses | 4.1 |
| Pools | Recital C |
| Pre-Commencement Payments | 3.2 |
| Premises | Recital D |
| Payments | 3.1 |
| Rules | 4.5 |
| School Programming Schedule | 4.2 |
| Standard Operating Hours | 8.3 |
| Teaching and Fitness Pool | Recital C |
| ECS | Introduction |
| ECS Parties | 7.1(a) |
| ECS's Capital Amount Share | 3.3 |
| ECS's Operational Costs Share | 3.4 |
| Term | 2.2 |
| Therapy and Rehab Pool | Recital C |
| Whirlpool | Recital C |

**ARTICLE 2
GRANT; TERM OF AGREEMENT**

SECTION 2.1 Grant

In consideration of the payments to be paid by ECS and covenants to be performed by the parties, ECS will have the rights and obligations relating to the Premises, on the terms, conditions and provisions set forth below.

SECTION 2.2 Term of Agreement

The term of this Agreement (the “**Term**”) will commence on _____, 201_ or such later date as provided in Section 2.4 (the “**Commencement Date**”), and will end on the date that is 20 years after the Commencement Date (the “**Expiration Date**”), provided that the Commencement Date and Expiration Date are each subject to Section 2.4 below. Each annual period ending on an anniversary of the Commencement Date is sometimes referred to as an “**Agreement Year**.” At least three years before the Expiration Date, ECS and BHS will begin discussions regarding the possible extension of the Term or entry into a new Agreement regarding the Premises on mutually agreeable terms, it being understood that such discussions and any resulting agreement shall address capital needs similar to the provisions for the Mid-Term Capital Amount in Section 3.3.

SECTION 2.3 Construction

BHS will, with commercially reasonable diligence, construct the Improvements in accordance with plans and specifications that have been provided to ECS.

The Improvements shall be in substantial compliance in all material respects with the plans previously provided to ECS. Once the approved plans and specifications for the Improvements have been permitted by the City of Elkhart, Indiana, then ECS shall thereafter be responsible for the cost of any changes or alterations to the final plans that are requested by ECS and agreed upon by BHS in its sole discretion.

BHS will not materially change the Improvements in a manner that would materially and adversely affect ECS's Permitted Uses of the Premises, without ECS's prior written approval, which shall not be unreasonably withheld, conditioned or delayed.

SECTION 2.4 Possession and Commencement Date

ECS shall be entitled to possession of the Premises for purposes of Permitted Uses (defined in Section 4.1) on the later of the Commencement Date stated in Section 2.2 above or the date the Certificate of Occupancy (or its equivalent in the event the City of Elkhart, Indiana no longer issues Certificates of Occupancy) is issued. Such entitlement of possession shall be the actual Commencement Date of the Term (notwithstanding the date provided in Section 2.2), and BHS and ECS will promptly execute a memorandum to this Agreement confirming the Commencement Date and Expiration Date of the original Term, as soon as such dates are determined. BHS makes no promise or warranty relating to the condition or delivery of the Premises except as specifically stated in this Agreement to perform the Improvements, and except as otherwise specifically provided in this Agreement. In the event of delay in possession after the stated Commencement Date in Section 2.2 above, this Agreement shall not be rendered invalid, and BHS shall not be liable to ECS for damages in any respect whatsoever; provided that the Commencement Date shall be delayed until possession is delivered.

**ARTICLE 3
PAYMENTS**

SECTION 3.1 Payment Components

The amounts payable by the ECS to the BHS under this Agreement (the "**Payments**") are in exchange for ECS's use of the Premises, and include (i) the Pre-Commencement Payments provided for in Section 3.2, (ii) the Mid-Term Capital Amount provided for in Section 3.3, and (iii) the Operational Payments provided for in Section 3.4, and the Additional Payments provided for in Section 3.5. All Payments shall be paid without previous demand and without any right of setoff, offset, counterclaim, abatement, suspension, deduction or defense of any kind whatsoever, at the address set forth for BHS in Section 17.1 below, or at such other place as BHS may from time to time designate in writing

SECTION 3.2 Pre-Commencement Payments

ECS shall pay to BHS the sum of Six Million Dollars (\$6,000,000) (the “**Pre-Commencement Payments**”) with ECS making a total payment of \$4,000,000 in 2016, no later than December 31, 2016 and a total payment of \$2,000,000 in 2017, no later than December 31, 2017. The Pre-Commencement Payments shall be payable in the installments and at the times set forth on Schedule 3.2. Such Pre-Commencement Payments made by ECS will be applied to construction of Improvements to the Premises. If EHFA and BHS determine, without first consulting with ECS, to abandon the construction of the Facilities, BHS shall repay to ECS that portion of the Pre-Commencement Payments already paid by ECS to BHS that is equal to the total of (i) Pre-Commencement Payments paid by ECS, plus (ii) contributions in funds or in kind made or committed to be made by BHS and the Foundation, minus (iii) disbursements made and payments committed and not cancellable for the construction of the Improvements, multiplied by a fraction, the numerator of which is the amount in (i) above, and the denominator of which is the amount in (ii) above.

SECTION 3.3 Mid-Term Capital Amount

On the tenth (10th) anniversary of the Commencement Date, ECS shall pay BHS an amount as determined below necessary to address capital improvements to the Premises that are determined in good faith by BHS to be (or have been) required as a result of depreciation, wear and tear on the aquatics facility (including costs of repairs or replacements of material capital items (such as electronic scoreboards, cameras, and timers that may be required during that preceding 10-year period) (the “**Mid-Term Capital Amount**”). To assist BHS in determining the Mid-Term Capital Amount, BHS will retain an independent third party aquatics consultant to assess the condition of the aquatics facility and provide a recommendation report to the BHS and ECS, which shall identify the necessary improvements and provide information useful in establishing a capital improvements budget by BHS. The capital improvements budget will provide for a breakdown of improvements between (i) those exclusively for the benefit of the ECS and Permitted Uses and (ii) those necessary for the overall upkeep of the aquatics facility at the Premises. The Mid-Term Capital Amount shall be the sum of (i) the cost of the improvements necessary for the overall upkeep of the aquatics facility at the Premises, multiplied by the ECS’s Capital Amount Share, as defined herein, plus (ii) the cost of the improvements exclusively for the benefit of the ECS and Permitted Uses.

“**ECS’s Capital Amount Share**” initially means 28% and is based on BHS’s and ECS’s good faith estimate of the approximate usage by ECS based on the School Programming Schedule attached as Exhibit 4.2. ECS’s Capital Amount Share shall be adjusted in the amount and to the extent the School Programming Schedule changes, to reflect a fair allocation of the average annual percent of usage of the Premises by ECS compared to the overall usage of the Premises by all parties over the ten (10) year period commencing on the Commencement Date.

SECTION 3.4 Operational Payments

ECS will pay ECS’s Operational Costs Share to BHS for each Agreement Year (the “**Operational Payments**”). The Operational Payments will be made in two (2) equal payments during each Agreement Year. The first semi-annual payment of Operational Payments shall be

made on the first day of the month after the Commencement Date, and semi-annual payments of Operational Payments shall be made on each six month anniversary of the date the first semi-annual payment of Operational Payments was due. The initial two semi-annual payments of Operational Payments shall each be \$200,000 provided that for each Agreement Year after the first Agreement Year the amount of Operational Payments will be increased or decreased as provided below to the extent Operational Costs incurred by BHS relating to the Premises in that Agreement Year exceed or are less than the Operational Costs incurred by BHS or EHFA relating to the Premises during the preceding Agreement Year.

“Operational Costs” means all expenses reasonably incurred annually by BHS or EHFA in the ownership and operation of the Premises, including but not limited to staffing and personnel, gas, water, sewer, electricity and other utility charges, premiums and other charges for insurance (except as provided in Article 6), reasonable reserves for replacements (excluding capital replacements), repairs and contingencies, and maintenance and repair of the Premises. Notwithstanding the foregoing, Operational Costs does not include expenses of a capital nature, including but not limited to capital improvements, capital repairs, or capital equipment which, under generally accepted accounting principles, are not regarded as operating or maintenance expenses.

“ECS’s Operational Costs Share” initially means 28% and is based on BHS’s and ECS’s good faith estimate of the approximate usage by ECS based on the School Programming Schedule attached as Exhibit 4.2. ECS’s Operational Costs Share shall be adjusted each Agreement Year to reflect the actual percent of usage of the Premises by ECS (which presumptively shall be as set forth in the School Programming Schedule, as adjusted from time to time) compared to the preceding Agreement Year to reflect a fair allocation of Operational Costs, resulting from increase or decrease in ECS’s usage.

The Operational Payments for each Agreement Year shall be increased or decreased, as the case may be, to the extent, if any, that (i) ECS’s Operational Costs Share for that Agreement Year exceeds or is less than the ECS’s Operational Costs Share for the preceding Agreement Year or (ii) Operational Costs for that Agreement Year exceed or are less than Operating Expenses for the preceding Agreement Year (the **“Annual Operational Cost True-Up.”**) BHS shall submit a monthly aquatics operational cost summary compared to the monthly expected budget to serve as a periodic monitoring tool for the Annual Operating Cost True-Up. Representatives of BHS and ECS shall meet on a monthly basis, as an operations committee or as part of the Facilities Review Committee; to review the operational cost summary and to discuss operations of the aquatics facility. BHS shall submit a statement to ECS computing the Annual Operational Cost True-Up within 120 days after the end of each Agreement Year (**“BHS’s Statement”**). In addition, ECS shall have the right at any time to review BHS’s records and estimates regarding Operational Costs. BHS and ECS intend for the Operational Costs to be reasonable and for each of them to have all available information regarding Operational Costs.

ECS shall pay BHS any Annual Operational Cost True-up for an Agreement Year within 90 days after receipt of BHS’s Statement certifying to the Annual Operational Cost True-Up, unless ECS gives BHS notice of disagreement with BHS’s Statement within that 30-day period, identifying with reasonable particularity the basis for ECS’s disagreement with BHS’s Statement (**“Objection Notice”**). If an Objection Notice is timely given, BHS and ECS shall endeavor in

good faith to resolve their differences regarding the Annual Operational Cost True-Up, but if they cannot agree within 30 days, either BHS or ECS may submit the disagreement to binding arbitration by an independent accounting firm mutually agreeable to BHS and ECS.

Each installment of Operational Payments is subject to annual appropriation and is not a debt of the ECS or any other person. The ECS intends to continue this Agreement for its entire term and to pay the Operational Payments relating to this Agreement. The person or entity in charge of preparing the ECS's budget will include in the budget request for each fiscal year the Operational Payments to become due in such fiscal year, and will use all reasonable and lawful means available to secure the appropriation of money for such fiscal year sufficient to pay all Operational Payments coming due in that year. The parties acknowledge that appropriation for Operational Payments requires legislative action. Notwithstanding the foregoing, failure to pay Operational Payments, whether as a result of inability to obtain legislative action or appropriation, or otherwise, shall constitute an Event of Default as provided in Section 12.1(a), and ECS shall not be entitled to use of the Pools or Premises during any period for which Operational Payments are unpaid.

SECTION 3.5 Additional Payments

All other charges and expenses expressly reserved and charged in this Agreement, including those set forth at Section 3.6 "Delinquent Payments," Section 4.5 "Rules," Section 7.1 "Indemnification," Section 9.2 "Compliance with Environmental Laws," Section 11.2 "Holding Over," Section 12.2 "BHS Remedies" and Section 12.7 "Default Rate" and which may be payable by ECS are collectively referred to as "**Additional Payments,**" and are payable at the times and in the manner provided in this Agreement.

Each item of Additional Payments is subject to annual appropriation and is not a debt of the ECS or any other person. The ECS intends to continue this Agreement for its entire term and to pay the Additional Payments relating to this Agreement. The person or entity in charge of preparing the ECS's budget will include in the budget request for each fiscal year the Additional Payments to become due in such fiscal year, and will use all reasonable and lawful means available to secure the appropriation of money for such fiscal year sufficient to pay all Additional Payments coming due in that year. The parties acknowledge that appropriation for Additional Payments requires legislative action. Notwithstanding the foregoing, failure to pay Additional Payments when due, whether as a result of inability to obtain legislative action or appropriation, or otherwise, shall be an Event of Default as provided in Section 12.1(a), and ECS shall not be entitled to use the Pools or Premises during any period for which Additional Payments are delinquent.

SECTION 3.6 Delinquent Payments

If ECS fails to make any Payments required under this Agreement within thirty (30) days after the same is due, then a late charge equal to the Default Rate percentage multiplied by such late amount shall automatically become due and payable immediately to BHS to compensate BHS for the cost and inconvenience of addressing such late payment. In addition, for any payment that is not received by BHS within thirty (30) days after ECS receives written notice from BHS that such payment was not paid by the due date, such payment will bear interest at the

Default Rate set forth in Section 12.7, from the due date until the date such payment is received by BHS. This Section 3.6 does not limit BHS's rights to exercise other remedies, including as provided in Section 12.2, with respect to Events of Default.

SECTION 3.7 **Independent Obligations**

The obligations of ECS to make Payments required under this Agreement will be independent from all obligations, warranties and representations, express or implied, of BHS contained in this Agreement.

ARTICLE 4 USE OF PREMISES

SECTION 4.1 **Generally**

The Premises will be used by ECS during the Term only for the uses specified on Schedule 4.1 (the "**Permitted Uses**") in a high quality manner and consistent with ECS's current custom and practice in the community. Subject to Section 10.2, such Permitted Uses shall include, but are not limited to, the hanging of banners, placards or similar signs used to display such records, awards and championships as typically displayed at a home high school pool, but for avoidance of doubt shall not, without BHS's prior written approval which may be withheld in its sole discretion, include any advertising, or names or logos of sponsors or of any commercial or nonprofit organization. The Premises shall be used exclusively by ECS for educational, school athletics and related purposes that are Permitted Uses, and not for any other uses or purposes by ECS. ECS will not at any time use or occupy, nor allow any employee, student, or guest of any employee or student to use or occupy the Premises in any manner that is contrary to Legal Requirements (as defined in Section 9.1). ECS will not permit any waste or nuisance to occur at the Premises, or which may make void or voidable any insurance with respect to the Premises, or which may violate any provision of this Agreement.

To facilitate communication, transparency and cooperation, ESC and BHS shall establish a committee (the "**Facilities Review Committee**"), consisting of equal numbers of executives designated by each of ECS and BHS from time to time. The Facilities Review Committee shall consult with the athletic and aquatics directors from both ECS and BHS and provide information and nonbinding recommendations to BHS with respect to matters relating to the use and operation of the Premises as provided in this Agreement, including evaluating educational enrichment and programming opportunities and addressing scheduling issues regarding both short-term and long-term needs for ECS to access the Pools.

BHS and ECS will explore mutual opportunities for educational enrichment, including with respect to health and wellness education, involving a combination of facilities at the Premises and educators provided by ECS.

SECTION 4.2 **ECS's Exclusive Rights**

During the Term, so long as ECS is not in default under this Agreement, ECS shall have access and use of the Premises, and use of the Pools and any classrooms on the Premises, on the dates and for the times set forth in Schedule 4.2 (the "**School Programming Schedule**"). BHS

and ECS may from time to time mutually modify the School Programming Schedule by separate written agreement, and may consider recommendations by the Facilities Review Committee. BHS grants ECS the right to be the only public or private K-12, high school, junior high school or elementary level educational organization to use the Premises for K-12, high school, junior high school, or elementary school swimming or diving practices and as hosts of K-12, high school, junior high school, or elementary school swimming or diving competitions (collectively, the “**Exclusive School Uses**”) during the Term. All fees including, but not limited to, concession sales, admission fees and vendor fees collected by ECS relating to events associated with the Exclusive School Uses shall be the sole property of the ECS. All fees including, but not limited to, concession sales, admission fees and vendor fees collected by BHS relating to events not associated with the Exclusive School Uses shall be the sole property of the BHS. The parties acknowledge that certain organizations and clubs, such as Elkhart United, may be affiliated or associated with ECS from time to time as designated by ECS, but shall not be entitled to the Exclusive School Uses, although BHS will endeavor in good faith to accommodate usage by such organizations and clubs to the extent consistent with optimal operational, functional and overall strategic considerations relating to the Premises. ECS initially designates Elkhart United as such organization or club, and initially for the three (3) Lease Year intends to accommodate at least one competitive meet by Elkhart United, to be included as a cost of ECS in computing ECS’s Operational Costs Share and ECS’s Capital Amount Share. To the extent the designated organization or club uses any portion of the Premises as part of its normal practice schedule, such designated organization or club shall not be charged for such usage, but such usage shall be included in the calculation of ECS’s Operational Costs Share and Capital Amount Share. If such organization or club designated by ECS elects to use the Premises for competition, BHS may elect, after the first three (3) years, to charge such designated organization or club similar fees for such usage which shall not be on a less favorable basis than any such fee charged to organizations or clubs not affiliated with ECS, provided further that if such designated organization or club uses the Premises for competition, all concession sales, admission fees and vendor fees collected by such designated organization or club shall be the sole property of such designated organization or club. So long as ECS is not in default under this Agreement, the lockers and the coaches and club offices identified on Exhibit A as “Exclusive School Use” shall be reserved for the exclusive use of students and coaches of ECS who are designated by ECS from time to time as entitled to the use of such lockers and coaches and club offices, subject to the rights of ECS and BHS to inspect, clean and maintain such lockers and offices and to enforce applicable rules and regulations which either or both of ECS or BHS adopt regarding such lockers and offices. So long as ECS is not in default under this Agreement, BHS shall not enter into a lease, sublease or other agreement for use of space in the Premises by another party to provide the activities described in the Exclusive School Uses. For clarification purposes, ECS shall have priority access to the Premises for Permitted Uses under the School Scheduling Schedule and ECS's access to the Premises shall not be subject to rescheduling by BHS, except in case of emergency, or with the written consent of ECS which shall not be unreasonably withheld, conditioned or delayed. For additional clarification purposes, it is understood and agreed by ECS that the Premises are a multi-use facility that will often concurrently be used by others, including by the general public and by BHS for therapeutic clinical and other programs and activities. If BHS breaches its covenant under this Section 4.2, then ECS shall be entitled to seek injunctive relief to enjoin or restrain such occupant or BHS from engaging in such Exclusive School Uses.

SECTION 4.3 **Nonexclusive Uses**

The use and occupation by ECS of the Premises shall include a non-exclusive right to use the common areas of the Improvements and Land, including parking areas, solely for purposes of necessary access to the Premises by ECS and its students, employees and authorized spectators, subject to the terms and conditions of this Agreement and to reasonable rules and regulations as may be prescribed from time to time by the BHS in accordance with Section 4.5 below. The term “**common area**” shall mean all unreserved and unassigned facilities (including parking facilities as provided in Section 4.6) furnished in the Improvements and on the Land for the general use, in common, of multiple occupants of the Improvements (including ECS) and their respective invitees, employees, and patients and members of the public. BHS shall have the right to make such changes, modifications, and revisions to the site plan and common areas of the Improvements as the BHS may deem reasonably appropriate, provided such changes, modifications, and revisions do not materially impair access to and visibility of the Premises or otherwise unreasonably interfere with ECS’s Permitted Uses.

SECTION 4.4 **Preservation of Premises**

(a) ECS will not use, suffer, or permit the Premises to be used by ECS, any third party, or the public in such manner as to impair EHFA’s fee interest in the Land or ownership of the Improvements, or BHS’s management of the Facility, or in such manner as to make possible a claim of adverse usage or adverse possession by the public or third persons, or of implied dedication of the Premises. Nothing contained in this Agreement and no action or inaction by EHFA or BHS will be deemed or construed to mean that BHS has granted to ECS any right, power or permission to do any act or make any agreement that may create or give rise to any such right, title, interest, lien, charge or other encumbrance upon the estate of BHS in the Premises.

(b) ECS may conduct safety inspections of the Premises in a similar manner as ECS conducts on its other properties. ECS may notify the BHS of any safety hazards or concerns identified through such inspections. BHS shall confer with ECS regarding such safety hazards or concerns identified by ECS within ten (10) days of receipt of ECS's notice, with a view to developing a mutually agreeable plan to correct or eliminate mutually agreed upon safety hazards or concerns as soon as is reasonably practicable.

SECTION 4.5 **Rules**

ECS shall comply, and shall be responsible for causing its students, employees, and spectators and the students, employees and spectators of other schools participating in events at the Premises as part of the Permitted Uses and while on or about the Improvements and Land, to comply, with the Rules set forth in attached Exhibit B (the “**Rules**”). BHS shall have the right, by written notice to ECS, to amend such Rules reasonably and supplement the same with other reasonable Rules relating to the Improvements, or the promotion of safety, care, efficiency, cleanliness or good order therein, provided that such Rules will not materially and adversely conflict with the express terms of this Agreement. BHS shall enforce such Rules in a uniform and non-discriminatory manner as against ECS and others. To the extent any Rules conflict with the provisions of this Agreement, the provisions of this Agreement shall control.

SECTION 4.6 **Parking**

ECS acknowledges that the City of Elkhart, Indiana will be constructing a parking area on the Land. This Agreement will not be void or voidable, nor will EHFA and BHS be liable to ECS for any loss or damage therefrom or any reduction in Payments of any kind due to any delay in the completion of such parking area. As between EHFA and BHS on the one hand, and ECS on the other hand, the parking area will be available to ECS on a nonexclusive, unassigned and unreserved basis for use by its students, employees, invitees and authorized spectators, and the students, employees, invitees and authorized spectators of other schools participating in events at the Premises as part of the Permitted Uses. Any such use of parking areas shall be (i) subject to all of the terms and conditions of this Agreement, (ii) at ECS's sole risk and expense, (iii) in compliance with all applicable Legal Requirements, (iv) in compliance with any and all rules and regulations that BHS may in its reasonable discretion promulgate from time to time during the Term, and (v) in compliance with any and all ordinances, rules and regulations that City of Elkhart, Indiana may promulgate from time to time during the Term. BHS shall have no liability whatsoever, pursuant to this Agreement or otherwise, to ECS in connection with, and ECS shall indemnify and hold BHS harmless from, any claims for any damage or theft of any personal property (including vehicles) or any injury or death to persons or property that may occur or arise in connection with use of any parking areas by ECS or ECS's students, employees, invitees and spectators, and the students, employees, invitees and authorized spectators of other schools participating in events at the Premises as part of the Permitted Uses.

SECTION 4.7 **Rights Reserved by BHS; Access to Premises**

Except to the extent expressly limited in this Agreement, BHS reserves full rights to control the Improvements (which rights may be exercised without subjecting BHS to claims for constructive eviction, abatement of Payments, damages or other claims of any kind), including more particularly, but without limitation, the following rights:

(a) To: (i) change the name or street address of the Improvements or designation of the Premises, (ii) install and maintain signs on and about the Improvements, and grant any other person the right to do so, (iii) retain at all times, and use in appropriate instances, keys to all doors within and into the Premises, and (iv) in case of fire, invasion, insurrection, riot, civil disorder, public excitement or other dangerous condition, or threat thereof: (a) limit or prevent access to the Improvements, (b) activate elevator emergency controls, and (c) otherwise take such action or preventative measures deemed necessary by BHS for the safety of individuals or of the Improvements or the protection of the Improvements and other property located on the Land (but this provision shall impose no duty on BHS to take such actions, and no liability for actions taken in good faith).

(b) Subject to the following provisions, to enter the Premises in order to: (i) inspect, (ii) show the Premises to prospective Lenders, as defined in Section 16.1 in, insurers, purchasers, governmental authorities, and their representatives, (iii) decorate, remodel or alter the Premises if ECS abandons the Premises at any time or vacates the same during the last 120 days of the Term (without thereby terminating this Agreement), and (iv) perform any work or take any other actions under Section 4.7(c) below, or exercise other rights of BHS under this Agreement or applicable Legal Requirements. In connection

with any such access to the Premises, except in emergencies or for cleaning or other routine services to be provided to ECS under this Agreement, BHS shall: (a) provide reasonable advance written or oral notice to ECS's on-site manager or other appropriate person, and (b) take reasonable steps to minimize any disruption to ECS's business.

(c) Subject to the last sentence of this Section 4.7(c), to: (i) paint and decorate, (ii) perform repairs or maintenance, and (iii) make replacements, restorations, renovations, alterations, additions and improvements, structural or otherwise, in and to the Improvements or any part thereof, including any adjacent building, structure, facility, land, street or alley, or change the uses thereof (other than ECS's permitted use under this Agreement), including changes, reductions or additions of corridors, entrances, doors, lobbies, parking facilities and other areas, structural support columns and shear walls, elevators, stairs, escalators, mezzanines, solar tint windows or film, kiosks, planters, sculptures, displays, and other amenities and features therein, and changes relating to the connection with or entrance into or use of the Improvements or any other adjoining or adjacent building or buildings, now existing or hereafter constructed. In connection with such matters, BHS may erect scaffolding, barricades and other structures, open ceilings, close entry ways, restrooms, elevators, stairways, corridors, parking and other areas and facilities, and take such other actions as BHS deems appropriate. However, BHS shall: (A) maintain reasonable access and visibility to the Premises, and (B) in connection with entering the Premises, comply with the last sentence of Section 4.7(b) above.

(d) Subject to the School Programming Schedule, BHS may lease or license the Pools to third parties, whether public or private, (other than public or private K-12, high school, junior high school or elementary schools other than ECS, as provided in Section 4.2) for meets and training and other purposes.

(e) BHS retains all rights to receive all concessions, rents and vending machine revenue from use of the Premises, except for concession sales, admission fees and vendor fees relating to Exclusive School Uses as provided in Section 4.2.

ARTICLE 5 TAXES AND UTILITIES

SECTION 5.1 **Taxes**

Should the Premises, Land or Improvements become subject to real estate taxes, such real estate taxes and assessments and any penalties shall be included in determining Operational Payments, and ECS shall be responsible for ECS's Operational Costs Share of such taxes and assessments.

SECTION 5.2 **Interruption and Changes**

If (a) any of the utilities or services are interrupted for any reason that is within the reasonable control of BHS to prevent and is not an emergency situation, and is not caused by ECS or its employees or contractors or invitees, or licensees (including students and spectators), or (b) any other utilities are interrupted due to the actions or omissions of BHS or BHS's agents, contractors or employees, or (c) BHS unreasonably interferes with ECS's access to the Premises,

so that (in any such case) ECS is not able and actually ceases to conduct Permitted Uses, Operational Payments shall abate during the period of such interruption. Notwithstanding anything to the contrary in this 5.2 or otherwise, BHS shall have no liability for interruptions, variations, shortages, failures, changes in quality, quantity, character or availability of any utilities or services to the Premises or Improvements or Land for any reason in the ordinary course of business.

ARTICLE 6 INSURANCE

SECTION 6.1 **Kinds and Amounts.**

ECS, at its sole cost and expense, shall obtain and continuously maintain in full force and effect during the Agreement Term:

(a) **Worker's Compensation and Occupational Disease Insurance.** Worker's Compensation and Occupational Disease Insurance, in statutory amounts, covering all ECS employees who provide a service under this Agreement, and Employer's Liability coverage with limits of not less than \$500,000 each accident/illness/disease. The parties understand and acknowledge that ECS is currently self-insured for Worker's Compensation, but maintains a stop-loss policy of insurance. Such self-insured policy provided to BHS is currently in compliance with the requirements of this Section. The policy shall contain a Waiver of Subrogation in favor of BHS and EHFA.

(b) **Commercial Liability Insurance (Primary and Umbrella).** Commercial Liability Insurance and also Student Accident Coverage with limits of not less than \$5,000,000 per occurrence or \$10,000,000 annual aggregate limit. ECS hereby waives, releases, and discharges BHS and EHFA, its agents and employees from and against all claims whatsoever arising out of loss, claim, expense or damage to or destruction or to ECS's business notwithstanding that such loss, claim, expense or damage may have been caused by BHS, its agents or employees. ECS agrees to look solely to its insurance coverage in the event of such loss. BHS and EHFA shall be included as additional insureds on a primary non-contributory basis arising out of ECS's use and occupancy of the Premises.

(c) **Automobile Liability Insurance.** In the event any vehicles are utilized by ECS for any purposes in connection with this Agreement or in connection with ECS's operations at the Premises, ECS shall provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence combined single limit, for bodily and property damage, covering all owned, non-owned and hired vehicles. BHS and EHFA are to be named as additional insureds on a primary non-contributory basis. In the event any vehicles are utilized for any purposes in connection with this Agreement, or in connection with its operations at the Premises, and such Automobile Liability insurance has not been provided pursuant to this Article 6.1(c), ECS agrees it will assume full responsibility for and shall promptly pay any and all liabilities, obligations, claims, damages, penalties, costs and expenses, including, without limitation, attorneys' fees and expenses, incurred or asserted by any person or entity for any reason with respect thereto.

(d) **Contents Insurance/Property Insurance.** Insurance against fire, sprinkler leakage, vandalism, and the extended coverage perils for the full replacement cost of: 1) all contents of ECS located at or in the Premises; 2) all personal property of ECS or the personal property of others kept, stored or maintained on the Premises; and 3) all office furniture, trade fixtures, office equipment, merchandise and all other items of ECS's property on the Premises. Said policy shall insure against loss or damage by fire, windstorm or other casualties or causes of whatever kind or nature, and shall contain a Waiver of Subrogation in favor of BHS and EHFA. ECS and any of its contractors hired to perform work on the Premises assume all liability and risk, and agree to waive all claims against BHS for damage to or loss of equipment, machinery, tools, supplies and other tangible personal property owned or supplied by ECS or any of its contractors. Any insurance which ECS or any of its contractors hired to perform work on the Premises desires to cover loss of ECS's or its contractor's equipment, machinery, tools, supplies or other tangible personal property shall be at its discretion and at its sole cost and expense. Any such insurance carried by ECS or its contractor shall contain a Waiver of Subrogation in favor of BHS and EHFA.

(e) The limits on all insurance carried under this Agreement shall be adjusted at the time of any extension to reflect any changes to statutory requirements or industry standards, but in no event shall the limits be adjusted to less than the required limits set forth in this Article 6.

Any insurance available to BHS shall be excess over any and all insurance provided by ECS pursuant to this Article 6.

SECTION 6.2 **BHS Insurance.**

(a) **Property Insurance.** BHS shall obtain and continuously maintain in full force and effect during the Agreement Term thereof property insurance on an "all risk" basis (including sprinkler leakage, if applicable) for the full replacement cost of the Building excluding excavation and foundation costs.

(b) **Worker's Compensation and Occupational Disease Insurance.** Worker's Compensation and Occupational Disease Insurance, in statutory amounts, covering all employees of the BHS who provide a service under this Agreement. Employer's liability coverage with limits of not less than \$500,000 each accident or illness shall be included. The policy shall contain a Waiver of Subrogation in favor of the ECS and EHFA.

(c) **Commercial Liability Insurance (Primary and Umbrella).** Commercial Liability Insurance with limits of not less than \$5,000,000 per occurrence and \$10,000,000 annual aggregate limit. BHS hereby waives, releases, and discharges ECS and EHFA, its agents and employees from and against all claims whatsoever arising out of loss, claim, expense or damage to or destruction of any such personal property or to BHS's business notwithstanding that such loss, claim, expense or damage may have been caused by ECS, its agents or employees. BHS agrees to look solely to its insurance coverage in the event of such loss arising out of BHS's use of the facility. ECS and EHFA shall be included as additional insureds on a primary, non-contributory basis arising out of BHS's maintenance of the Premises, including common areas.

(d) **All Risk Builders Risk Insurance.** During the construction of the Improvements or any other improvements on the Premises by BHS, BHS shall provide All Risk Blanket Builder's Risk Insurance to cover the materials, supplies, equipment, machinery and fixtures that are or will be part of the Premises. Coverage extensions shall include the following: right to partial occupancy, materials stored off-site and in-transit, boiler and machinery, collapse, water damage, debris removal, faulty workmanship or materials, testing, mechanical-electrical breakdown and failure, business interruption, extra expense, loss of revenue, loss of rents and loss of use of property, as applicable.

SECTION 6.3 Deductibles; Evidence of Insurance.

Each policy required under this Article shall have a deductible of no more than what is considered commercially reasonable for an insured party comparable to the insured party, taking into consideration the net worth and financial strength of insured party, and in the event of a loss, the insured party shall be responsible for the amount of any such deductible. Each policy shall have attached to it (i) an endorsement that such policy shall not be cancelled without at least thirty (30) days (ten (10) days for nonpayment of premium) prior written notice to the other party and any named mortgagee, and (ii) if available on commercially reasonable terms, an endorsement to the effect that the insurance as to the interests of BHS and ECS shall not be invalidated by any act or neglect of any person. Certificates of insurance reasonably acceptable to BHS, ECS and EHFA and evidence of payment shall be delivered to BHS, ECS and EHFA upon commencement of the term and prior to expiration of any policy.

SECTION 6.4 Blanket Policies.

ECS and BHS may satisfy the liability insurance requirements under this Article under a blanket insurance policy or policies which may cover other properties occupied by ECS or BHS, as applicable, provided, however, that any such policy of blanket insurance shall (i) specify the limits exclusively allocated to the Premises; and (ii) as respects the Premises, contain all the various provisions required of such an insurance policy by the foregoing provisions of this Article.

SECTION 6.5 Fire Protection.

ECS and BHS shall comply with all applicable building and fire codes, laws and ordinances, including without limitation all applicable rules and regulations of the Board of Fire Underwriters, the fire department or marshal wherein the Premises are situated, and the property insurance carrier.

SECTION 6.6 Mutual Waiver of Subrogation Rights.

Whenever (a) any loss, cost, damage or expense resulting from fire, explosion or any other casualty or occurrence of any nature is incurred by any of the parties to this Agreement, or anyone claiming by, through, or under it in connection with the Premises, and (b) such party is then covered in whole or in part by insurance with respect to such loss, cost, damage or expense or is required under this Agreement to be so insured, then the party so insured (or so required to be insured) hereby releases the other party from any liability said other party may have on account of such loss, cost, damage or expense to the extent of any amount recovered by reason of

such insurance (or which could have been recovered had such insurance been carried as so required) and waives any right of subrogation which might otherwise exist in, or accrue to, any person on account thereof, provided that such release of liability and waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage.

SECTION 6.7 Policies.

The minimum limits of insurance specified in this Section shall in no way limit or diminish ECS's or BHS's liability under this Agreement. The insured party shall furnish to other party including EHFA, not less than fifteen (15) days prior to the date such insurance is first required to be carried by the insured party, and thereafter at least fifteen (15) days prior to the expiration of each such policy, true and correct photocopies of all insurance policies required under this Section to the extent certificates are not reasonably acceptable to the other party, together with any amendments and endorsements to such policies, certificates of insurance, and such other evidence of coverages as the other party may reasonably request, and evidence of payment of all premiums and other expenses owed in connection therewith. Upon ECS's default in obtaining or delivering the policy for any such insurance or ECS's failure to pay the charges therefore, BHS may, at its option, on or after the tenth (10th) day after written notice thereof is given to ECS, procure or pay the charges for any such policy or policies and the total cost and expense shall be immediately paid by ECS to BHS as Additional Payments upon receipt of a bill from BHS. Upon BHS's default in obtaining or delivering the policy for any such insurance or BHS's failure to pay the charges therefore, ECS may, at its option, on or after the tenth (10th) day after written notice thereof is given to BHS, procure or pay the charges for any such policy or policies and the total cost and expense shall be immediately paid by BHS to ECS upon receipt of a bill from ECS.

SECTION 6.8 Construction by ECS.

During any construction permitted under this Agreement to be done by ECS (other than with respect to the construction of the Improvements by BHS, but including improvements, betterments or repairs), ECS or its contractor shall procure and maintain, or cause to be maintained, the kinds and amounts of insurance, and any and all subcontractors employed by ECS or its Contractor for any purpose shall maintain equivalent coverages as approved by BHS prior to any such construction. Such insurance procured by ECS or its contractors or subcontractors shall include: (i) BHS and EHFA as additional insured on a primary/non-contributing basis on commercial general liability (CGL) and automobile liability, and (ii) additional insured status under CGL shall include products and completed operations. A copy of the endorsement must be attached to the certificate provided to BHS and EHFA.

**ARTICLE 7
INDEMNITY AND WAIVER**

SECTION 7.1 Indemnification.

(a) ECS will protect, defend, indemnify and save harmless BHS, and BHS's affiliates, beneficiaries, mortgagees, and their respective agents, employees, officers and directors, from

any and all claims, demands, obligations, losses, penalties, fines, fees, charges, assessments, liabilities, causes of actions, damages, judgments, orders, decrees, actions, administrative or other proceedings, costs and expenses (including reasonable attorneys' and expert witness fees, and court costs) incurred or asserted by reason of (i) any accident, injury to, or death of, persons or loss of, or damage to, property occurring on or about the Premises, Land, or Improvements or any part thereof resulting from any act or omission of any ECS Party (defined below) or anyone claiming by, through, or under as ECS Party, unless the same is caused by the gross negligence or intentional misconduct of BHS or anyone claiming by, through, or under BHS, or an employee, agent or visitor of BHS; (ii) any failure on the part of ECS to perform or comply with any of the terms of this Agreement or with any Legal Requirements; (iii) the performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof performed by or on behalf of ECS during the Term unless the same is performed by BHS or BHS's agent or employee; (iv) except as provided in this Agreement, any failure to vacate and surrender the Premises upon expiration or earlier termination of this Agreement or ECS's right to possession of the Premises in the condition required under Section 11.1; (v) damage, loss or injury to persons, property or business directly or indirectly arising out of use of the Premises, Land or the Improvements by ECS and any of its agents, employees, invitees, transferees and contractors ("**ECS Parties**" and each a "**ECS Party**"), or out of any other act or omission of any ECS Parties, and (vi) any other damage, loss or injury to persons, property or business occurring in, about or from the Premises, Land or Improvements resulting from any act or omission of any ECS Party or anyone claiming by, through, or under ECS Party except to the extent that such other damage, loss or injury to persons, property or business is caused by the gross negligence or intentional misconduct of BHS or BHS's agents, contractors, or employees, or (vii) claims, losses, damages, remediation and response costs, clean-up costs and expenses arising out of or in any way relating to Hazardous Materials, as defined in Section 7.2, released, deposited, discharged, stored, moved onto, created upon, or removed from the Premises by ECS, its successors and assigns or their respective agents, employees, licensees and invitees, including, without limitation, (x) claims of third parties, including governmental entities, for damages, penalties, remediation and response costs, clean-up costs, injunctive or other relief; and (y) costs and expenses relating to remediation, removal and restoration, including fees and costs of environmental engineers, attorneys and experts, audit costs and costs of reporting the existence of Hazardous Materials to any governmental agency. ECS's defense and indemnification obligations set forth in this Agreement shall survive the expiration or termination of this Agreement.

(b) BHS will protect, defend, indemnify and save harmless ECS, its agents, employees, officers and directors, from any and all claims, demands, obligations, losses, penalties, fines, fees, charges, assessments, liabilities, causes of actions, damages, judgments, orders, decrees, actions, administrative or other proceedings, costs and expenses (including reasonable attorneys' and expert witness fees, and court costs) incurred or asserted by reason of (i) any accident, injury to, or death of, persons or loss of, or damage to, property occurring on or about the Premises, Land, or Improvements or any part thereof resulting from any act or omission of any BHS Party (defined below) or anyone claiming by, through, or under as BHS Party, unless the same is caused by the gross negligence or intentional misconduct of ECS or anyone claiming by, through, or under ECS, or an employee, agent or visitor of ECS; (ii) any failure on the part of BHS to perform or comply with any of the terms of this Agreement or with any Legal Requirements; (iii) the performance of any labor or services or the furnishing of any materials or

other property in respect of the Premises or any part thereof performed by or on behalf of BHS during the Term unless the same is performed by ECS or ECS's agent, employee or anyone claiming by, through, or under ECS; (iv) damage, loss or injury to persons, property or business directly or indirectly arising out of use of the Premises, Land or the Improvements by BHS and any of its agents, employees, invitees, transferees and contractors (“**BHS Parties**” and each a “**BHS Party**”), or out of any other act or omission of any BHS Parties, and (v) any other damage, loss or injury to persons, property or business occurring in, about or from the Premises, Land or Improvements resulting from any act or omission of any BHS Party or anyone claiming by, through, or under BHS Party except to the extent that such other damage, loss or injury to persons, property or business is caused by the gross negligence or intentional misconduct of ECS or ECS’s agents, contractors, or employees or (vi) claims, losses, damages, remediation and response costs, clean-up costs and expenses, arising out of or in any way relating to Hazardous Materials, released, deposited, discharged, stored, moved onto, created upon, or removed from the Premises by BHS, its successors and assigns or their respective agents, employees, licensees and invitees, including, without limitation, (a) claims of third parties, including governmental entities, for damages, penalties, remediation and response costs, clean-up costs, injunctive or other relief; and (b) costs and expenses relating to remediation, removal and restoration, including fees and costs of environmental engineers, attorneys and experts, audit costs and costs of reporting the existence of Hazardous Materials to any governmental agency. BHS’s indemnification obligations set forth in this Agreement shall survive the expiration or termination of this Agreement.

SECTION 7.2 **Hazardous Materials.**

For purposes of this Agreement, the term “**Hazardous Materials**” shall mean and include any and all hazardous, special, medical, toxic or dangerous waste substance or material defined in, or regulated by, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC Section 9601, *et. seq.*), the Hazardous Materials Transportation Act (49 USC Section 1802, *et. seq.*) and the Resource Conservation and Recovery Act (42 USC Section 6901, *et. seq.*) or any other federal, state or local statute, law, ordinance, code, rule, regulation, guideline, order or decree regulating, relating to or imposing liability or standards of conduct concerning the environment or any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect (collectively, “**Environmental Laws**”).

SECTION 7.3 **Compliance with Environmental Laws.**

To BHS’s knowledge without independent investigation the Land and the surrounding property are free of any Hazardous Materials as of the date of this Agreement. BHS and ECS each hereby agrees, at its sole expense, to comply with all Environmental Laws affecting the Premises and the Improvements, and ECS shall provide BHS with any notices received by any governmental authority with respect to the same. ECS shall not install any underground or surface storage tanks on the Land. BHS and ECS each shall not discharge, release, store, create, use, move onto or remove from the Premises any Hazardous Materials, except that BHS and ECS may each use small quantities of Hazardous Materials as are necessary in the ordinary course of its business provided the same are stored, used and managed by each party in strict accordance with all Environmental Laws and in a manner that will not expose BHS or ECS to potential environmental liability or adversely affect the value or marketability of the

Improvements. ECS shall comply at its expense with any bio or medical waste containment or disposal requirements. ECS shall install as needed in the Premises and BHS shall cause to be installed as needed in the Improvements all necessary odor and dust controls and any other pollution control devices which are necessary to ensure compliance with all applicable Environmental Laws. If BHS, in its reasonable judgment, believes that ECS has caused the Premises or the surrounding environment to become contaminated with Hazardous Materials or that ECS has violated any Environmental Laws, BHS may, in addition to its other rights under this Agreement, enter upon the Premises and obtain samples from the Premises, including the soil and groundwater under the Premises, to determine whether and to what extent the Premises or the surrounding environment have become contaminated. Such testing shall be performed at BHS's expense unless such tests indicate that ECS has contaminated the Premises or the environment with Hazardous Materials or that ECS has violated any Environmental Laws, in which case ECS shall pay the cost of such testing on demand. In the event that it is found that either BHS or ECS contaminated the Premises, the Improvements or the environment with Hazardous Materials, the applicable party shall take all necessary steps to fully remove such Hazardous Material from the Premises, the Improvements, any adjacent property and the environment including, but not limited to, the cost of any required or necessary repair, cleanup or detoxification and preparation of any closure or other remediation plans in connection therewith, all to the reasonable satisfaction of BHS and ECS. ECS shall have no responsibility for any environmental contamination of the Premises that existed prior to ECS's occupancy of the Premises.

SECTION 7.4 Waiver of Certain Claims.

Except with respect to damage or injury caused by BHS's willful acts or gross negligence, ECS waives all claims it may have against BHS for damage or injury to property sustained by ECS or any persons claiming through ECS or by any occupant of the Premises, or by any other person, resulting from the Improvements or Land, or any past improvements, equipment or appurtenances on the Land becoming out of repair, or resulting from any accident on or about the Land or any other cause or resulting directly or indirectly from any act of neglect of any person, including BHS, to the extent permitted by law. Such waiver shall include, but not by way of limitation, damage caused by water, snow, frost, steam, excessive heat or cold, interruptions in utilities, sewage, gas, odors or noise, theft, or caused by bursting or leaking of pipes or plumbing fixtures, and shall apply equally whether any such damage results from the act or neglect of ECS or any other person, including BHS, to the extent permitted by law, and whether such damage be caused by, or result from, any thing or circumstance above mentioned or referred to, or to any other thing or circumstance whether of a like nature or of wholly different nature. In no event shall Payments abate as the result of any such occurrence except as otherwise set forth in this Agreement at Article 13 and Article 14. All personal property belonging to ECS or any occupant of the Premises that is in or on any part of the Premises, Land or Improvements shall be at the risk of ECS or of such other person only, and except as otherwise set forth in this Agreement, BHS shall not be liable for any damage thereto or theft or misappropriation of any such personal property.

ARTICLE 8
MAINTENANCE/SERVICES

SECTION 8.1 **Maintenance**

Except for damage covered under Article 13, BHS, at its sole cost, throughout the Term of this Agreement, will: (i) maintain the interior, non-structural portions of the Premises in compliance with this Agreement; (ii) keep the interior, non-structural portions of the Premises in good condition and repair, including without limitation, regular cleaning of the Premises and windows, reasonable wear and tear and loss by casualty excepted; (iii) make all necessary repairs, replacements and renewals, including, without limitation, light bulb replacement and minor painting and plumbing work, and all necessary alterations and restorations, as may be required under law or this Agreement with respect to the interior, non-structural portions of the Premises; and (iv) provide for trash and refuse removal from the Premises.

SECTION 8.2 **BHS's Obligations**

Except for damage covered under Article 13, BHS at its sole cost shall keep the roof, structure, exterior walls and windows, mechanical systems and equipment (including, without limitation the HVAC), and any parking and other common areas of the Improvements, in good and sanitary condition, working order and repair (including, without limitation being responsible for all maintenance, repair and replacements required from time to time with respect to such items). ECS shall promptly give BHS written notice of any repairs required by BHS pursuant to this Section 8.2, after which BHS shall have a reasonable opportunity to complete such replacement. Notwithstanding the foregoing, ECS shall pay BHS for any repairs, maintenance and replacements required to areas of the Improvements outside the Premises caused, in whole or in part, by ECS or its employees, agents, contractors, or visitors.

SECTION 8.3 **BHS's Services**

The BHS shall, at its sole cost and expense, provide the following services:

- (a) Municipal water for drinking and bathroom uses;
- (b) Heating and cooling to the Premises during standard operating hours of the building;
- (c) Maintenance of exterior landscaping on the Land;
- (d) Snow and ice removal from exterior sidewalks, driveways and parking areas on the Land;
- (e) Security, including but not limited to electronic camera monitoring of the aquatics facility;
- (f) Pool cleaning and chemistry shall be in accordance with the Indiana State Department of Health requirements. Logs are available for inspection by ECS; and

- (g) Monitoring and regulation of pool water temperature of the aquatics facility consistent with applicable standards for public school pools in Indiana.

The term "**standard operating hours**" shall be mutually agreed to by BHS and ECS to meet at a minimum the School Programming Schedule. At ECS's request, BHS shall provide heating or air conditioning service to the Premises outside standard operating hours of the building and ECS shall reimburse BHS for the cost thereof, as reasonably calculated by BHS (without mark-up beyond the actual costs), as Additional Payments.

If (a) any of the services described in Sections 8.3(a) through 8.3(g) are interrupted for any reason that is within the reasonable control of BHS to prevent and is not an emergency situation, and is not caused by ECS or its employees or contractors, or (b) any other utilities are interrupted due to the actions or omissions of BHS or BHS's agents, contractors or employees, or (c) BHS unreasonably interferes with ECS's access to the Premises (whether in connection with BHS's reserved rights under Section 4.7 or performance of BHS's obligations pursuant to Section 8.2), so that (in any such case) ECS is not able and actually ceases to conduct Permitted Uses Operational Payments shall abate during the period of such interruption.

ARTICLE 9 COMPLIANCE WITH LAWS AND ORDINANCES

SECTION 9.1 **Compliance with Laws and Ordinances**

ECS, at its sole cost, throughout the Term of this Agreement, will promptly comply with all applicable laws, ordinances, orders, rules, regulations and requirements with respect to the Land, Improvements and Premises, the orders, rules and regulations of applicable governmental agencies, and with all covenants and other matters of record (collectively, the "**Legal Requirements**") that relate specifically to the specific use of the Premises or common areas in the Improvements or on the Land by ECS or ECS's students or employees, or any deficiency in or violation of Legal Requirements with respect to the Premises that arises after the Commencement Date (provided that BHS and not ECS shall be responsible for any deficiency in or violation of Legal Requirements that relates to the Improvements or that results in the necessity for structural alterations or modifications to the Premises that would be required generally regardless of ECS's specific use and occupancy of the Premises).

SECTION 9.2 **Compliance with Environmental Laws**

During the Term, ECS will at all times comply with all Environmental Laws (defined below) with respect to ECS's use of the Premises, Land and Improvements. Except for customary office supplies and cleaning supplies used in connection with ECS's Permitted Use, ECS will not cause or permit any Hazardous Materials to be brought upon, kept, or used in or about the Land, Improvements or Premises by ECS, its agents, employees or contractors, without the prior written consent of BHS. If ECS breaches ECS's obligations stated in the preceding sentence, or if the presence of Hazardous Materials on the Land, Improvements or Premises caused or permitted by ECS results in contamination of the Land, Improvements or Premises, then ECS will indemnify, defend and hold BHS harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in

value of the Land, Improvements or Premises, sums paid in reasonable settlement of claims, reasonable attorneys' fees, consultant fees and expert fees) which arise during or after the Term of this Agreement as a result of such contamination. This indemnification of BHS by ECS includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Materials (caused or permitted by ECS) present in, on or about the Premises or in the soil or ground water on or under the Land, Improvements or Premises.

SECTION 9.3 **Survival**

The respective rights and obligations of BHS and ECS under this Article 9 will survive the expiration or earlier termination of this Agreement.

ARTICLE 10 **ALTERATIONS, SIGNS, MECHANIC'S LIENS AND OTHER LIENS**

SECTION 10.1 **ECS's Changes and Alterations**

ECS may not make any alterations to the Premises ("**Alterations**") without BHS's prior written consent, which consent may be withheld or conditioned in BHS's sole discretion. Before commencement of any work or delivery of any material onto the Premises, all contractors employed in connection therewith must deliver to BHS certificates of insurance evidencing each such contractor's commercial general liability insurance and showing BHS as an additional insured.

ECS will construct Alterations in accordance with the terms of this Agreement, and all applicable Legal Requirements (collectively, the "**Building Requirements**"). ECS, at its cost, will promptly restore any damage to the Premises or other parts of the Improvements caused by ECS, its contractors, agents and employees during the construction of ECS's alterations or improvements.

Prior to any construction that requires BHS's consent or a permit, ECS agrees to submit to BHS the plans for same in reasonable detail. Within fifteen (15) days thereafter, BHS will notify ECS of any failures of ECS's plans to conform to the Building Requirements. ECS will, within fifteen (15) days after receipt of any such notice, cause ECS's plans to be revised to the extent necessary to obtain BHS's approval and submit to BHS revised plans for BHS's approval. The parties will repeat this process until such time as ECS submits plans that are approved by BHS. ECS will not commence any construction work until BHS has approved its plans. ECS will make no material deviation from the final set of plans, once approved by BHS, without BHS's prior written consent. Approval of the plans by BHS will not constitute the assumption of any responsibility by BHS for their accuracy or sufficiency.

SECTION 10.2 **ECS's Signs**

ECS shall be permitted to hang or display signage with respect to the Premises which displays the ECS's records, awards and banners typically displayed in a home high school swimming pool. Such signage, records, awards, and banners to be used by ECS with respect to

Premises must be approved by the Facilities Review Committee and by BHS, but BHS's approval shall not be unreasonably withheld, provided however, that for avoidance of doubt ECS shall not, without BHS's prior written approval (which may be withheld in BHS's sole discretion), hang or display any advertising, or any logos or names of sponsors or of any commercial or nonprofit organizations.

SECTION 10.3 Freedom from Liens

ECS will not suffer or permit any mechanic's lien or other lien to be filed against the Premises, the Land, and/or the Improvements by reason of work, labor, services, equipment or materials supplied or claimed to have been supplied to the Premises at the request of ECS, or anyone claiming through ECS. If any such mechanic's lien or other lien is filed, ECS will cause the lien to be either insured over (in a manner reasonably satisfactory to BHS) or discharged of record within thirty (30) days after notice that such lien was filed, or commence and diligently pursue the contest of such lien and deliver to BHS a bond or other security reasonably satisfactory to BHS, in an amount equal to 150% of the amount of such lien. If ECS fails to insure over or discharge such mechanic's lien or other lien within such period or fails to diligently pursue such contest, then, in addition to any other right or remedy of BHS, after ten (10) days' prior written notice to ECS, BHS may, but will not be obligated to, discharge such lien. Any amount paid by BHS, together with all costs, fees and expenses in connection therewith (including reasonable attorneys' fees), together with interest thereon at the Default Rate set forth in Section 12.7, will be repaid by ECS to BHS on demand by BHS as Additional Payments.

All materialmen, contractors, laborers and any other person furnishing any labor, services, materials, supplies or equipment to ECS with respect to the Premises, or any portion thereof, are hereby charged with notice that they must look exclusively to ECS to obtain payment for the same. Notice is hereby given that BHS will not be liable for any labor, services, materials, supplies, fixtures or equipment furnished or to be furnished to ECS upon credit, and that no mechanic's lien or other lien for any such labor, services, materials, supplies, fixtures or equipment will attach to or affect the estate or interest of BHS in and to the Premises.

ARTICLE 11 SURRENDER; HOLDING OVER

SECTION 11.1 Surrender of Premises

If the parties do not agree to extend the Term or enter into a new Agreement upon the expiration of the Term, then ECS will on the expiration of the Term of this Agreement (and ECS will upon any re-entry by BHS upon the Premises pursuant to the terms of this Agreement) peaceably surrender and deliver up the Premises (including but not limited to all built-in fixtures and equipment) to BHS without delay, in good order, condition and repair, ordinary wear and tear and damage from fire or casualty excepted. ECS will remove all of its signage and other personal property, trade fixtures, and furnishings from the Premises and repair all damage resulting from such removal.

SECTION 11.2 **Holding Over**

Any holding over by ECS will not extend or renew the Term of this Agreement or to imply or create a new Agreement, but in such case ECS will pay to BHS (in addition to all Additional Payments) an amount as Operational Payments equal to 150% of the then current Operational Payments provided during each annual period or portion of an annual period during which ECS retains possession. ECS agrees to reimburse BHS for any damages incurred by such holding over. Notwithstanding the foregoing, if ECS and BHS are negotiating a renewal or extension of the term in good faith such 150% increase shall not apply (but Operational Payments will continue to be due and owing in the amounts provided for in Section 3.4) and ECS shall not be considered to be holding over until the later of the Expiration Date or written notice from BHS that such negotiations are terminated.

ARTICLE 12 **DEFAULTS OF ECS**

SECTION 12.1 **Events of Default**

Any one or more of the following events will constitute an “**Event of Default**” under this Agreement:

- (a) If ECS fails to pay Operational Payments within thirty (30) business days after such Operational Payments are due, or if ECS fails to pay Mid-Term Capital Amount, Additional Payments, or any other obligation to be paid by ECS under this Agreement, within thirty (30) business days following the receipt of written notice that such payment is past due; provided, however, that notice of failure to pay Operational Payments, Additional Payments or any other obligation to be paid by ECS under this Agreement, shall not be required for any subsequent failure during any consecutive twelve (12) month period; or
- (b) If ECS defaults in performing any of the terms contained in this Agreement, other than those referred to in Section 12.1(a), and such default continues for a period of thirty (30) days after written notice thereof given by BHS to ECS, or in the case of such a default or contingency which cannot with due diligence be cured within thirty (30) days, ECS fails to commence to cure the same within such thirty (30) day period, and thereafter fails to cure the same during the shorter of (i) such period as may be necessary for the curing thereof promptly with due diligence or (ii) a period of sixty (60) days after written notice of such default is given by BHS to ECS; provided, however, that notice shall not be required for any subsequent default during any consecutive twelve (12) month period; or
- (c) If (i) ECS makes an assignment for the benefit of creditors; (ii) ECS files a voluntary petition under any law having for its purpose the adjudication of ECS a bankrupt, or ECS is adjudged a bankrupt pursuant to an involuntary petition in bankruptcy (and with respect to such involuntary petition filed against ECS, ECS fails to secure a stay or discharge thereof within sixty (60) days after such filing); (iii) a receiver is appointed for the property of ECS (and ECS does not regain

possession within sixty (60) days after such appointment); or (iv) any department of the state or federal government, or any officer thereof duly authorized, takes possession of the business or property of ECS (and ECS does not regain possession within sixty (60) days); or

(d) If ECS ceases or fails to hold any licenses, permits, certifications or other authorizations necessary under Legal Requirements for the use of the Premises by ECS and fails to reinstate same within ten (10) days after receipt of notice; provided, however, that notice shall not be required for any subsequent failure during any consecutive twelve (12) month period; or

(e) If ECS violates Article 16 of this Agreement, or abandons the Premises (“**abandons**” or “**abandonment**” under this Agreement shall mean vacating or failing to occupy the Premises for more than thirty (30) days while ECS is delinquent in any Payments).

SECTION 12.2 **BHS’s Remedies**

Following an Event of Default, BHS may, at its election, in addition to all other rights and remedies afforded BHS under this Agreement or by law or equity, take any one or more of the following actions:

a BHS may terminate the Agreement and obtain possession of the Premises by delivery of a notice of termination to ECS. Such termination will be immediately effective and BHS, if necessary, is entitled to commence immediately an action in summary proceedings to recover possession of the Premises. No receipt of money by BHS from ECS after the termination of this Agreement will reinstate, continue or extend the Term, nor affect or waive any notice given by BHS to ECS prior to such receipt of such money. BHS will use commercially reasonable efforts to mitigate damages caused by a default or breach of ECS. After such termination, BHS may recover all Payments (including Additional Payments) accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by ECS under this Agreement up to and including such termination date. In addition, BHS may recover as damages for loss of the bargain and not as a penalty the sum of: (i) the aggregate sum which at the time of such termination represents the excess, if any, of the present value of the aggregate Payments at the same annual rate for the remainder of the Term as then in effect over the then present value of the then aggregate fair Paymentsal value of the Premises for the balance of the Term immediately prior to such termination, such present worth to be computed in each case on the basis of a discount at the then current five-year Treasury Bill rate from the respective dates upon which such Payments would have been payable under this Agreement had the Term not been terminated; and (ii) any additional damages, including reasonable attorneys’ fees and court costs which BHS sustains by reason of the breach of any of the covenants of this Agreement other than for the payment of Payments.

b BHS may, as an alternative to terminating the Agreement, serve a written demand for possession of the Premises. BHS will be entitled to possession of the Premises and

ECS will then have no further right to possession under the Agreement. ECS will remain liable to BHS for the payment of all Payments and other charges, which ECS has agreed to pay under this Agreement throughout the remainder of the Term. If BHS elects to terminate ECS's rights to possession, access or use under this Agreement, as provided, it may from time to time, without terminating this Agreement, make such alterations and repairs as may be reasonably necessary in order to use the Premises, and to use all or any part of the Premises for such term or terms (which may be for a term extending beyond the Term of this Agreement) and upon such payments and such other terms and conditions as BHS in its reasonable discretion may deem advisable. Upon each such re-use, all payments and other sums received by BHS from such re-use will be applied first, to reimburse BHS for real estate commissions and other expenses actually incurred by BHS; second, to the payment of any indebtedness other than Payments due under this Agreement from ECS to BHS; third, to the payment of Payments and other charges then due from ECS, and the residue, if any, will be held by BHS and applied in payment of future Payments as the same may become due and payable. If such rentals and other sums received from such reletting during any month are insufficient to pay the Payments and other charges due from ECS, ECS agrees to pay such deficiency to BHS. Such deficiency will be calculated and paid monthly. No such re-entry or taking possession of such Premises by BHS may be construed as an election on its part to terminate this Agreement. Notwithstanding any such reletting without termination, BHS may at any time elect to terminate this Agreement for such previous breach.

SECTION 12.3 BHS Payment of Expenses

If ECS fails to (i) maintain, deliver and pay for any of the insurance policies required by Article 6, or (ii) make any other payment, or perform any other act on its part to be made or performed, then BHS, after prior written notice to ECS as provided in Section 17.1, and without waiving or releasing ECS from any obligation of ECS contained in this Agreement, may, but will be under no obligation to do so: (a) obtain, pay for and maintain any of the insurance policies provided for in this Agreement; or (b) make any other payment or perform any other act on ECS's part to be paid or performed as in this Agreement provided, and BHS may enter upon the Premises for any such purpose and take all such action as may be necessary therefor. BHS's exercise of its rights under this Section 12.3 will not be deemed to be a waiver of the default or release of ECS. All sums so paid by BHS, including reasonable attorney's fees, in connection with the performance of any such act by BHS, together with interest thereon at the Default Rate from the date of making such expenditure by BHS, will be Additional Payments and will be payable to BHS on demand or, at the option of BHS, may be added to any monthly rental then due or thereafter becoming due under this Agreement. BHS will have the same rights and remedies in the event of nonpayment of Additional Payments as in the case of default by ECS in the payment of other Payments.

SECTION 12.4 No Waiver

No failure by BHS or by ECS to insist upon the performance of any of the terms of this Agreement or to exercise any right or remedy consequent upon an Event of Default, and no acceptance by BHS of full or partial Payments from ECS or any third party during the continuance of any Event of Default, will constitute a waiver of any Event of Default or of any

of the terms of this Agreement. None of the terms of this Agreement to be performed by BHS or by ECS, and no Event of Default, will be waived, except by a written instrument executed by BHS and/or by ECS, as the case may be. No waiver of any Event of Default will affect this Agreement, but each of the terms of this Agreement will continue in full force and effect with respect to any other then existing or subsequent Event of Default. No waiver of any Event of Default will be implied from any omission by BHS to take any action on account of such Event of Default, and no express waiver will affect any Event of Default other than the Event of Default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by BHS will not be construed as a waiver of a subsequent Event of Default of the same term.

SECTION 12.5 Cumulative Remedies

Each remedy or right of BHS provided for in this Agreement will be cumulative and will be in addition to every other right or remedy provided for in this Agreement, or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or the beginning of the exercise by BHS of any one or more of such rights or remedies will not preclude the simultaneous or later exercise by BHS of any or all other rights or remedies.

SECTION 12.6 Waiver by ECS

ECS waives, to the extent permitted by law, any and all right of redemption or reentry or repossession or to revive the validity and existence of this Agreement in the event that ECS will be dispossessed by a judgment or by order of any court having jurisdiction over the Premises.

SECTION 12.7 Default Rate

Except as may be otherwise provided in this Agreement to the contrary, any Payments or other amount due to BHS under this Agreement not paid within thirty (30) business days after ECS's receipt of written notice that such Payments are past due will bear interest at an annual rate (the "**Default Rate**") equal to the then applicable Wall Street Journal Prime Rate (or if *The Wall Street Journal* does not then publish a Prime Rate, then the Prime Rate established by the then nationally recognized authoritative source) per annum from the date when the same is due under this Agreement until the same will be paid, but in no event in excess of the maximum lawful rate permitted to be charged by BHS against ECS.

SECTION 12.8 Attorneys' Fees

In the event of default under this Agreement, the defaulting party will upon demand reimburse the non-defaulting party for all costs and reasonable attorneys' fees incurred by the non-defaulting party as a result of such default.

SECTION 12.9 BHS's Default

If BHS fails to perform any obligation specified in this Agreement and such default continues for a period of thirty (30) days after written notice thereof by ECS to BHS (or for such longer period to the extent that the cure is not reasonably capable of being completed within such 30-day period and BHS has by then commenced such cure and diligently pursues the cure

thereafter), then, in addition to any other remedies to which ECS may be entitled under this Agreement or under law, ECS may, after the continuance of any such default beyond the applicable notice and cure period specified above, bring a claim for damages, constructive eviction or injunctive relief against BHS. Each remedy or right of ECS provided for in this Agreement will be cumulative, and the exercise or the beginning of the exercise by ECS of any one or more of such rights or remedies shall not preclude the simultaneous or later exercise by ECS of any or all other rights or remedies.

ARTICLE 13 DESTRUCTION AND RESTORATION

SECTION 13.1 **Restoration**

ECS shall promptly notify BHS of any damage to the Premises by fire or other casualty. BHS shall promptly notify ECS of any damage to the Premises by fire or other casualty if such fire or other casualty is caused by another party's use of the Premises. If the Premises or any common areas of the Improvements providing access to the Premises shall be damaged by fire or other casualty, BHS shall (a) cause an architect or contractor to promptly deliver to both BHS and ECS in writing such architect's or contractor's good faith opinion (the "**Architect's Opinion**") as to the length of time required to cause the damage to be repaired and restored, and (b) provided that this Agreement is not terminated as provided herein, BHS shall thereafter use available insurance proceeds to restore the same as expeditiously as possible, provided, however, that ECS shall be responsible for the insurance deductible and any uninsured or underinsured portion of repairs or restoration caused by ECS or ECS's employees or students, or by spectators or other participants at events within the Permitted Uses. Any restoration shall be to substantially the same condition as prior to the casualty, except for modifications required by zoning and building codes and other Legal Requirements, any other modifications to the common areas deemed desirable by BHS (provided access to the Premises is not materially impaired), and except that BHS shall not be required to repair or replace any of ECS's furniture, furnishings, fixtures, systems or equipment, or any alterations or improvements. ECS shall reasonably cooperate in vacating the Premises to the extent reasonably required to avoid any interference or delay in BHS's repair work. Promptly following completion of BHS's work, ECS shall repair and replace ECS's furniture, furnishings, fixtures, systems or equipment, subject to and in compliance with the other provisions of this Agreement.

SECTION 13.2 **Abatement of Payments**

BHS shall not be liable for any inconvenience or annoyance to ECS or its visitors, or injury to ECS's operations, programs or events resulting in any way from such damage or the repair thereof. However, BHS shall allow ECS a proportionate abatement of Payments from the date of the casualty through the earlier to occur of (a) ECS's commencement of activities in the Premises following the BHS's substantial completion of BHS's repair obligations hereunder or (b) thirty (30) days after BHS shall have substantially completed such repair or restorations required hereunder (or the date that BHS would have substantially completed such repairs, but for delays by ECS or any other occupant of the Premises, or any of their agents, employees, invitees, transferees and contractors), provided such abatement: (i) shall apply only to the extent the Premises are unusable for the purposes permitted under this Agreement and not used by ECS

as a result thereof, based proportionately on the square footage of the Premises so affected and not used, and (ii) shall not apply if the damage is caused by the intentional misconduct of ECS or its agents, students, employees, spectators or other participants at events within the Permitted Uses, or contractors. ECS agrees that the abatement of Payments provided herein shall be ECS's sole recourse in the event of such damage, and waives any other rights ECS may have under any applicable law to perform repairs or terminate the Agreement by reason of damage to the Premises or the Improvements (except for those termination rights expressly contained in Section 13.3 below).

SECTION 13.3 Termination of Agreement

If the Architect's Opinion indicates that such repairs and restoration shall take in excess of three hundred sixty-five (365) days from the date of the casualty or if such casualty occurs during the last year of the Term, then notwithstanding the foregoing to the contrary, either BHS or ECS may elect to terminate this Agreement by notifying the other party in writing of such termination within thirty (30) days after receipt of the Architect's Opinion. In addition, ECS reserves the right to terminate this Agreement if the restoration is not completed within the longer of the period estimated by the Architect's Opinion as needed for restoration or three hundred sixty-five (365) days from the date of casualty (subject in either case to extension for force majeure), or in the event BHS is unable to complete such repairs and restoration because of inadequate insurance funds.

ARTICLE 14 CONDEMNATION

SECTION 14.1 Condemnation of Premises

If at least ten percent (10%) of the rentable area of the Premises shall be taken by power of eminent domain or condemned by a competent authority or by conveyance in lieu thereof for public or quasi-public use ("**Condemnation**"), including any temporary taking for a period of one year or longer, then either BHS or ECS may elect to terminate this Agreement effective on the date possession for such use is so taken, by giving notice to the other party no later than one hundred and twenty (120) days after receiving notice of the filing of the Condemnation. If: (i) less than the foregoing amount of the Premises is taken, but the taking includes or affects a material portion of the Premises or Improvements, or BHS's economical operation thereof, or (ii) the taking is temporary and will be in effect for less than the foregoing period but more than thirty (30) days, then in either such event, BHS may elect to terminate this Agreement upon at least thirty (30) days' prior notice to ECS. If less than the foregoing amount of the Premises is taken, but the taking includes or affects a material portion of the Premises that is integral to ECS's continued use of the Premises, then ECS may elect to terminate this Agreement upon at least thirty (30) days' prior notice to BHS. The parties further agree that: (a) if this Agreement is terminated, all Operational Payments shall be apportioned as of the date of such termination or the date of such taking, whichever shall first occur, (b) if the taking is temporary, Operational Payments shall be abated for the period of the taking, and BHS may seek a condemnation award therefor (and the Term shall not be extended thereby), and (c) if this Agreement is not terminated but any part of the Premises is permanently taken, the Operational Payments shall be proportionately abated based on the square footage of the Premises so taken.

SECTION 14.2 **Condemnation Award**

BHS shall be entitled to receive the entire award or payment in connection with such Condemnation and ECS hereby assigns to BHS any interest therein for the value of ECS's unexpired leasehold estate or any other claim and waives any right to participate therein, except that ECS shall have the right to file any separate claim available to ECS for moving expenses and any taking of ECS's personal property, provided such award is separately payable to ECS and does not diminish the award available to BHS or any lender.

ARTICLE 15 **ASSIGNMENT AND TRANSFERS**

SECTION 15.1 **Transfers Prohibited**

ECS may not at any time mortgage, hypothecate, pledge or grant a security interest in ECS's interest in this Agreement or in the Premises. In addition, except as otherwise expressly provided herein, ECS will not at any time, without the prior written consent of BHS in each instance: (i) assign or transfer this Agreement; (ii) grant any rights under this Agreement regarding the Premises or any part thereof; or (iii) permit the use or occupancy of the Premises or any part thereof for any purpose other than the Permitted Use or by anyone other than ECS and ECS's employees, students, authorized spectators and invitees, including other schools and their respective students, employees, invitees, and authorized spectators at swimming and diving competitions involving ECS and included in the Permitted Uses. Any such action on the part of ECS will be void and of no effect. BHS and ECS agree that BHS may withhold or condition its consent to any proposed transfer in BHS's reasonable discretion. To obtain BHS's consent, ECS will, by notice in writing, advise BHS of its intention from, on and after a stated date to assign or transfer its interest as ECS in this Agreement, or sublet any part or all of the Premises for the balance or any part of the Term. ECS's notice will state the name and address of the proposed subtenant or assignee, and contain a true and complete copy of the proposed sublease or assignment. Any transfer made without complying with this Article shall, at BHS's option, be null, void and of no effect, or shall constitute an Event of Default by ECS under this Agreement.

SECTION 15.2 **Permitted Transfer**

Notwithstanding the prohibition set forth in Section 15.1 above, ECS may, without BHS's consent, assign this Agreement to (a) an entity that is controlled by, in control of, or under common control with ECS (an "**Affiliate**"), (b) any entity with whom ECS merges, consolidates or engages in any reorganization, or (c) any entity succeeding to all or a substantial portion of the operations and assets of ECS (each, a "**Permitted Transfer**"). BHS shall have no right to recapture any or all of the Premises or terminate the Agreement or to seek the payment of any costs of the BHS in connection with such Permitted Transfer. BHS shall be notified of such Permitted Transfer and shall be given a copy of the transfer documents promptly after the Permitted Transfer.

SECTION 15.3 **Recapture**

Except in the case of a Permitted Transfer, BHS shall have the option, by giving notice to ECS within thirty (30) days after receipt of ECS's notice of any proposed transfer of its rights

under this Agreement or with respect to the entire Premises, to recapture the Premises. Such recapture notice shall cancel and terminate this Agreement with respect to the Premises as of the date stated in ECS's notice as the effective date of the proposed transfer provided, however, if BHS notifies ECS that BHS elects to exercise this recapture right, ECS may, within five (5) business days of its receipt of BHS's recapture notice, notify BHS that ECS withdraws its request to transfer, in which case ECS shall continue to Agreement all of the Premises, subject to the terms of this Agreement and BHS's recapture notice shall be null and void. ECS shall surrender and vacate the Premises when required hereunder in accordance with Section 11.1, and any failure to do so shall be subject to Section 11.2.

SECTION 15.4 Effect of Transfer

BHS's consent to any assignment, subletting, or transfer will not constitute a waiver of BHS's right to withhold its consent to any future assignment, subletting or transfer. Any assignment or transfer hereunder will not release or discharge ECS of or from any liability, whether past, present or future, under this Agreement, and ECS will continue to be fully liable hereunder. The assignee will agree to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Agreement to the extent of the space or rights assigned, and ECS will deliver to BHS promptly after execution, an executed copy of each such sublease or assignment and an agreement of compliance by each such assignee. If this Agreement is assigned, BHS may, after default by ECS, collect Payments from the assignee, subtenant or occupant, and apply the net amount collected to the Payments, but no such assignment, subletting, occupancy or collection will be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant or occupant as ECS, or a release of ECS from the further performance by ECS of covenants on the part of ECS herein contained. Whether or not BHS shall grant consent to any proposed transfer, ECS shall pay the reasonable legal fees (not to exceed \$2,000) incurred by BHS in considering ECS's request, within thirty (30) days after BHS's written request.

ARTICLE 16 SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT

SECTION 16.1 Certain Definitions

For purposes of this Agreement, "**Lender**" shall mean the holder of any Mortgage at the time in question and "**Mortgage**" shall mean all mortgages, deeds of trust, ground leases and other such encumbrances now or hereafter placed upon the Land or Improvements, or any part thereof, and all renewals, modifications, consolidations, replacements or extensions thereof, and all indebtedness now or hereafter secured thereby and all interest thereon.

SECTION 16.2 Subordination by ECS

Prior to delivery of the Premises to ECS, BHS shall deliver to ECS a non-disturbance, attornment and subordination agreement, in form reasonably acceptable to ECS, executed by any current Lender of a Mortgage of the Premises, if any. This Agreement is subject and subordinate to all Mortgages now or hereafter existing, and all other encumbrances and matters of public record applicable to the Land and Improvements, provided that with respect to subordination to a

future Mortgage, such subordination shall be conditioned upon BHS obtaining for the benefit of ECS a so-called Subordination and Non-Disturbance Agreement executed by the applicable Lender in a form reasonably acceptable to ECS. Whether before or after any foreclosure or power of sale proceedings are initiated or completed by any Lender or a deed in lieu is granted (or any ground Agreement is terminated), ECS agrees, upon written request of any such Lender or any purchaser at such sale, to attorn and pay Payments to such party, and recognize such party as counterparty to this Agreement (provided such Lender or purchaser shall agree not to disturb ECS's occupancy so long as an Event of Default by ECS does not remain uncured hereunder, on a form of agreement reasonably acceptable to such party and ECS), it being understood that, without the Lender's agreement, in the event of attornment no Lender shall be: (i) liable for any act or omission of BHS, or subject to any offsets or defenses which ECS might have against BHS (arising prior to such Lender becoming BHS under such attornment) or (ii) bound by any prepaid Operational Payments not actually received by such Lender, or bound by any modification of this Agreement not consented to by such Lender. Any Lender may elect to make this Agreement prior to the lien of its Mortgage by written notice to ECS, and if the Lender of any prior Mortgage shall require, this Agreement shall be prior to any subordinate Mortgage; such elections shall be effective upon written notice to ECS, or shall be effective as of such earlier or later date set forth in such notice. ECS agrees to give any Lender by certified mail, return receipt requested, a copy of any notice of default served by ECS upon BHS, provided that prior to such notice ECS has been notified in writing (by way of service on ECS of a copy of an assignment of Agreements, or otherwise) of the address of such Lender. ECS further agrees that if BHS shall have failed to cure such default within the time permitted BHS for cure under this Agreement, any such Lender whose address has been provided to ECS shall have an additional period of thirty (30) days in which to cure (or such additional time as may be required due to causes beyond such Lender's reasonable control, including time to obtain possession of the Land and Improvements by appointment of receiver, power of sale or judicial action). Except as expressly provided to the contrary herein, the provisions of this Article shall be self-operative; however, ECS shall execute and deliver, within fifteen (15) days after written request therefor, such documentation as BHS or any Lender may reasonably request from time to time, whether prior to or after a foreclosure or power of sale proceeding is initiated or completed, a deed in lieu is delivered, or a ground Agreement is terminated, in order to further confirm or effectuate the matters set forth in this Article in recordable form.

ARTICLE 17 MISCELLANEOUS PROVISIONS

SECTION 17.1 **Notices**

All notices or demands required or desired to be given by either party to the other with respect to this Agreement or the Premises will be in writing, will be addressed as provided below, and will be: (i) delivered personally, in which case the notice or demand will be deemed given and served upon receipt or refusal to accept such notice; or (ii) sent by a nationally recognized overnight courier service, prepaid or billed to sender, in which case the notice or demand will be deemed given and served upon receipt or refusal to accept receipt. Either party may change its address or add additional parties for receipt of notices by giving notice of such change to the other party in accordance with the provisions of this Section.

To EHFA or BHS: Elkhart Health, Fitness and Aquatics, Inc. and
Beacon Health System, Inc.
615 N. Michigan Street
South Bend, Indiana 46601
Attn: CEO and CFO

To ECS: Elkhart Community Schools
2720 California Road
Elkhart, Indiana 46514
Attn: Superintendent

SECTION 17.2 Quiet Enjoyment

BHS covenants and agrees that ECS, upon paying the Payments, and upon performing the terms of this Agreement on its part to be performed, will lawfully and quietly hold, occupy and enjoy the Premises for the Permitted Uses at the times scheduled on the School Programming Schedule during the Term of this Agreement without hindrance or molestation by BHS or by any person or persons claiming under, by or through BHS, subject to the terms and provisions of this Agreement.

SECTION 17.3 BHS's Continuing Obligations

References to EHFA or BHS in this Agreement so far as covenants or obligations on the part of BHS are concerned, is limited to the owner or owners at the time in question of the fee of the Premises. In the event of any transfer, the then grantor will be automatically relieved after the date of such transfer of all liability for the performance of any obligations on the part of BHS or EHFA contained in this Agreement thereafter to be performed, provided that any funds in the hands of the then grantor at the time of such transfer, in which ECS has an interest, will be turned over to the grantee, and any amount then due and payable to ECS by the then grantor under any provision of this Agreement will be paid to ECS. The obligations contained in this Agreement on the part of EHFA or BHS will, subject to the aforesaid, be binding on their respective successors and assigns during their respective successive periods of ownership.

SECTION 17.4 Estoppel Statement

ECS shall from time to time, within fifteen (15) days after written request from BHS, execute, acknowledge and deliver a ECS estoppel certificate in customary form reasonably requested by BHS. If ECS fails to respond within the required fifteen (15) day period, then BHS may send ECS a second notice requesting execution of the estoppel certificate and indicate therein that a failure to execute same within five (5) days after receipt shall constitute an Event of Default. If ECS fails to provide the ECS Estoppel Certificate within five (5) days after receipt of the second notice, then such failure shall constitute an Event of Default.

SECTION 17.5 Severability

If any term of this Agreement will, to any extent, be held invalid or unenforceable, the remaining terms of this Agreement will not be affected thereby, but each term of this Agreement will be valid to the fullest extent permitted by law.

SECTION 17.6 Governing Law

This Agreement will be construed and be enforceable in accordance with the internal laws of the State of Indiana.

SECTION 17.7 Successors and Assigns

The covenants and agreements herein contained will bind and inure to the benefit of EHFA, BHS and ECS, and their respective permitted successors and assigns.

SECTION 17.8 Captions

The caption of each article and section of this Agreement is for convenience and reference only, and in no way defines, limits or describes the scope or intent of such article or section of this Agreement.

SECTION 17.9 Relationship of Parties

This Agreement does not create the relationship of principal and agent, or of partnership, joint venture, or of any association or relationship between EHFA, BHS and ECS, the sole relationship among EHFA, BHS and ECS being that of arms-length contracting parties. For avoidance of doubt, and notwithstanding anything to the contrary, including references to “partnership” or “partner together”, this Agreement does not create a partnership for legal purposes.

SECTION 17.10 Entire Agreement

All preliminary and contemporaneous negotiations are merged into and incorporated in this Agreement. This Agreement, together with the Exhibits, contains the entire agreement between the parties and will not be modified or amended in any manner except by an instrument in writing executed by the parties.

SECTION 17.11 Survival

All obligations (together with interest or money obligations at the Default Rate) accruing prior to expiration of the Term of this Agreement will survive the expiration or other termination of this Agreement.

SECTION 17.12 Force Majeure

Other than for ECS’s obligations under this Agreement that can be performed by the payment of money, whenever a period of time is prescribed in this Agreement for action to be taken by either party, such party will not be liable or responsible for, and there will be excluded from the computation of any such period of time, any delays due to strikes, labor unrest, pickets, riots, acts of God, inclement weather, shortages of labor or materials, war, governmental laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the control of such party.

SECTION 17.13 Limited Liability

ECS agrees to look solely to EHFA's interest in the Premises (as such interest is constituted from time to time) for the enforcement of any judgment, award, order or other remedy under or in connection with this Agreement or any related agreement, instrument or document or for any other matter whatsoever relating thereto or to the Improvements or Premises. Under no circumstances shall any present or future, direct or indirect, principals or investors, general or limited partners, officers, directors, shareholders, trustees, beneficiaries, participants, advisors, managers, employees, agents or affiliates of BHS, or of any of the other foregoing parties, or any of their heirs, successors or assigns have any liability for any of the foregoing matters. In no event shall EHFA or BHS be liable to ECS for any consequential damages.

SECTION 17.14 Broker

ECS and BHS each represent to the other that no broker has been involved with this transaction, and no party is entitled to receive a commission or other fee in connection herewith. Each party will indemnify and hold the other harmless from and against any and all commissions, fees and expenses and all claims therefor by any broker, salesman or other party in connection with or arising out of the indemnifying party's action in entering into this Agreement.

SECTION 17.15 Time is of the Essence

Time is of the essence of this Agreement.

SECTION 17.16 Waiver of Jury Trial

EACH OF THE PARTIES MUTUALLY, KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES AGAINST THE OTHER IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT EACH HAS WAIVED ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER APPLIES TO ANY AND ALL SUBSEQUENT AMENDMENTS AND ANY OTHER AGREEMENTS RELATING TO THIS AGREEMENT. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT SITTING WITHOUT A JURY.

SECTION 17.17 Authority

Each of EHFA and BHS represents and warrants that they are duly organized and qualified nonprofit corporations, that they have the power and authority to enter into this Agreement and perform all of their respective obligations under this Agreement, and that each such individual signing this Agreement on behalf of EHFA and BHS is authorized to execute and deliver this Agreement on behalf of EHFA and BHS.

ECS represents and warrants that ECS is a duly organized and qualified political subdivision of the State of Indiana, that such political subdivision of the State of Indiana has the power and authority to enter into this Agreement and perform all of its obligations under this

Agreement, and that each such individual signing this Agreement on behalf of ECS is authorized to execute and deliver this Agreement on behalf of ECS, with all action by ECS as a political subdivision of the State of Indiana being taken.

[Signatures on the following page]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be duly executed as of the day and year first above written.

ECS:

ELKHART COMMUNITY SCHOOLS

By: _____

Name: _____

Its: _____

EHFA:

ELKHART HEALTH, FITNESS AND AQUATICS, INC.

By: _____

Name: _____

Its: _____

BHS

BEACON HEALTH SYSTEM, INC.

By: _____

Name: _____

Its: _____

EXHIBIT A
LAND, IMPROVEMENTS AND PLAN OF PREMISES

[Attached]

EXHIBIT B RULES

(1) **Window and Door Treatments.** ECS shall not place anything or allow anything to be placed in the Premises near the glass of any door, partition, wall or window which may be unsightly from outside the Premises, and ECS shall not place or permit to be placed any article of any kind on any window ledge or on the exterior walls. Blinds, shades, awnings or other forms of inside or outside window devices shall not be placed in or about the outside windows or doors in the Premises except to the extent, if any, that the design, character, shape, color, material and make thereof is first approved or designated by BHS.

(2) **Deliveries and Removals.** Furniture, freight and other large or heavy articles, and all other deliveries may be brought into the Premises only at times and in the manner designated by BHS, and always at the ECS's sole responsibility and risk.

(3) **Locks and Keys.** ECS shall use such standard key system designated by BHS on all keyed doors to and within the Premises, excluding any permitted vaults or safes (but BHS's designation shall not be deemed a representation of adequacy to prevent unlawful entry or criminal acts, and ECS shall maintain such additional insurance as ECS deems advisable for such events). ECS shall not attach or permit to be attached additional locks or similar devices to any door or window, change existing locks or the mechanism thereof, or make or permit to be made any keys for any door other than those provided by BHS. If more than two keys for one lock are desired, BHS will provide them upon payment of BHS's charges. In the event of loss of any keys furnished by BHS, ECS shall pay BHS's reasonable charges therefor. The term "**key**" shall include mechanical, electronic or other keys, cards and passes.

(4) **Safety and Security Devices, Services and Programs.** Safety and security devices, services and programs provided by BHS, if any, while intended to deter crime and ensure safety, may not in given instances prevent theft or other criminal acts, or ensure safety of persons or property. The risk that any safety or security device, service or program may not be effective, or may malfunction, or be circumvented by a criminal, is assumed by ECS with respect to ECS's property and interests, and ECS shall obtain insurance coverage to the extent ECS desires protection against such criminal acts and other losses, as further described in Article VI. ECS agrees to cooperate in any reasonable safety or security program developed by BHS or required by Law.

(5) **Plumbing Equipment.** The toilet rooms, urinals, wash bowls, drains, sewers and other plumbing fixtures, equipment and lines shall not be misused or used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein.

(6) **Trash.** All garbage, refuse, trash and other waste shall be kept in the kind of container, placed in the areas, and prepared for collection in the manner and at the times and places reasonably specified by BHS, subject to Section 9.2 respecting Hazardous Substances.

BHS reserves the right to require that ECS participate in any recycling program designated by BHS.

(7) **Use of Common Areas.** Except as provided in the Agreement, ECS shall not use the common areas, including areas adjacent to the Premises, for any purpose other than ingress and egress, and any such use thereof shall be subject to the other provisions of this Agreement, including these Rules. Without limiting the generality of the foregoing, ECS shall not allow anything to remain in any passageway, sidewalk, court, corridor, stairway, entrance, exit, elevator, parking or shipping area, or other area outside the Premises.

(8) **Unattended Premises.** Before leaving the Premises unattended, ECS shall close and securely lock all doors or other means of entry to the Premises and shut off all lights and water faucets in the Premises (except heat to the extent necessary to prevent the freezing or bursting of pipes).

(9) **Responsibility for Compliance.** ECS shall be responsible for ensuring compliance with these Rules, as they may be amended, by ECS's employees and as applicable, by ECS's agents, invitees, contractors, subcontractors, and suppliers. ECS shall cooperate with any reasonable program or requests by BHS to monitor and enforce the Rules, including taking appropriate action against such of the foregoing parties who violate these provisions.

Schedule 4.1

PERMITTED USES

Schedule 4.2

SCHOOL PROGRAMMING SCHEDULE

ELKHART COMMUNITY SCHOOLS
Elkhart, Indiana

2/3/2017
(Date)

TO: Board of School Trustees
FROM: Dr. Robert Haworth, Superintendent of Schools
SUBJECT: Profile of Pinewood Elementary School
(Name of School)

Number of Staff: 2 Administrators 43 Certified Staff 23 Classified Staff

Enrollment: 702 Total 54.5 %White 8 %Black 28 %Hispanic 1.5 %Asian/
Pacific Is. 0 %Amer. Indian 8 %Multi Racial 2/2/17 As of Date

Previous Year Stability Rate: 79%
Stability percentage is calculated by dividing the number of students who attended one school all year by the number of students who attended at any point.

Parent Involvement: 5%
% of Families Represented in PTA/PTO

Special Education:
Speech, LD, MIMH, and ELL

% on Free Lunches: 45% % with Reduced Lunches: 12%

Breakfast Program: 179
Average Daily Participation

- Special Programs
 - Special curriculum features
 - Awards/honors
- C.L.A.S.S. Minds in Motion, PAWS - 30 minute daily math intervention (8 Steps to SUCCESS), Math Bowl, Spell Bowl, new this year - Science Bowl, Student Service Club, Girls on the Run, IXL math, Brain Pop, Raz Kids

Attachments: School Improvement Plan Information, Standardized Test Profile, and Staffing/Class Size Report

PINEWOOD ELEMENTARY SCHOOL

3420 E Bristol St, Elkhart, 46514

Phone: 262-5595

Fax: 262-5745

Principal

Melinda Shaw

Christine Hack, Head Secretary/5595

Ana Victoria Santos, Assistant Secretary

Assistant Principal

Rebecca Crocker

Shelley Manthey, Assistant Secretary

Kindergarten

Julie Dewit

Emma Dugger

Mary Kuehne

Kimberly Trowbridge

First Grade

Wendy Armour

Jill Carrison

Sara Floerchinger

Peggy Zimmerman

Second Grade

Janice Fuller

Patricia Heitzmann

Julie Kline

Holly O'Connell

Third Grade

Heather Cash

Derek Conley

Deborah Johnston

Stephanie Lee

Michael Thompson

Dana Knapp - HA

Fourth Grade

Jamie Haradine

Sue Holycross

PINEWOOD ELEMENTARY - Continued

Ryan Leniski
Dionne McKaskle
Jill Szyarto - HA

Fifth Grade

Nancy Baker
Matthew Nusbaum
Brett Schuler
Andrew Scupham
Christine Erlacher - HA

Sixth Grade

Kelly Doherty
Seth Schoetzow
Ryan Smaka
Joni Peak - HA

ESL

Jennifer Dennis
Sherry Finn

Special Education

Rickie Meyers
Nicole Perry

Mild Interventions
Mild Interventions

Art

Tara Mix

Physical Education

Cheryl Gough

Music

Kris Weimer

Nurse

Katheline Goodrich

Behavior Specialist

Jason Miller

PINEWOOD ELEMENTARY - Continued

Social Worker

Lindsay Burnett

Speech Pathologist

Pauline Reinking

Psychologist

Rebecca Kmitta

Paraprofessionals

| | |
|-------------------|-------------------------------------|
| Delicia Baskin | Instructional Paraprofessional |
| Nicole Cantzler | Library/Media Paraprofessional |
| MariAnne Grovdahl | Mild Interventions Paraprofessional |
| Mary Gutschow | Instructional Paraprofessional |
| Bobbie Gullotta | Mild Interventions Paraprofessional |
| Cynthia Kaser | Instructional Paraprofessional |
| Dinorah Kuehn | ESL Paraprofessional |
| Judith Lund | Instructional Paraprofessional |
| Pam Reid | Instructional Paraprofessional |
| Christina Stewart | Keyboarding Paraprofessional |

Cafeteria

| | |
|-----------------|---------|
| Brittany Lowe | Manager |
| Laura Allard | |
| Corina Gonzalez | |
| Crystal Howard | |
| Theresa Lee | |
| Linda Miller | |

Custodians

| | |
|---------------|----------------|
| Tanisha Dale | Head Custodian |
| Pam Swoveland | |
| Cheri Wenzel | |

ELKHART COMMUNITY SCHOOLS
ISTEP+ Percentage of Students Passing
 (Undetermined and IMAST scores have been excluded)

2/2/2017

| | | Spr 2010 | Spr 2011 | Spr 2012 | Prior Year Diff | *2013 reorg | Spring 2014 | Spring 2015 | Spring 2016 |
|------------|--------------------------------|----------|----------|----------|--------------------|----------------|----------------|----------------|----------------|
| PINEWOOD | % on Free/Reduced Lunch | 57 | 55 | 57 | | N/A | 61 | 60 | 58 |
| | % English as a Second Language | 19 | 21 | 22 | | N/A | 25 | | |
| Grade | | | | | | | | | |
| 3 | Language Arts | 73 | 88 | 85 | 15 | 76 | 81 | 77 | 62 |
| | Mathematics | 72 | 71 | 71 | -1 | 72 | 82 | 63 | 63 |
| 4 | Language Arts | 73 | 81 | 86 | 8 | 77 | 86 | 78 | 70 |
| | Mathematics | 79 | 78 | 79 | -1 | 81 | 75 | 73 | 71 |
| 5 | Language Arts | 79 | 68 | 79 | -11 | 74 | 75 | 64 | 71 |
| | Mathematics | 88 | 77 | 82 | -11 | 93 | 92 | 73 | 74 |
| 6 | Language Arts | 75 | 81 | 83 | 6 | 75 | 82 | 75 | 66 |
| | Mathematics | 81 | 85 | 82 | 4 | 84 | 86 | 76 | 58 |
| All Grades | Language Arts | 75 | 80 | 83 | 5 | 76 | 81 | 73 | 67 |
| | Mathematics | 80 | 77 | 79 | -3 | 82 | 84 | 71 | 66 |

Yellow highlighting indicates passing rate at or above 70%.

*Spring 2013 scores reorganized by the students' expected 2013-14 schools.

This is for informational purposes only-The official scores are in the "Spring 2013" column.

istephistory16DistSchls1_NoUndIMAST

MINUTES OF THE
PUBLIC WORK SESSION
OF THE
BOARD OF SCHOOL TRUSTEES

Elkhart Community Schools
Elkhart, Indiana

January 24, 2017

J. C. Rice Educational Services Center, 2720 California Rd, Elkhart – 5:30 p.m.

Board Members
Present:

Susan C. Daiber
Karen S. Carter
Douglas K. Weaver

Rodney J. Dale
Glenn L. Duncan
Carolyn R. Morris
Jeri E. Stahr

Time/Place

Roll Call

ECS Personnel Present:

Tony England
Tony Gianesi
Rob Haworth
Dawn McGrath

Gary Sawtelle
Kevin Scott
Doug Thorne
Bob Woods

The Board reviewed the 1028 hearing process and procedures with Kevin Scott, Chief Financial Officer and Phil Faccenda of Barnes & Thornburg. Superintendent Haworth discussed the Superintendent’s Student Advisory Council’s visit to Indianapolis along with Susan Daiber and Carolyn Morris who accompanied the students on the trip. The Board discussed agenda items for the regular Board meeting.

Topics
Discussed

The meeting adjourned at approximately 6:10 p.m.

Adjournment

APPROVED:

Signatures

Susan C. Daiber, President

Rodney J. Dale, Member

Karen S. Carter, Vice President

Glenn L. Duncan, Member

Douglas K. Weaver, Secretary

Carolyn R. Morris, Member

Jeri E. Stahr, Member

MINUTES
OF THE REGULAR MEETING
OF THE BOARD OF SCHOOL TRUSTEES

Elkhart Community Schools
Elkhart, Indiana
January 24, 2017

J.C. Rice Educational Services Center, 2720 California Road, Elkhart – at approximately 7:00 p.m.

Place/Time

| | | |
|------------------------|---|---|
| Board Members Present: | Susan C. Daiber Karen S. Carter Douglas K. Weaver | Rodney J. Dale Glenn L. Duncan Carolyn R. Morris Jeri E. Stahr |
|------------------------|---|---|

Roll Call

President Susan Daiber called the regular meeting of the Board of School Trustees to order. The pledge of allegiance was recited.

Call to Order

Mrs. Daiber opened the 1028 Public Hearing.

1028 Public Hearing

Phil Faccenda of Barnes & Thornburg presented an overview of the hearing process and state requirements. Mr. Faccenda stated the 2018 Memorial High School Renovation project bonds will not exceed an original aggregate principal amount of Ten Million Dollars (\$10,000,000). Todd Samuelson of H.J. Umbaugh and Associates, presented the current and potential debt service levy and capacity. No increase in the debt service tax rate over 2016 certified debt service tax rate is anticipated due to the maturity and reduction in payments on other outstanding bonds. Superintendent Rob Haworth stated a 5-year strategic plan was approved last fall. He provided a brief history of Elkhart Community Schools and the many history makers including an Olympic medalist, NASA award winners, Pulitzer Prize winners, scientists, entrepreneurs and philanthropists as well as the thousands of students and graduates who have earned accolades for their accomplishments and countless students who have achieved success and returned to mentor the children of Elkhart. How, in the past, change has always taken place to meet the needs of our students. Superintendent Haworth reiterated the Elkhart Promise – That every student will be known by name, supported and challenged by highly effective staff, and in partnership with the community will graduate college/career and life ready. The resolution presented is the beginning of the process for change to the high school, junior highs being true 6, 7, and 8 middle schools, and creating the physical space needed for Pre-K. Superintendent Haworth demonstrated the areas of improvement including additions and renovations to provide additional music/performing arts classrooms; expanded and additional cafeteria and kitchen areas; renovations of other areas of the facility to accommodate additional students; and construction of a new secure front entrance.

Presentation of 2018 High School Renovation Project

The Board heard from:

Public
Comment

Alex Holtz, who spoke in favor of the bond issue, stating the need to move forward.

Cephas Chigwada, who spoke in favor of the bond issue citing the importance of education and job training.

Stacy Fann, who is opposed to the bond issue and questioning the rationale of the district's plan to issue bonds rather than seek approval for all borrowing through a referendum. In response to her inquiry, Superintendent Haworth stated combining the projects would raise taxes and the bond issues would not increase the tax rate outside of tax caps as this would have been the result with a referendum.

Lou Pace, who spoke in favor of the bond issue and the need for facilities to improve and enhance performing arts and music.

Ron Davis, President of the Elkhart County NAACP, on behalf of the organization and board that unanimously voted in favor of the bond issue.

Adam Homo, who spoke in favor of the bond issue referencing the need for pathways and cross curricular teaching.

Ronisha Beal, who spoke in favor of the bond issue and the concept of pathways.

Hayley Boling, who spoke in favor of the bond issue to move forward with the Elkhart Promise.

Brian Wiebe, Executive Director of the Horizon Education Alliance (HEA), who spoke in support of the bond on behalf of the alliance. Stating ECS is leading the way with the Pathways concept.

Reed Davisson, who spoke in support of the bond issue expressing his desire to see a more individualized approach to learning and the schools of interest.

Kurt Weimer, who spoke in support of the bond issue referencing other cities' negative results from not moving forward and the need to pool our resources to have more options for our students.

Rod Roberson, who spoke in support of the bond issue to begin the process of educating children from 3 years old through high school students able to refine their interests.

Stephanie Krol, who spoke in support of the bond issue and the innovation and vision of the plan.

Susan Wyse, who is opposed to the bond issue. Mrs. Wyse would like to see the plan go forward without the high schools merging and the associated expense.

Jeannette Jacobson, who is opposed to the bond issue, the freshman center and suggested the plan may not be beneficial for all students.

Julie Bird, who spoke in support of the bond issue.

Arvis Dawson, who spoke in support of the bond issue. He stated his support of the Board and their due diligence.

Jennifer Lefever, who spoke in support of the bond issue and how high school students currently only have access to half of the resources and the benefit of combining them.

Heather Gerlach, who spoke in support of the bond issue and the opportunities it will provide to assist children to find their passion.

Tom Kurth, who spoke in support of the bond issue stating the plan will help make Elkhart better again.

Hannan Hakim, who spoke in support of the bond issue citing additional opportunities and resources.

Regina Roberson, who spoke in support of the bond issue and the benefits of the plan.

Mrs. Daiber closed the public hearing.

Mr. Faccenda reviewed the Preliminary Determination/Reimbursement Resolution to include the 2018 High School Renovation project's financial information: maximum borrowing amount is \$10,000,000 for a term not to exceed 20 years with an estimated interest expense of \$5,474,548. Estimated maximum annual payment will be \$850,000 with the maximum aggregate payment of \$15,544,000.

Closed 1028
Public Hearing

1028/Preliminary
Determination/
Reimbursement
Resolution

The Board members individually commented on the resolution. Karen Carter stated the project is going forward, but how to manage the expenses with the ongoing other building needs with only two million dollars available in the capital project budget for maintenance and repairs. Would this require asking those elementary schools in need to wait 5 additional years for parking lot repairs, carpeting, air handlers, boilers, chillers, and classroom needs such as white boards and technology? Some items like emergency lighting and PA systems are needed immediately. Mrs. Carter asked that more time be taken to develop the plans further before a funding resolution. Rodney Dale commented on the strong feelings on both sides of the strategic plan and the need, going forward, to make it work primarily to be able to offer Pre-K at more locations. He stated moving forward to get to the Pre-K programs will result in better high school students. Jeri Stahr thanked all those who spoke and appreciated their attendance, and especially loved hearing Coach Kurth's comments on community. Ms. Stahr noted work on this plan has been going on for months keeping in mind what is best for our students in the future. The resolution will finance a start of the plan. Carolyn Morris commented she is the product of one high school and is in favor of what is best for 'all' children, adding the process takes a lot of work and time. Doug Weaver also thanked everyone for coming and the passionate opinions expressed. He quoted part of Rabbi Marvin Hier's presidential inaugural address, *"Because, the freedoms we enjoy are not granted in perpetuity, but must be reclaimed by each generation!" "As our ancestors have planted for us, so we must plant for others. While it is not for us to complete the task, neither are we free to desist from them."* Our goal is to teach freedom and opportunity. Glenn Duncan clarified the vote this evening is on the finance resolution. The strategic plan had previously been adopted. He knows the community wants what is best for its students and the plan is financially sound to begin to make it happen. Susan Daiber told a story of a social studies teacher who asked students what they would do if they had \$1,000.00 to improve education. The student asked three individuals: the 70-year old illiterate father of five answered to make sure special needs students are taught to read; the privately educated woman replied arts and athletics were necessary in schools; and the husband wanted college education managers particularly in technical fields. Mrs. Daiber identified the individuals as her father, mother and husband, and the need for all of these areas of education be provided for the students in our community.

The Board adopted the 1028/Preliminary Determination/Reimbursement Resolution for the 2018 High School Renovation Project by a vote of six (6) Susan Daiber, Doug Weaver, Carolyn Morris, Glenn Duncan, Rodney Dale and Jeri Stahr in favor and one (1) Karen Carter, opposed.

(Codified File 1617-97)

Superintendent's Student Advisory Council (SSAC) representatives introduced themselves: Sydney Bias, a sophomore from Central High School (CHS) and Nolan Grose, a junior from Memorial High School (MHS). In addition to SSAC, Sydney Bias plays the cello, is in Key club and on the yearbook committee. Ms. Bias reported the following sports activities: Logan Brown recently broke a school and pool record at Clay; Swim coach Michelle Guipe was named NIC Coach of Year; Ross Kirkton was named to the IFCA Academic All State Team and JT Webb was named to the Region 2 All Stars; and the basketball is also doing well. Ms. Bias invited everyone to the basketball games this coming weekend and to Say What karaoke on February 8th. Nolan Grose plays football and baseball in addition to SSAC. Mr. Nolan thanked the Superintendent for Monday's SSAC trip to Indianapolis. Upcoming events include West Side's class Olympics and a community cook off in concert with the Jazz café in April. Mr. Nolan reported on wrestling, senior night for girls basketball, boys basketball, swimming, and the middle school wrestling matches to be hosted by Memorial. Mr. Nolan thanked the Elkhart Education Foundation for their support of Memorial athletes.

SSAC
Representatives

By unanimous action, the Board approved the following minutes:

- January 10, 2017 – Public Work Session
- January 10, 2017 – Board of Finance Meeting
- January 10, 2017 – Organizational Meeting
- January 10, 2017 – Regular Board Meeting
- January 17, 2017 – Public Work Session

Approval of
Minutes

By unanimous action, the Board approved payment of claims totaling \$5,841,996.16 as shown on the January 24, 2017, claims listing. (Codified File 1617-98)

Payment of
Claims

The Board received a financial report for the period January 1 – December 31, 2016 and found it to be in order.

Financial
Report

Kevin Scott, chief financial officer, reported the following fund loans were paid back effective December 31, 2016: \$141,000 to General Fund from Referendum Tax Levy Fund, and \$900,000 to Debt Service Fund from Retire/Sev Bond Fund.

Fund Loan

By unanimous action, the Board accepted with appreciation the following donations made to Elkhart Community Schools (ECS): hats and gloves and \$270.00 from Karen Johnson and Flexible Concepts to pay negative lunch balances at Pinewood; \$200.00 from Trinity United Methodist Women to be used for supplies for children through the nurse's office at Woodland; and 60 hand-made hat and scarf sets from Ruth Ann Owen for distribution through social workers.

Gift Acceptance

By unanimous action, the Board approved proposed school fundraisers in accordance with Board policy. The funds raised through the listed activities are deposited into each school's extra-curricular fund. In response to Board inquiry, additional discussions will take place regarding fundraising internet sites.(Codified File 1617-99)

Fundraiser
Approval

By unanimous action, the Board approved proposed revisions to Board Policy 0130 – Functions, as initially presented at the Board's January 10th regular meeting. In response to Board inquiry, Doug Thorne, district counsel/chief of staff, clarified the 'best efforts' revision.

Board Policy
0130

The Board was presented proposed revisions to Administrative Regulation KI – Application for Fundraiser Approval, as initially presented at the Board's January 10th regular meeting. The revisions included additional contact information and door to door solicitations.

Administrative
Regulation KI

The Board requested additional research regarding the Redevelopment Commission appointment.

Redevelopment
Commission
Appointment

Karen Carter publicly disclosed her potential conflicts of interest and noted Board members pay for their insurance. Doug Thorne, disclosed the potential conflict of Wesley Molyneaux, director of technology integration. (Codified File 1617-100)

Conflicts of
Interest

By unanimous action, the Board approved proposed revisions and waived second reading of Board Policy 144.1 – Membership – Compensation, Insurance, Expenses and Travel.

Board Policy
144.1

By unanimous action, the Board approved proposed revisions and waived second reading of Board Policy 3422.12S – Employees in Miscellaneous Positions Compensation. In response to Board inquiry, the position description of EACC Career Center Testing Specialist will be provided to all members.

Board Policy
3422.12S

By unanimous action, the Board approved new course offerings in accordance with Board policy. New courses include: College and Career Readiness Bridge: Math Ready/HS3465 and Math 10/HS3421. (Codified File 1617-101)

New Course
Offerings

By unanimous action, the Board approved the following overnight trip requests: Central and Memorial Japanese class students to travel to Yokohama City, Japan on July 21 thru August 5, 2017 as part of the Yamate Gakuin High School Exchange Program; Central Winter drumline students to travel to Indianapolis on February 10 and 11 to compete in the Indiana Percussion Association competition; and West Side social studies students to travel to Washington, DC on October 25 thru 29 to explore and discover the nation's capital.

Overnight Trip
Request

By unanimous action, the Board approved conference leave requests in accordance with Board policy for staff members as recommended by the administration on the January 24, 2017 listing. (Codified File 1617-102)

Conference Leaves

By unanimous action, the Board approved the following personnel recommendations of the administration:

Personnel Report

An agreement regarding unpaid time for a certified staff member. (Codified Files 1617-103)

Consent Agreement

Retirement of certified staff member, James Langton, world language at Memorial, effective August 1, 2017 with 21 years of service.

Certified Retirement

Regular employment of classified employee, Jamie Greenway, paraprofessional at Cleveland, who successfully completed her probationary period on 1/18/17.

Classified Employment

Resignation of the following six (6) classified employees effective on dates indicated:

Classified Resignations

Holly Hardy - bus helper at Transportation, 1/6/17

Broc Hiatt - misc. food service receiving at Commissary, 1/10/17

Julie Johnson - food service at Central, 2/15/17

Nicole Quesinberry - food service at Beardsley, 1/3/17

Collin Rowland - bus driver at Transportation, 1/13/17

Linda Sedlock - food service at Feeser, 1/5/17

Voluntary leave for classified employee Diedre Wright bus driver at Transportation beginning 1/3/17 and ending 4/7/17.

Voluntary Leave

Board member, Doug Weaver, congratulated the Elkhart Area Career Center on the tremendous turnout for their Open House last Sunday.

From the Board

Board members, Susan Daiber and Carolyn Morris commented on their recent trip with the SSAC students to Indianapolis. The group met with legislators, heard various leadership speakers and toured the State House.

From the Board

The Board discussed the Elkhart Education Foundation financial information.

From the Board

The meeting adjourned at approximately 10:00 p.m.

Adjournment

APPROVED:

Susan C. Daiber, President

Karen S. Carter, Vice President

Douglas K. Weaver, Secretary

Rodney J. Dale, Member

Glenn L. Duncan, Member

Carolyn R. Morris, Member

Jeri E. Stahr, Member

Signatures

MINUTES OF THE
PUBLIC WORK SESSION
OF THE
BOARD OF SCHOOL TRUSTEES

Elkhart Community Schools
Elkhart, Indiana

January 30, 2017

J. C. Rice Educational Services Center, 2720 California Rd, Elkhart – 5:00 p.m.

Time/Place

Board Members
Present:

Susan C. Daiber
Karen S. Carter
Douglas K. Weaver

Carolyn R. Morris
Jeri E. Stahr

Roll Call

Absent:

Rodney J. Dale
Glenn L. Duncan

The Board heard a presentation by Hans Meeder, author of The Power and Promise of Pathways.

Topics
Discussed

The meeting adjourned at approximately 6:00 p.m.

Adjournment

APPROVED:

Signatures

Susan C. Daiber, President

Rodney J. Dale, Member

Karen S. Carter, Vice President

Glenn L. Duncan, Member

Douglas K. Weaver, Secretary

Carolyn R. Morris, Member

Jeri E. Stahr, Member



BUSINESS OFFICE

ELKHART
COMMUNITY SCHOOLS

INTERNAL MEMO

**TO: BOARD OF SCHOOL TRUSTEES
DR. HAWORTH**

FROM: KEVIN SCOTT

DATE: FEBRUARY 14, 2017

SUBJECT: APPROPRIATION TRANSFERS

A report summarizing the transfer of appropriations within each of the state-approved funds at the end of the 2016 budget year is attached. These transfers are done pursuant to the resolution approved by the Board in the November 22, 2016 Board meeting.

If you have questions prior to the next Board meeting, please contact me at 262-5553.

**TRANSFER APPROPRIATIONS
2016**

| GENERAL FUND | DECREASED | INCREASED |
|---|----------------|--------------|
| 11000 Instruction | 441,865.57 | |
| 12000 Special Programs | | 183,538.55 |
| 13000 Adult/Continuing Education | 143,022.93 | |
| 14000 Summer School Programs | 35,166.03 | |
| 16000 Remediation | 8,656.86 | |
| 17000 Payments to Other Govt Units | 1,028,257.35 | |
| 21000 Support Services - Students | | 506,811.83 |
| 22000 Support Services - Instruction | 156,228.87 | |
| 23000 Support Services - General Admin | 94,110.94 | |
| 24000 Support Services - School Admin | | 466,089.37 |
| 25000 Central Services | | 673,456.90 |
| 26000 Operation & Maint of Plant Services | | 197,574.99 |
| 27000 Student Transportation | | 10.50 |
| 31000 Food Services Operations | | 990.88 |
| 33000 Community Service Operations | 123,546.49 | |
| 60000 Nonprogrammed Charges | | 2,382.02 |
| | (2,030,855.04) | 2,030,855.04 |

| REFERENDUM TAX LEVY | DECREASED | INCREASED |
|-------------------------------------|-----------|-----------|
| No Transfers between major accounts | | |

| DEBT SERVICE FUND | DECREASED | INCREASED |
|-------------------------------------|-----------|-----------|
| No Transfers between major accounts | | |

| CAPITAL PROJECTS FUND | DECREASED | INCREASED |
|--|----------------|--------------|
| 22000 Support Services - Instruction | | 1,838,740.74 |
| 25000 Central Services | 2,219,779.27 | |
| 26000 Operation & Maint of Plant Services | 601,470.01 | |
| 41000 Facilities Acquisition & Construction | | 15,587.15 |
| 43000 Professional Services | | 758,589.94 |
| Building Acquisition, Construction & | | |
| 45000 Improvement | | 341,753.28 |
| 47000 Purchase of Mobile or Fixed Equipment | | 6,440.93 |
| 49000 Other Facilities Acquisitions & Construction | 139,862.76 | |
| | (2,961,112.04) | 2,961,112.04 |

| TRANSPORTATION FUND | DECREASED | INCREASED |
|---|--------------|------------|
| 21000 Support Services - Students | | 20,057.98 |
| 23000 Support Services - General Admin | | 38,423.33 |
| 24000 Support Services - School Admin | | 72,502.16 |
| 25000 Central Services | | 119,189.02 |
| 26000 Operation & Maint of Plant Services | | 15,485.11 |
| 27000 Student Transportation | 265,657.60 | |
| | (265,657.60) | 265,657.60 |



BUSINESS OFFICE

ELKHART
COMMUNITY SCHOOLS

INTERNAL MEMO

**To: DR. HAWORTH
BOARD OF SCHOOL TRUSTEES**

FROM: DR. ROBERT WOODS

DATE: FEBRUARY 14, 2017

SUBJECT/ EXTRA CURRICULAR PURCHASE

The Business Office recommends Board approval of purchase of the following items from extra-curricular funds:

| SCHOOL/ACCOUNT | ITEM | AMOUNT |
|---------------------------------------|------------------|------------|
| West Side Student Extra-curricular | ISTEP-T-Shirts | \$2,567.40 |
| West Side Girl's BB Team | Team Apparel | \$1,229.00 |
| West Side Orchestra | 4 Violin Outfits | \$1,560.00 |



WEST SIDE MIDDLE SCHOOL
101 SOUTH NAPPANEE STREET • ELKHART, IN 46514
PHONE: 574-295-4815

ELKHART COMMUNITY SCHOOLS
J.C. RICE EDUCATIONAL SERVICES CENTER
2720 CALIFORNIA ROAD • ELKHART, IN 46514
PHONE: 574-262-5500


To: Dr. Haworth
From: Kristie Stutsman *[Signature]*
Date: 2/2/17
Re: Approval for Purchase of ISTEP Shirts

West Side Middle School is re questing approval to purchase ISTEP t-shirts for staff and students from our extra-curricular account. The cost of the t-shirts is \$2567.40. The t-shirts are used as an incentive for students to give best effort on ISTEP. The t-shirts are being purchased from

Steve Greene
30555 Raintree Dr. Granger, IN 46530
www.regencybusinesssolutions.com

West Side Student Council and National Junior Honor Society sell Nelson's chicken to raise the money for t-shirts.

WHERE LEARNING HAS NO LIMITS

Date: 2/8/2017
TO: Dr. Rob Haworth
FROM: Krista Hennings & Kristie Stutsman 
RE: West Side Middle School Girls Basketball Team

The West Side Middle School Girls basketball team will be purchasing apparel to wear for the season. The base price for the apparel is 36.00 and the students are paying for the items themselves, unless financially unable. If a player is financially unable I have a parent that is willing to pay for their apparel. The cost would be 1229.00, charged to the girls basketball account. We are requesting permission from the school board to proceed with this order.

Elkhart Community Schools
Proposed School Fundraising Activities
February 14, 2017 Meeting of Board of School Trustees

| School/Organization | Fundraising Activity Description/Purpose | Date(s) of Activity | Date Submitted | Sponsor(s) |
|---------------------------------------|---|--------------------------------|----------------|---|
| Cleveland, 5th Grade Team | 5th grade students will sell MudLove bracelets. Proceeds from the sale will help cover the cost to Camp Eberhart as well as support the MudLove initiative of providing clean drinking water to people in the Central African Republic. | 2/24/2017-5/10/2017 | 1/30/2017 | Dodie Norris, Erika Green, Stephanie Grimes, and Troy Smith |
| West Side Student Council & NJHS | Donations will be collected from students and staff to purchase a memorial bench to honor lost students; Braden Hartman, Sarah Crane, and Devon Sullivan | 2/14/2017-\$1,200 is collected | 2/6/2017 | Lisa McKee |
| West Side DC Travel Group | Students will sell Discount Peeler Cards. Proceeds will be used to help pay for DC trip expenses. | 3/6/2017-3/21/2017 | 2/6/2017 | Lisa McKee |
| Memorial Special Education Class | Students will cook a Valentines Day lunch for staff members. Staff that wishes to participate will pay \$5.00 or \$6.00 with a drink. Proceeds will be used to support classroom community based instruction. | 2/16/2017 | 2/7/2017 | Franchesca Hawkins. |
| Memorial Choirs | Students will sell popcorn, chocolate and magazines from a catalogue to family, neighbors, friends and teachers. Proceeds will be used for uniforms, private lessons, purchasing music and clinicians. | 2/17/2017-2/27/2017 | 1/30/2017 | Josh Hren |
| Memorial Sophomore Student Government | A Multi-consultant clothing sale through LulaRoe will be held. Proceeds will be used for Student Government activities. | 3/18/2017 | 1/24/2017 | Eileen Misener |
| Memorial Baseball | Players will sell Coupon Cards for area restaurants. Proceeds will be used to purchase player apparel (hoodies, t-shirts, socks, hats, etc.) | 3/18/2017-3/25/2017 | 2/1/2017 | Scott Rost |
| Central Baseball | Players will sell Coupon Books for area restaurants and businesses. Proceeds will be used to purchase a batting cage, improve diamonds and buy equipment. | 3/20/2017-3/25/2017 | 1/20/2017 | Steve Stutsman |
| Central Boys & Girls Track Team | A Nelson's BBQ sale will be held at O'Reilly Auto Parts on Cassopolis St. Proceeds will be used for team apparel and equipment. | 3/25/2017 | 2/1/2017 | Jacob Balch |
| Central Baseball | Players will host a Trivia Night. Proceeds will be used to purchase a batting cage, improve diamonds and buy equipment. | 4/22/2017 | 1/20/2017 | Steve Stutsman |
| | | | | |

AMENDMENT
TO
MANAGEMENT SERVICES AGREEMENT

This MANAGEMENT SERVICES AMENDMENT (the "Amendment") is made effective as of the _____ day of January, 2017, by and between the Elkhart Community Schools, a body politic ("District"), and TransPar Operations, LLC a Missouri LLC with its principal place of business at 18 SW 3rd Street, Suite 200, Lee's Summit, MO, 64063 ("Manager").

Whereas, the parties entered into that certain Agreement dated December 1, 2013 including certain Exhibits, hereinafter referred to as the "Agreement", and said agreement was adopted by Board action. Said agreement allows for an Option to Renew and reads in part:

6.1 Initial Term. This Agreement consists of an initial term commencing January 1, 2014 and through mutual agreement continues through December 31, 2016 (the "Term"), unless terminated sooner as provided herein.

6.2 Option to Renew. "The District shall have options to renew this Agreement for two (2) one (1) year time periods upon notice as set forth herein."

7.1 Compensation. The District shall pay to Manager, during the Initial Term on account of provision of Services, the sum of \$13,260 monthly for the first year, \$13,525 monthly for the second year, and the sum of \$13,796 monthly for the third year.

And

Whereas, the parties agree to make certain changes and amendments to the agreement as permitted in Section 6, paragraph 6.2. Hereby, parties agree to change and amend paragraph 6.1 and 7.1 of agreement.

Now, therefore, it is mutually agreed as follows:

1. Paragraph (6.1) Initial Term: extended two (2) years commencing January 1, 2017 through December 31, 2019.
2. Paragraph (7.1) Compensation:
 - ✓ January 1, 2017 – December 31, 2017 the monthly sum shall be \$15,530
 - ✓ January 1, 2018 – December 31, 2019 the monthly sum shall be \$15,847

Now, in addition, the following services would be provided in addition to the existing schedule of deliverables provided for in the original agreement dated December 1, 2013, it is mutually agreed as follows:

- Replace the current bus routing software (*EduLog*) with an alternative application suite that includes *Routefinder Pro* from Transfinder Corporation and *SafeStop*. These tools will allow TransPar to continue to focus on the efficiency and effectiveness of the routing scheme. *SafeStop* also provides the ability to distribute bus stop and time information to parents through an app available on both iOS and Android. TransPar would be happy to coordinate any implementation of the parent communication app and negotiate any additional costs for this service.
- If at any time, should TransPar's services no longer be required, and since TransPar owns the license of the software that will be used at District. TransPar would transfer the

ownership of the *Routefinder Pro* software to the District for 80% of the current Transfinder market price (for a similarly sized district).

- Provide school bus driver training content through a learning management system. TransPar shall adopt industry leading school bus driver training content developed by *School Bus Safety Company* delivered on a web-based learning management platform. This platform will vastly improve the ability of the district to manage driver training records as part of an effort to mitigate any risk exposure.

Except as specifically amended herein, all of the terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized representatives as of the date first above written.

CORPORATION
Elkhart Community Schools

By: _____

Title: _____

Attest: _____
Secretary

MANAGER
TransPar

By: _____

Title: _____

Attest: _____
Secretary

MANAGEMENT SERVICES AGREEMENT
THREE YEAR

MANAGEMENT SERVICES AGREEMENT (the "Agreement") made effective as of the first day of December, 2013, by and between the Elkhart Community Schools, a body politic ("District"), and TransPar Group, Inc. a Kansas Corporation with its principal place of business at Suite 200, 18 SW 3rd St., Lee's Summit, Missouri 64063("Manager").

RECITALS

The District has a student transportation system and desires that Manager, a qualified transportation consulting and management company, render certain management services with respect to the design, structure and operation of such system, as more particularly described herein.

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises, covenants and undertakings set forth herein, the parties hereby agree as follows:

1. Incorporation of Recitals.

The matters recited above are hereby incorporated into and made a part of this Agreement.

2. Engagement and Scope of Services.

2.1. Engagement. The District hereby engages Manager as an independent Manager to manage, supervise and operate the District's Department of Transportation (the "System"), and Manager hereby accepts such engagement, upon the terms and conditions set forth herein.

2.2. Services. Manager agrees to provide the professional management services and assume the responsibilities set forth herein and on Exhibit "A" including the deliverables set forth herein (hereinafter, collectively, "Services") in accordance with the terms and conditions of this Agreement.

2.3. Authority/Final Authority. The District has ultimate responsibility for and authority over the System. Subject to the District's responsibility and authority and the District's policies, ordinances, guidelines, rules, service agreements, and decisions, Manager shall take all actions necessary and appropriate to manage operation of the System and performance of the Services in the safest, most timely and cost efficient manner possible. In connection therewith, Manager's responsibilities shall include: a.) assigning responsibilities to and monitoring the performance of all transportation related staff b.) dealing directly with vendors; and making recommendations to the District regarding the following: i. bidding contracts under the System, engaging new vendors; ii. terminating vendor contracts; iii. preparing budgets and financial control criteria; and policies, procedures and guidelines and rules for the System, any bus contractors and school officials; and c.) implementing, as directed by the District or its designee, all District approved ordinances, policies, guidelines, rules or decisions

concerning the System . See Exhibits A, C, D.

2.4. Changes. The District may, from time to time, request changes in the scope of Services. Any such changes, including any agreed upon increase or decrease in Manager's fees, shall be documented by amendment as set forth in this Agreement.

2.5. Communications. All reports, communications to the District and/or recommendations shall be directed to the Business Manager unless Manager is instructed otherwise by the Business Manager.

3. Personnel.

3.1. Key Personnel. Key Personnel shall be employed by Manager (or Manager's affiliates) and all costs associated with Key Personnel shall be borne by and be the responsibility of Manager. Key Personnel are identified on Exhibit B.

3.2. Additional Manager Personnel. In addition to furnishing the Key Personnel, Manager shall furnish to the System, at Manager's expense, a sufficient number of trained personnel (the "Additional Manager Personnel") to perform the work designated as Services in this agreement and specified as Services on Exhibit A and otherwise described in Section 2.3 of this agreement. Manager shall pay all costs associated with the Additional Manager Personnel, including but not limited to wages, payroll taxes, benefits, travel, food and lodging. Additional Manager Personnel shall initially include one (1) Director of Transportation, see Exhibit B.

3.3. Removal of Additional Manager Personnel. Manager agrees to remove any Additional Manager Personnel from a particular job function in which such additional manager personnel is employed, upon written direction from the Business Manager and shall bear any costs associated with removal of Additional Manager Personnel if such removal is for cause. However, as an independent contractor, Manager, may assign or reassign such removed Additional Manager Personnel to any job function other than the job from which such person was removed, including other job functions where Services are provided under this Agreement.

3.4. Reassignment or Replacement of Key or Additional Manager Personnel. Manager agrees not to reassign or replace any Key/Additional Manager Personnel without prior written consent from the Business Manager, which consent shall not be unreasonably withheld or delayed. Replacement of Additional Manager Personnel (Director of Transportation) shall be subject to approval of District, with approval not being unreasonably withheld or delayed. Should replacement/approval not be achieved within a reasonable period of time this agreement may be terminated immediately.

3.5 Hiring of Personnel. During the term , any renewal term and for a period of one (1) year following termination or expiration of this agreement, District shall not, without the prior written consent of Manager, be permitted to hire any of Manager's employees.

4. Standards of Performance.

4.1. Standards. Manager agrees for itself and to cause all Key Personnel, Additional Manager Personnel and other staff under its direction and control to

devote such time, attention, skill, knowledge and professional ability as is necessary to perform Services effectively and efficiently consistent with the best interests of the District. This includes assuring that sufficient personnel are on site at the District to perform Services through the entire workday each school day.

4.2 Staff. Manager shall retain and utilize sufficient Key Personnel, Additional Manager Personnel, and other staff under its direction and control to assure the effective and efficient performance of Services. It is understood that the level of assigned staff within the transportation department shall remain consistent with that which exists at the time of signing this agreement. It is further understood that all staff (drivers, mechanics, aides, clerical, dispatcher, etc. currently functioning in this department are to remain employees of the District but shall be assigned to the system and shall be under the direct supervision and control of Manager. Manager shall have direct control over such personnel by directing, assigning, managing their tasks, and provide performance evaluations. District agrees to cooperate with the Manager in any replacement of staff and that should any of these staff not perform to an acceptable level they shall be removed from the system.

It is further agreed that these positions shall be reviewed at least annually to determine whether they should remain as District positions or convert to Manager provided positions. If, based on this review or as staff vacate these positions, it is determined to be in the best interest of both parties to convert from District to Manager positions the cost of doing so shall be negotiated at the time of the conversion. Such costs shall be calculated and added to the then current rate of compensation.

4.3. Relationship. Manager and District agree to cooperate with each other in performing Services and each acknowledges that in order to achieve the desired objectives each must cooperate with the other. Manager, an independent contractor, shall act as agent for the District in matters relative to the System.

4.4. District Satisfaction. Manager shall perform all Services to the reasonable satisfaction of the Business Manager and the District.

5. Outcomes/Deliverables.

5.1. Outcomes. District and Manager intend that the Services shall be designed to achieve the expected outcomes that are set forth on Exhibit "C". However, District acknowledges and agrees that achievement of the Outcomes is subject to any ordinances, policies, directives, rules or decisions of the District and such District ordinances, policies, directives, rules or decisions may prevent achievement of the Outcomes described on Exhibit C.

5.2 Deliverables. A description of all deliverables, including all required submittals, documents, plans, reports and other materials to be provided to the District in connection with Services performed and the expected completion date(s), are set forth on Exhibit "D" ("Deliverables").

6. Term and Termination.

6.1 Initial Term. This Agreement consists of an initial term commencing January 1, 2014 and continuing through December 31, 2016 (the "Term"), unless terminated sooner as provided herein.

6.2. Option to Renew. The District shall have options to renew this Agreement

for two (2) one (1) year time periods upon notice as set forth herein. Said notice shall be in writing and given at least one hundred twenty (120) calendar days prior to the end of the initial Term or any renewal term.

6.2.a. The terms and conditions of this Agreement as they may be amended from time to time shall apply to any renewal term.

6.2.b. All renewal terms shall be subject to the agreement of the parties. Said agreement shall be documented in writing prior to the commencement of a renewal term.

6.2.c. Manager may elect not to accept a renewal term, and in such event, Manager shall give written notice to the District within sixty (60) days of receipt of the District's renewal notice.

6.3. Default and Remedies. In the event Manager defaults as defined in section 6.4 of this Agreement and such default is not cured within thirty (30) calendar days after written notice is given by the District, any or all of the following actions may be taken by the District at its option:

6.3.a. Only if said default is due to the insolvency or bankruptcy of Manager, the District may terminate this Agreement immediately upon written notice to Manager without regard to the thirty (30) day cure period;

6.3.b. Manager may be declared to be in default under any other agreement Manager may have with the District;

6.3.c. The remedies herein are not intended to be exclusive and the District may pursue all other remedies available at law or equity.

6.4. Events of Default. The following shall constitute events of default:

6.4.a. Any material misrepresentation by Manager in the inducement of this Agreement or the performance of Services;

6.4.b. Breach of any agreement, representation or warranty made by Manager in this Agreement.

6.4.c. Failure of Manager to perform in accordance with or comply with the terms and conditions of this Agreement;

6.4.d. Any uncured Default by Manager under any other agreement Manager may have with the District; and

6.4.e. Assignment by Manager for the benefit of creditors or consent by Manager to the appointment of a trustee or receiver or the filing by or against Manager of any petition or proceeding under any bankruptcy, insolvency or similar law. However, The parties agree that assignment by Manager of any sums due and owing Manager under this Agreement shall not constitute a default of the Agreement. Further, Manager may, without consent of District (i) assign and/or create a security interest in all such rights to or for the benefit of any lenders to Manager and (ii) assign all rights under this agreement and such obligations to a wholly-owned subsidiary or subsidiaries of Manager or to a successor to the business of Manager which shall assume all obligations and liabilities hereunder.

6.5 Termination without cause/Termination payment. District or Manager shall have the right to terminate this Agreement, without cause, upon 90 days written notice to the other. After the effective date of termination neither party shall be under further obligations under this agreement other than obligations existing on the date

of termination, except as otherwise provided in this Agreement. However, if District terminates this agreement pursuant to this Section 6.5, then it agrees to pay to Manager its costs and expenses in locating work for its additional manager personnel, relocating such personnel and the business interruption that termination without cause shall create. District shall pay a termination payment of two months management fees .

7. Compensation/Reimbursements/Payment/etc.

7.1. Compensation. The District shall pay to Manager, during the Initial Term on account of provision of Services, the sum of \$13,260 monthly for the first year; \$13,525 monthly for the second year; and the sum of \$13,796 monthly for the third year. This Compensation is cash compensation for Services and is separate from and in addition to District's obligation to provide to Manager facilities and equipment provided to Manager pursuant to Section 7.4 of this Agreement. The services provided are more readily defined within Exhibit A.

7.2. Basis of Compensation. Compensation for Services shall be based on actual Services performed during the Term of this Agreement and the District shall not be obligated to pay for any Services not in compliance with this Agreement.

7.2.a. In the event of early termination of this Agreement, the District shall be obligated to pay the Compensation provided hereunder, approved reimbursable costs incurred up to the date of termination and a termination payment of two months fees as provided for in Section 6.5 of this Agreement.

7.2.b. District is not liable for any costs incurred or Services performed after the effective date of termination, except as herein provided. However, if a cost or Service was authorized, prior to the effective date of termination, but incurred after the effective date of termination, District shall pay for such cost or service. If a cost or Service was authorized after the effective date of termination, such cost or Service must be the subject of a separate agreement between District and Manager.

7.3. Payment. Manager shall submit invoices to the District and District shall pay Manager's invoices within ten (10) days of receipt of the invoice.

7.4. Facilities, Equipment, etc. During the Term, the District shall provide and make available to Manager the facilities, services, equipment, supplies, etc. currently provided by the District to the Department of Transportation in accordance with the Department of Transportation budget, including but not limited to office space, office furniture and fixtures, telephone and fax, computers, software and all peripherals necessary to operate the System and to access any data processing or management information system necessary to operate the System and office supplies, utilities, office equipment and service agreements covering such equipment. District shall endeavor to maintain and/or upgrade equipment so as to not impede Manager's ability to utilize necessary hardware/software for the fulfillment of its obligations under this agreement. Manager agrees to assist the District, if required, with these upgrades by initially purchasing required items and arranging for District to reimburse Manager within a reasonable period of time. Further, if at any time during the term of this Agreement or any extension thereof District or its designee determines that any office or office space provided to Manager shall be moved to a new location,

District shall pay all costs incident to the relocation of the office and all facilities and equipment that it is providing to Manager under this Section of this Agreement.

7.5. Non-Appropriation. Expenditures not appropriated in the current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event sufficient funds are not appropriated in a subsequent fiscal year by the District for performance under this Agreement, the District shall notify Manager and this Agreement shall terminate on the last day of the fiscal period for which funds were appropriated.

7.6. Revenue. All revenue derived from the operation of the System whether from passengers or from other sources shall be and remain the sole property of the District. The handling and treatment of all such revenue, including the receipts, collection, deposit and accounting therefor, shall be directed by the District.

8. Confidentiality and Ownership of Documents.

8.1. Confidential Information. In the performance of Services, Manager may have access to certain information that is not generally known to others including but not limited to information and/or documentation obtained from the District's student records, administration, personnel/finance department, etc.

8.2. Confidentiality Obligations. Manager agrees not to use or disclose to any third party, except as required in the performance of Services, any Confidential Information or any records, reports or documents or Deliverables prepared or generated as a result of this Agreement without the prior written consent of the District. This provision shall survive the expiration or termination of this Agreement.

8.3. Dissemination of Information. As to performance of Services under this Agreement, Manager shall not issue news releases or grant press interviews or disseminate any information regarding Services except as may be required by law, during or after the performance of Services without the prior consent of the Business Manager. However, Manager may issue news releases or publicity regarding the execution of this Agreement and may advise other potential purchasers of its services as to the nature of Services provided to District. In the event Manager is presented with a Freedom of Information request, a request for documents by any administrative agency or with a subpoena duces tecum regarding any records, data, other documents or Deliverables which may be in Manager's possession by reason of this Agreement and/or the Services being performed, Manager shall, within two business days, give notice to the District and its attorney with the understanding that the District shall have the opportunity to contest such process by any means available to it before such records, data, other documents, or Deliverables are submitted to a court or other third party; provided however, that Manager shall not be obligated to withhold such delivery beyond the time ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

8.4. Staff. Manager agrees to cause Key Personnel, Additional Manager Personnel, and other staff under its direction and control if any, to undertake the same obligations of confidentiality agreed to by Manager under this Agreement.

8.5. Ownership. All records, reports, documents, Deliverables and other

materials prepared by Manager in performing Services as well as all records, reports, documents, Deliverables and other materials containing Confidential Information prepared or generated as a result of this Agreement shall at all times be and remain the property of the District. However, to the extent that such records, reports or documents are financial records of Manager or are either working drafts of deliverables or final deliverables that have been made public records pursuant to state law, then such records, reports or documents are also property of Manager. All software and other systems delivered to the District that is owned or developed by the Manager for use in delivering services shall remain the property of the Manager unless District arranges to purchase/lease same from Manager.

8.5.a. In the event any of the above items are lost or damaged while in Manager's possession, such items shall be restored or replaced at Manager's expense.

9. Representations and Warranties of Manager.

Manager represents and warrants that the following shall be true and correct as of the effective date of this Agreement and shall continue to be true and correct during the initial term and any renewal term of this Agreement.

9.1. Compliance with Laws. Manager is and shall remain in compliance with all local, state and federal laws, ordinances, regulations and statutes relating to this Agreement and the performance of Manager's Services including but not limited to the Drug-Free Workplace, and those referenced in Sections 14.1 and 14.2 of this Agreement relating to non-discrimination. Further, Manager is and shall remain in compliance with all District policies and Rules and agrees, upon reasonable request, to cause all Key Personnel, Additional Manager Personnel and other staff under its direction and control to submit to criminal background checks.

9.2. Gratuities. No payment, gratuity or offer of employment was made to Manager or to any subcontractors, if any, to the best of Manager's knowledge in relation to this Agreement or as an inducement for award of this Agreement. Manager is and shall remain in compliance with all applicable anti-kickback laws and regulations.

9.3. Ethics. No officer, agent or employee of the District is or will be employed by Manager or has or will have a financial interest, directly or indirectly, in this Agreement or the compensation to be paid hereunder except as may be permitted under this Agreement or in writing by the District's ethics policies, if any.

9.4. Good Standing. Manager, and each of its subcontractors if any, are entities in good standing under the applicable laws of the state where such entity is domiciled.

9.5. Authorization. Manager has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf of Manager is duly authorized by Manager and has been made with complete and full authority to commit Manager to all terms and conditions of this Agreement which shall constitute valid, binding obligations of Manager.

10. Independent Contractor.

It is understood and agreed that the relationship of Manager to the District is and shall continue to be that of an independent contractor acting as agent for the District and neither Manager nor any of Manager's agents, employees or subcontractors shall be entitled to receive District employee benefits. However, District agrees that to the extent that Manager is performing duties of a governmental nature under this Agreement, in performing such duties Manager is an agent, designee or assignee of District, then District agrees that, even though Manager is an independent contractor it is acting in a governmental capacity and it is entitled to the full protection of immunities afforded to District as if District were exercising its governmental functions. District agrees that all of Manager's actions under this Agreement and in providing the Services and Deliverables are governmental functions. It is further understood and agreed that the District shall not be responsible for, nor incur any liability for, any state or federal withholding or other taxes or for FICA or state unemployment insurance for Manager, its agents, employees or subcontractors and the payment of any such taxes incurred or due by Manager shall be the sole responsibility of Manager. Manager agrees that neither Manager nor its Key Personnel, or staff shall represent themselves as employees of the District. Manager shall provide the District with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including but not limited to a social security number and/or federal employer identification number.

11. Indemnification and Defense of Litigation

11.1 Indemnity Manager shall hold District, its officers and employees harmless and does hereby indemnify District, its officers and employees from and against every claim or demand which may be made by any person, firm or District, or other entity arising from or caused by any act, neglect, default or omission of Manager in the performance of this Agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of District, its agents or employees.

District shall hold Manager, its officers, employees, agents, successors and assigns harmless and does hereby agree to indemnify and defend Manager, its officers, employees, agents, successors and assigns from and against every claim or demand which may be made by any person, firm, District or other entity arising from or caused by any act, neglect, default or omission of District or its officers, employees or agents related to this Agreement.

11.2 Separate Obligations. Manager and District expressly understand and agree that the indemnity obligations set forth herein are separate from and not limited by District's obligation to obtain insurance pursuant to this Agreement.

11.3 Survival. The indemnities set forth herein shall survive the expiration or termination of this Agreement.

12. Insurance.

12.1. Insurance. Manager and District shall, procure and keep in force during the entire term of this Agreement, public liability, professional liability and property damage liability insurance protecting each other pursuant to their respective indemnity obligations. Each of them, Manager and District, shall, so long as available at reasonable prices from standard markets in the property, casualty and professional liability insurance industry, provide limits of liability of not less than One Million Dollars (\$1,000,000.00) Combined Single Limit for professional negligence, bodily injury and damage to property. Manager and District each agree to provide to the other a certificate of insurance evidencing such coverage and designating each of them respectively as additional insureds. Each insurance policy shall provide that no coverage shall be cancelled except by thirty (30) days written notice. In the event of cancellation, separate notice shall be provided to each party.

12.1.a. District's Insurance. Manager agrees that District may satisfy its obligation to provide insurance for District's own negligence through District's insurance program. District agrees to provide information regarding the financial solvency of its insurance program to Manager upon Manager's request. If during the term of this Agreement, District replaces its insurance program, then District shall provide such information to the Manager as required in this Agreement.

12.2 Bus Operations Insurance. District shall add Manager as an additional named insured under its bus fleet liability insurance policies protecting Manager against any such claims.

13 Dispute Resolution.

Any dispute arising under this Agreement shall be resolved pursuant to the Dispute Resolution provisions contained on Exhibit E attached hereto and incorporated by this reference as if they were set out at length herein.

14 Non Discrimination.

14.1 Unlawful Employment Practices. It shall be an unlawful employment practice for Manager or subcontractors to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, or the terms, conditions or privileges of employment, because of such individual's race, color, religion, sex, age, handicap or national origin; or to limit, segregate, or classify employees or applicants for employment from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, religion, sex, age, handicap or national origin.

14.2 Compliance. Manager shall comply with the Civil Rights Act of 1964 as amended, 42 U.S.C.A. Sec. 2000, et seq.; The Age Discrimination in Employment Act., 29 U.S.C.A. §621, et. seq.; Section 504 of the Rehabilitation Act, 20 U.S.C.A. §701, et. seq.; as amended; the Equal Opportunities for Individuals With Disabilities Act, 42 U.S.C.A. §12101, et. seq.; and all applicable Indiana law.

15. Notices.

All notices required under this Agreement shall be in writing and sent to the address set forth below:

Notices to District shall be addressed to:

Attention: _____
Copies to: _____

Notices to Manager shall be addressed to:

Ruth A. Newby, President
TransPar Group, Inc.
Suite 200, 18 SW 3rd Street
Lee's summit, Missouri 64063

16. Assignment:

This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign this Agreement or any obligations imposed hereunder without the prior written consent of the other party. However, the parties agree that assignment by Manager of any sums due and owing Manager under this Agreement shall not constitute an assignment of the Agreement. Further, Manager may, without consent of District (i) assign and/or create a security interest in all such rights to or for the benefit of any lenders to Manager and (ii) assign all rights under this agreement and such obligations to a wholly-owned subsidiary or subsidiaries of Manager or to a successor to the business of Manager which shall assume all obligations and liabilities hereunder.

17. Entire Agreement: Amendment.

This Agreement, including all exhibits and referenced documents, constitutes the

entire agreement of the parties with respect to the matters contained herein. No modification of or amendment to the Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect.

18. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana without regard to any conflict of law or choice of law principles.

19. Waiver.

No delay or omission by the District to exercise any right hereunder shall be construed as a waiver of any such right and the District reserves the right to exercise any such right from time to time as often and as may be deemed expedient.

20. Conflict of Interest.

20.1 The Manager covenants that Manager presently has no interest and shall not acquire any interest, direct or indirect, in the System to which this Agreement pertains which would conflict in any manner or degree with the performance of its Services hereunder without prior written notice to and approval of the District. The Manager further covenants that in its performance of the Services no person having any such interest shall be employed by it.

20.2 During the initial Term, any renewal term and for a period of one (1) years following termination or expiration of this Agreement, neither Manager nor any of Manager's affiliates shall be permitted to function as a bus vendor/contractor for the System.

21 Investigations

Each party to this Agreement hereby acknowledges that District has the authority to conduct certain investigations and that the District shall have access to all information and personnel necessary to conduct those investigations.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

DISTRICT

Elkhart Schools
By: Douglas C. Healer
Title: Exec. Dir. of Support Services

MANAGER

TransPar Group, Inc.
By: [Signature]
Title: VP

Schedule of Exhibits

- A -- Services
- B -- Key Personnel
- C -- Outcomes
- D -- Deliverables
- E -- Dispute Resolution

EXHIBIT A
SCOPE OF SERVICES

Manager shall conduct all of its activities subject to the ordinances, decisions, rules, guidelines, policies and procedures of District and pursuant to such ordinances, decisions, rules, guidelines, policies and procedures (hereinafter, collectively, "District Policies") Manager shall carry out the following functions and responsibilities of the Department of Transportation:

Oversee, manage, and supervise all aspects of the day to day operations of the transportation system.

Recommend to the District short-term and long-term plans, processes and procedures that will improve student transportation services and upon the District's approval and adoption of such policies and procedures, implement same.

Assign students, schools, stops and busses to bus routes. In making bus route assignments make maximum use of the time and capacity available for each bus in the System.

Evaluate the performance of each transportation system staff member and recommend as required.

Provide System users information regarding the System to make the system more effective and responsive.

Recommend to the District procedures for communication and problem solving between schools, bus Managers, parents, advisory agencies, and community members and if adopted by the District, develop and maintain such procedures.

Evaluate the effectiveness of the System and where appropriate recommend to the District, District Policies to improve the effectiveness of the System.

As requested, assist the Business Manager and other District departments with transportation issues.

To the extent required by the Business Manager and the District participate in the process to develop any required vendor specifications and bids.

As appointed by the District or Business Manager, serve on District or other special committees concerning student transportation.

Recruit and maintain Department of Transportation Staff.

Develop and monitor the student transportation budget.

With approval of the District institute a refined bus routing system.

Assist with other required reports as needed.

EXHIBIT B
KEY PERSONNEL

| Deliverable | Description | Resource(s) |
|---|--|--------------------|
| ONGOING: | | |
| TEAMS™ | Management System | Allen |
| Director's Report | Monthly Progress Report | Allen/McHenry |
| Plan vs. Actual Cost Review (Quarterly) | Budget Variance Analysis | McHenry |
| On-Site Review (Quarterly) | Performance Evaluation | Newby/Martin |
| SCHEDULED: | | |
| Cost Reduction Targets | Historical and Industry | McHenry/Martin |
| School Start-up Plan | August through September | Allen |
| 2013 Cost Analysis | Plan vs. Actual Analysis | McHenry |
| RouteYield™ | Time & Capacity Analysis | McHenry |
| Fleet Replacement Plan | Within Capital Constraints | Allen |
| Safety Climate Analysis | Facility and Program Compliance | Allen |
| Principal's Survey | Service assessment by Building | Newby |
| Annual Report | Chronicles the year's performance | Newby/Platt |
| Assess Bell Time Schedule | Present Plan for tier Balance | Martin |
| 2015 Budget Preparation | Commence fiscal review of year for next year | McHenry |
| Determine Cost of Programs | Allocate Costs IAW Program Demand | McHenry |
| Walk Boundary Analysis | Determine Eligibility Adjustments | Bergeron/Archer |
| Benchmark Analysis | Historical and Industry | Martin |
| Driver Recruiting Plan | Determine Needs and Targets | Newby/Allen |
| Eligibility Rules | Review and determine Impact | Viar |
| Routing Practices | Review and Adjust | Viar |

ADDITIONAL MANAGER PERSONNEL

TBD

Director

Daily Operations

EXHIBIT C

OUTCOMES

District acknowledges and agrees that achievement of the Outcomes is subject to any ordinances, policies, directives, rules or decisions of the District and such District ordinances, policies, directives, rules or decisions may prevent achievement of the Outcomes described below.

Through continuous monitoring improve overall quality/efficiency of the pupil transportation services.

Through time and capacity studies to pair, share and eliminate buses, improve bus utilization and seek cost reduction.

Through increased communications and reporting insure continued improvement of on-time performance.

Through use of surveys, insure that individual buildings served are receiving a quality service.

Through the use of prove recruiting techniques and methodologies improve and maintain an adequate number of qualified drivers.

EXHIBIT D

DELIVERABLES

| TRANS PAR GROUP | | Management Services Deliverables Prepared for: Elkhart Community Schools | | 2013-14 | |
|---------------------------|---------------------------|--|---------------------------------|------------------------------------|----------------------------------|
| | | Jul / Aug / Sep | Oct / Nov / Dec | Jan / Feb / Mar | Apr / May / Jun |
| Performance | Ongoing Services | | | | |
| | | Weekly Conference Calls to Measure Progress and Adherence to TEAMS Management Principles | | | |
| | | Monitor On-Time Performance, Monitor Driver Recruiting Plan Progress, Provide Monthly "Directors" Report | | | |
| | | Receive, Process & Respond to Requests for Information, Counsel or Issues | | | |
| | | Provide Daily / Weekly / Monthly Support for District Transportation Manager & Team and Service Vehicle | | | |
| | | Accident/Safety Progress Review | Accident/Safety Progress Review | Accident/Safety Progress Review | Accident/Safety Progress Review |
| | | Financials vs Budget Review | Financials vs Budget Review | Financials vs Budget Review | Financials vs Budget Review |
| Scheduled Services | | | | | |
| | UP | | Perform TransPar's Route/Yield | Conduct Principal's Service Survey | |
| | | | Perform TransPar's Route/Yield | Author Annual Trans. Report (PIMS) | Benchmark Analysis |
| | | | | | |
| Planning | Scheduled Services | | | | |
| | START | Identify Cost Reduction Targets | | Assess Bell Time Schedule | |
| | | Manager Training | | Budget Preparation & Support | |
| | | On-Site Visit & Program Review | On-Site Visit & Program Review | On-Site Visit & Program Review | On-Site Visit & Program Review |
| | | Confirm Bus Replacement Plan | | | Develop Driver Recruiting Plan |
| Preparation | Scheduled Services | | | | |
| | SCHOOL | School Startup Planning & Goals | | Review Labor Agreement (optional) | |
| | | Review State Funding Submission | | Determine Costs of Trans Programs | |
| | | Perform Safety Climate Analysis | | | Review Rider Eligibility Rules |
| | | | | | Assess Routing Practices & Rules |
| Local | | TACS Install | | | |
| | | | | | |

Notes: Timelines are approximate. Deliverables may be modified to meet local program requirements.

EXHIBIT E

DISPUTE RESOLUTION

The provisions of this Dispute Resolution Process do not apply to any situation where a third party (someone other than Manager or District) has filed suit against Manager or District alleging that either or both of them were negligent in performance of duties under this Agreement. Otherwise, any dispute or controversy between Manager and District arising out of or relating to this Agreement, including, but not limited to, a dispute relating to the construction of any provision or the validity or enforceability of any term or condition (including this paragraph) of the entire Agreement, or any claim that all or any part of this Agreement (including this provision) is void or voidable, shall be submitted to arbitration pursuant to the procedures outlined below and in accordance with the Commercial Rules of Arbitration of the American Arbitration Association (AAA) then in effect at an office of the American Arbitration Association. Each party shall bear its own costs. In addition to the Commercial Rules of Arbitration of American Arbitration Association, the procedures described in paragraphs 1.1, 1.2 and 1.3 shall apply to all arbitrations hereunder. Where the procedures described in paragraphs 1.1, 1.2 and 1.3 are in addition to or conflict with the AAA Commercial Rules of Arbitration the procedures in paragraphs 1.1, 1.2 and 1.3 shall control.

1.1 If the amount in controversy is less than \$100,000.00 the following procedures shall apply:

- a. Three arbitrators shall be selected by the American Arbitration Association (AAA) selection procedures and all arbitrators shall be attorneys.
- b. There shall be no deposition discovery.
- c. Pursuant to the standard stated in Federal Rule of Civil Procedure (Fed. R. Civ. P.) 26(a)(1) the parties shall exchange documents no later than 60 days prior to the date of the arbitration. Disputes regarding discovery shall be resolved by the Arbitrators.
- d. Pre arbitration briefs shall be due 30 days prior to the arbitration date.
- e. Manager or District may designate a record by stenographic transcription. The designation of a record shall be made no later than seven days before the arbitration.

- f. Post arbitration briefs shall be served within 30 days after any transcribed record is delivered to the parties or if no transcribed record is prepared post arbitration briefs shall be served no later than within 30 days after the arbitrator(s) close the record.
 - g. The arbitrator(s) shall render a decision no later than 30 days after the parties serve post arbitration briefs. The arbitrator(s) shall render a written decision stating findings of fact and conclusions of law in the manner of such an order in a bench tried case in the United States District Court.
- 1.2 If the amount in controversy is greater than \$100,000 or if the amount in controversy cannot be determined, the procedures above shall apply with the exception that the procedures described in this paragraph shall also apply. These procedures replace any conflicting procedure and are in addition to any non-conflicting procedure described above in paragraph 1.1.
- a. The parties shall have 150 days to complete all discovery. The time period for completion of discovery shall commence the day AAA mails notice of intent to arbitrate to the adverse party (this date is hereinafter referred to as the "AAA arbitration notice date").
 - b. Discovery shall be governed by Rules 26-37 of the Federal Rules of Civil Procedure (Fed. R. Civ. P.) and all forms of discovery thereunder are proper.
 - c. Pursuant to Fed. R. Civ. P. 26(2)(a and b, only) each party shall disclose to the other party the identity of any expert witness that it proposes to use in the arbitration no later than 60 days after the AAA arbitration notice date.
 - d. Each party shall be allowed to take six depositions and the deposition of each person identified as an expert witness.
 - e. Pursuant to the provisions of Fed. R. Civ. P. 26(a) each party shall disclose to the other party the identify of witnesses and produce documents no later than 30 days after the AAA arbitration notice date.

- f. If a party fails to follow any procedure adopted hereunder regarding the disclosure of witnesses, documents or exhibits, that party shall be prevented from using the non-disclosed witness, document or exhibit at the arbitration.

1.3 A party may seek review of a decision made by an arbitrator in this matter in the following manner, only. Within 30 days after service of the Arbitrator(s) decision, a party may file an action in the United States District Court seeking to set aside the Arbitrator(s) decision, only on the basis that the Arbitrator(s) have erred in the application of law to fact or in the interpretation and application of law. All findings of fact by the Arbitrators shall be deemed conclusively correct. In addition to the basis for review, stated above in this section 1.3 the parties shall be entitled to assert any basis of appeal from an arbitration decision allowed under applicable state law or 9 U.S.C section1, et seq.

MISCELLANEOUS POSITION PAY SCHEDULE

| CLASSIFICATION | POSITION | AMOUNT | SOURCE OF PAYMENT |
|--|---------------------------|-------------------------------------|-------------------|
| <u>HIGH SCHOOL FOOTBALL:</u> | | | |
| | Event Supervisor | \$50 per Event | ECS Gen Fund |
| <u>Adult</u> | | | |
| | Firemen | \$18.78 per hour | ECS Gen Fund |
| | Usher/Security | \$50 per game | H.S. Ath. Dept |
| | Ticket Sellers/Takers | \$27 per game | " |
| | Public Address Announcer | \$15 per game | " |
| * | Crowd Supervision Manager | 1/2 of Master Contract Rate | ECS Gen. Fund |
| | Fan Bus Supervision | \$15 + 2 Tickets per Trip | H.S. Ath. Dept. |
| | Parking Director | \$17 per hour | ECS Gen Fund |
| | Parking Attendant | \$12 per hour | " |
| <u>HIGH SCHOOL BASKETBALL</u> (Games @ N.S. and Tournament) | | | |
| | Event Supervisor | \$50 per event | ECS Gen. Fund |
| | Tournament Supervisor | \$100 per event | ECS Gen. Fund |
| <u>Adult</u> | | | |
| | Firemen | \$18.78 per hour | ECS Gen Fund |
| | Usher/Security | \$50 per regular game | H.S. Ath. Dept |
| | | \$25 per tournament session | " |
| | Ticket Sellers/Takers | \$27 per session | " |
| | Timers/Scorers | \$10 JV game | " |
| | | \$15 Varsity game | " |
| | | \$25 per tournament session | " |
| | PA Announcer | \$15 per session | " |
| * | Crowd Supervision Manager | 1/2 of Master Contract Rate | ECS Gen. Fund |
| | Fan Bus Supervision | \$15 + 2 Tickets per trip | H.S. Ath. Dept. |
| | Parking Director | \$17 per hour-regular game | ECS Gen. Fund |
| | | \$17 per hour-tournament session | " |
| | Parking Attendant | \$12 per hour-regular game | " |
| | | \$12 per hour-tournament session | " |
| <u>Student</u> | | | |
| | Usher/Security | \$6 + Ticket per regular game | H.S. Ath. Dept. |
| | | \$6 + Ticket per tournament session | " |
| | Ticket Takers | \$10 per session | " |
| | Cloakroom Attendant | \$6 per regular game | " |
| | | \$7 per tournament session | " |

| CLASSIFICATION | POSITION | AMOUNT | SOURCE OF PAYMENT |
|------------------------------|--------------------------|-----------------|-------------------|
| <u>HIGH SCHOOL ATHLETICS</u> | | | |
| Event Supervisor | | | |
| | Volleyball | | |
| | Varsity/JV | \$50 per event | ECS Gen Fund |
| | Freshmen | \$30 per event | " |
| | Freshmen 3-way | \$50 per event | " |
| | 4 team or less tourney | \$50 per event | " |
| | 5 teams or more tourney | \$100 per event | " |
| | Soccer | | |
| | Reg. season varsity & JV | \$50 per event | " |
| | Tournament | \$100 per event | " |
| | Swimming | | |
| | Reg. season meet | \$50 per event | " |
| | All day tournament | \$100 per event | " |
| | Diving only | \$50 per event | " |
| | Wrestling | | |
| | Varsity/JV | \$50 per event | " |
| | Super dual meet | \$100 per event | " |
| | Gymnastics | | |
| | Varsity/JV | \$50 per event | " |
| | Invitational | \$100 per event | " |
| | Baseball/Softball | | |
| | Varsity/JV | \$50 per event | " |
| | Freshmen | \$50 per event | " |
| | Tournament 4 teams | \$100 per event | " |
| | Tournament 5+ teams | \$100 per event | " |
| | Track | | |
| | Dual or triangular meet | \$50 per event | " |
| | Invitational | \$100 per event | " |

NON-ATHLETIC EVENTS (ECS RENTALS, MISCELLANEOUS ASSIGNMENTS):

Adult

| | | | |
|---|-------------------------------------|---|---------------|
| | Electronic Technical Service Mgr. | \$14.50 per hour | ECS Gen. Fund |
| * | Building Rental Manager | \$14.50 per hour <i>(per Teachers Contract)</i> | " |
| | Police/Firemen | \$18.78 per hour | " |
| | Swimming Pool Manager | \$15.00 per hour | " |
| | Swimming Pool Lifeguard (Certified) | \$6.25 per hour | " |
| | Security | \$10.00 per hour | " |
| | Usher | \$8.00 per event | " |
| | Ticket Seller/Taker | \$12.00 per event | " |
| | Parking Director | \$17.00 per hour | " |

| CLASSIFICATION | POSITION | AMOUNT | SOURCE OF PAYMENT |
|----------------|--|--|-------------------|
| | Parking Attendant | \$12.00 per hour | " |
| | Substitute Custodian | \$12.19 per hour | " |
| * | Intramurals | \$6.50 per hour | " |
| | Food Service Sub | \$9.09 <u>9.34</u> per hour | Food Service Fund |
| | Food Service Sub (retired Food Service employee) | \$11.33 <u>11.64</u> per hour | " |
| | Food Service Driver Sub | \$15.17 <u>15.59</u> per hour | " |

Student

| | | |
|-------------------------|----------------------|---------------|
| Stage Hand/Music Helper | \$4.25 per hour | ECS Gen. Fund |
| Swimming Pool Lifeguard | current minimum wage | " |
| Usher | \$6.00 per event | " |
| Ticket Taker | \$8.00 per event | " |
| Cloakroom Attendant | \$6.00 per event | " |

~~BEFORE & AFTER SCHOOL CHILDCARE:~~

| | | |
|-----------------------|---------------------------------|-------------------------------|
| Provider | \$12.40 per hour | Childcare Fund 214 |
| Assistant | \$9.35 per hour | " |
| Babysitter | current minimum wage | " |

In the event the federally established minimum wage exceeds the hourly rate set forth under this regulation, the minimum wage shall apply.

* Negotiated Rates

~~January 26, 2016~~ February 14, 2017

| What is the title of the grant? | What is the name of the granting agency/entity? | Please list school/entity applying. | Individual/contact applying for the grant? | What is the amount applied for? | How will the grant funds be used and who will oversee the management of the grant? | Please explain how the grant funds will be used to support the district vision, focus, and goals. | Please outline the grant budget for the funds requested. |
|---|---|-------------------------------------|--|---------------------------------|---|--|--|
| Indiana Speech Language Hearing Association (ISHLA) State Convention 2017 | Indiana Youth Institute (IYI) | Mary Daly Elementary | Nicole Spear | \$750.00 | Grant funds will be used to attend the annual ISHLA state convention-money will go towards registration and hotel stay. I will oversee management of the grant. If I receive the grant, I send the check from IYI to ESC and then get reimbursed. | Attending the state convention for SLP's provides me with up to date information and strategies to apply with my speech and language delayed children that I can also pass on to fellow SLP's and staff in my building. | The convention is April 20-22 in Indianapolis. The registration packet has not yet been made available to us. The IYI grant limits the grant total to \$750.00. Once I receive the registration packet, I then know how much registration and hotel will cost. I then submit the grant to IYI for the exact amount needed. |
| Digital Learning Grant | Indiana Department of Education | Distirct | Wesley Moyneaux | \$75,000 | These funds will be used to provide professional Development around instructional practices, digital curriculum building and purchasing of devices to support training. | These grant funds will be used to provide the professional development teachers need to implement our 1:1 initiative. | \$13,500 for iPads and \$61,500 for professional development and curriculum writing. |
| Indiana Early Literacy Grant | IDOE | Daly | Joshua Nice | Approximately \$5,000 | Professional Development for primary staff at Daly. Joshua Nice will be overseeing the management. | With the district's renewed focus on literacy, this grant will help young staff establish research based understandings on the key components of literacy - vocabulary, phonemic awareness, phonics, fluency, and comprehension. | Still in development - the grant submission is due March 1 to the DOE. The bulk of the money will be spent to pay for professional development time for staff. |

| What is the title of the grant? | Individual applying for the grant? | What is the reason the grant was submitted prior to Board of School Trustees approval? |
|---------------------------------|------------------------------------|--|
| Digital Learning Grant | Wesley Molyneaux | Due date for the grant is 2/2/2017 and the next board meeting is not until 2/14/2017 |

| School Name | Organization Name | Project Title | Grade(s) | Number of Students Impacted | Amount Requested | Abstract | Budget | Amount Approved for Funding | Notes |
|------------------------------|-------------------------------|------------------------|-------------|--|--------------------|---|---|-----------------------------|--|
| Elkhart Memorial High School | Cross-Country and Track Teams | Truly Automatic Timing | 9-12 | infinite | \$5,000 | Elkhart Memorial High School's cross-country and track teams are in dire need of a fully digital automatic timing system. We are the only school in the Northern Lakes Conference that uses the antiquated Pyro Bright Flash system, which is not even produced anymore. The Eagle Eye Pro Timing 100 system will alleviate problems with running efficient cross-country and track meets. | Eagle Eye Pro Timing 100 system costs \$7,999. Here is what the system comes with: (1) A preloaded computer for the system (2) A wireless Start System (transmitter and receiver) (3) Pro Timing Software and USB Key (4) 2 Bags of 50 .32 Starting Shells (5) 300' data cable with a 6' practice cable (6) A protective backpack carrying case (7) A USB file sharing device (8) A camera (9) A camera mounting kit (3 dimensional geared ball head with clamp) | \$5,000 | approved for full funding |
| West Side Middle School | Creative Dramatics | Seussical the Musical | 7th and 8th | 45 | \$1,597.30 | This grant is to help fund West Side's first musical production of Seussical the Musical Jr. The cast size is 45 and the amount requested will help cover funds to purchase the musical, cost of set building, and costumes. | \$682.85 Show Kit (includes 30 student books, 2 accompaniment CDs, director's guide, vocal/piano song book, Choreography DVD, and student rehearsal cd), \$314.72 for 14 sheet of 8' plywood, \$33.96 for 4 4x4 that are 8', \$300 for costumes for students who cannot afford to get the pieces they need, \$5.17 for nuts and bolts, \$20.68 for screws, \$29.97 for tread tape to prevent tripping on set, \$49.85 for paint, \$29.96 for primer, \$55.18 for paint brushes, rollers, and trays, \$47.04 for fabric for scene in the show \$7.92 for wheels for prop in show =\$1597.30 | \$1,597.30 | approved for full funding |
| Pierre Moran Middle School | Elkhart Community Schools | Makerspace Mondays | 7-8 | There can be up to 30 students for the club. As of the 2016-2017 school year, there are 514 students at Pierre Moran Middle School who frequent the library. | \$777.53-\$4825.63 | Makerspaces are places where people can come together to create. The vague definition is because a Makerspace can be adapted to fit many needs. In this case, the Makerspace will be part of the media center at Pierre Moran Middle School, primarily as an after school club. Over the past year, students at Pierre Moran have shown increased interest in activities such as origami, web design, and robotics. Students have limited resources and time outside of some classes to pursue these interests. Pierre Moran is also in the process of becoming a STEAM academy. With these factors, a Makerspace club would help student succeed. Makerspace Mondays would participate in crafts and building. Students would use Lego and K'Nex to build various engineering feats. Perler Beads and Circuit Stickers would tap into student craftiness. Circuit building kits would help students learn electronics design. All of this will lead to increasing student curiosity, creative thinking, collaboration, and confidence. | There are two budgets that will be mentioned here. The first is \$777.53 and the second is \$4825.63 . The second would be preferred as the club can last longer, but the first will allow the club to be active for a few months. The first budget has three different section. The first is from Amazon. This includes the tools necessary for Perler Beads, Lego, and K'Nex. This comes in \$221.63 (shipping and handling included). Next would be Circuit Stickers for \$110. The last item in the first budget are 10 Makey-Makey kits \$445.90. The total comes to \$777.53. The second budget includes all of the above and some other items. The Squishy Circuits go for \$250. The littleBits Workshop is \$1999. It comes with free shipping and educators can get an extra 5% off. Two workshops would add up to \$3798.10. All of the above will come to \$4825.63. Below is a detailed item list. Perler Beads - Perler Beads 22,000 Count Bead Jar Multi-Mix Colors \$14.59, Perler Beads Clear Square Pegboards 4 Pack \$10.39, Bulk Buy: Perler Beads Fuse Bead Ironing Paper 6 Sheets/Pkg 22731 (6-Pack) \$2.74, Sunbeam Steam Master Iron with Anti-Drip Non-Stick Stainless Steel Soleplate and 8' Retractable Cord, 1400 Watt \$24.99 (\$55.71) Lego - Lego Compatible Baseplate, Gray, Large (10" x 10"), 4 Pack by Brick Basics \$20.95, LEGO Large Creative Box 10697 (1500 pieces) \$70.99, (\$91.94) K'Nex - K'NEX – 52 Model Building Set – 618 Pieces – Ages 7+ Engineering Education Toy \$24.99, K'NEX Thrill Rides – Electric Inferno Roller Coaster Building Set – 639 Pieces – For Ages 9+ Engineering Education Toy \$43.68, (\$73.98) \$221.63 (Shipping and Handling | \$1,200 | approved for partial funding, please provide data on student attendance, engagement, and reapply for more funds next cycle |

| School Name | Organization Name | Project Title | Grade(s) | Number of Students Impacted | Amount Requested | Abstract | Budget | Amount Approved for Funding | Notes |
|------------------------------|-------------------|-----------------------------------|----------|-----------------------------|------------------|--|---|-----------------------------|---|
| Eastwood Elementary | Digital Art Club | Digital Art Club | 3-6 | 25 | \$953.09 | Eastwood is a school that offers art as a 40 minute weekly special class, but it is also combined with foreign language (Spanish). The quality of the art curriculum is reduced to allow for Spanish instruction. The grant will be used to give our students a chance to experience a high quality art technique that combines technology with a unique process called Digital Alchemy in an afterschool club atmosphere. Students will be able to express creativity while applying their knowledge of the technique. It is my hope that students will become excited about art and technology and that other staff members will feel encouraged to create clubs at Eastwood. I am not an art teacher; I simply learned this technique and felt inspired to teach it to students. Currently, there are very few after school clubs offered at Eastwood. This grant will add enrichment to Eastwood and expose students to concepts that will provide them with the opportunity to develop a broader range of skills. | DASS SuperSauce Concentrate Matte 16 oz. www.dassart.com \$29.99 x5 = \$149.95 DASS Classic Film 100/8.5x11 Sheets www.dassart.com \$89.99 x 2 = \$179.98 DASS website shipping costs =\$22.62 Epson WorkForce WF-3640 Wireless Color All-in-One Inkjet Printer www.amazon.com =\$99.99 Epson T252520 DURABrite Ultra Standard-Capacity Color Ink Cartridge, Multipack www.amazon.com \$29.50 x 2 = \$59.00 Epson T252XL-BCS DURABrite Ultra Black High Capacity and color Combo Pack Standard Capacity Cartridge Ink www.amazon.com =\$70.99 Art1st Mixed Media Art Paper United Art and Education =\$21.95 Bulk Buy: Darice DIY Crafts Simple Wood Shape Square Unfinished 3 x 3 inches (24-Pack) 9189-16 www.amazon.com =\$7.07 Ceramic Floor tile Menards \$0.97 x 30 = \$29.10 White Duck Canvas Fabric Joanne Fabric \$9.99/yd. x 2 = \$19.98 Rhode Island Novelty JATOTLG Canvas Tote Bag, 12.75-Inch, 12 Pack www.amazon.com \$11.37 x 2 = \$22.74 Artist's Loft® Necessities™ Canvas Super Value Pack, 8" x 10" (10 pk.) Michaels \$19.99 x 2 = \$39.98 Mod Podge Michaels =\$7.99 5" Clear Plastic Easels or Stand / Plate Holders to Display Pictures or Other Items at Weddings, Home Decoration, Birthdays, Tables (12 Pack) by Super Z Outlet www.amazon.com =\$7.99 Speedball Deluxe 4-Inch Hard Rubber Brayer www.amazon.com \$9.69 x 2 = \$19.38 Jen Poly-Brush 3" Foam Paint Brush Menards \$0.73 x 20 = \$14.60 Rubberset 1-1/2" Natural Bristle Chip Brush Menards \$1.09 x 10 = \$10.90 Shur-Line General Purpose 9" Roller Covers, 3/8" Nap - 3-Pack Menards \$3.69 x 2 = \$7.38 Red Devil 4" Plastic | \$953.09 | approved for full funding |
| Elkhart Memorial High School | EMHS Girls Golf | EMHS Girls Golf Junior Membership | 9-12 | 12 | \$4,000 | The girls' golf program at Elkhart Memorial High School is in need of financial assistance to help with the cost of golf green fees that our team members are required to pay in order to participate during the off-season golf work-outs. The majority of our student-athletes do not have the financial means to pay this cost. As with all sports, athletes must continually work on their skills in order to improve. In other sports, athletes are able to attend off-season work-outs, on campus, with no fee involved. Unfortunately, with golf, this is not the case. This makes it very difficult to develop student-athletes as other sports do. I am proposing that our golf girls give back to their community (through golf course clean-ups, volunteering at senior living homes, and working with youth in our community) in order to receive and use financial assistance in order to help them improve their golf skills, thus ultimately helping our golf program. | Each team member, in order to have the means to pay for the golf fees (range balls and green fees) would need the following amount: \$400 junior membership at Christiana Creek Golf Course (which includes range pass and green fees). With 10 players in our program each season, that would come out to \$4000. This would be used to help with the cost of any feeder players that we are developing as well. Since this may exceed the amount given for team grants, we would seek business / donor donations in order to supplement the cost. | 0 | will work to create connections for golf team to get free or discounted greens fees at local golf clubs |

| School Name | Organization Name | Project Title | Grade(s) | Number of Students Impacted | Amount Requested | Abstract | Budget | Amount Approved for Funding | Notes |
|------------------------------|---|--|----------|---|------------------|---|--|-----------------------------|---------------------------|
| North Side | Elkhart Earth Science Colorado Field Experience | Colorado Scholarships | 9-12 | 6 per year through scholarships, 15 per years through equipment | \$2,200 | I went on the Colorado Trip as a student. I have chaperoned twice and taught the course four times. Every time I have been on the trip, I have either heard of or have personally witnessed good students that could not jump at this opportunity because of the expense. This situation has become even more evident as I began teaching at North Side. At North Side, I give a presentation to the entire 8th grade explaining the trip and the educational benefits earned by our students. Each year I see the excitement and anticipation build in the faces of my audience; however, I also see the drain and far off stares as I answer the inevitable question of cost. The initial trip cost alone can be intimidating. Additional costs of camping gear and spending money sink hopes and aspirations of many students. Our proposal is to: first provide equipment and second provide scholarships. Both expenses would create more equal opportunities to learn from and enjoy an Elkhart tradition, The Colorado Trip. | 3 - 2/3 scholarships currently \$400 3 - 1/3 scholarships currently \$200 Total of \$1800 5 - sleeping bags @ \$72.99/bag (AmazonSmile) Total of \$364.95 + Tax & Shipping Grand total of \$2200.00 | \$2,200 | approved for full funding |
| Elkhart Central High School | Track/Cross Country Teams | Stationary Bikes for Track/Cross Country Teams | 9-12 | 150 | \$1,500.00 | Our proposal is to purchase 6 stationary exercise bikes for the Elkhart Central Girls and Boys Track teams to supplement our training, prevent injuries and improve recovery from injuries. These bikes will also be used by the ECHS Girls and Boys Cross Country teams. We have already raised \$2000.00 to purchase 8 stationary exercise bikes and we would like the EEF grant to match 75% of our contribution towards this program. | 6 stationary exercise bikes from smile.Amazon.com @ \$250.00 each Total Cost: \$1500.00 | \$1,500 | approved for full funding |
| Elkhart Memorial High School | Unified Track Meet | Uniforms for Unity | 9th-12th | 20 | \$800 | We need uniforms & warm ups for the unified track meet hosted by EMHS. | \$800 Tee-shirt jersey, shorts, warm up jackets for 20 | \$800 | approved for full funding |

**ELKHART COMMUNITY SCHOOLS
OVERNIGHT TRIP REQUEST**

School: ELKHART CENTRAL

Class/Group: VARSITY SOFTBALL

Number of Students: 18

Date/Time Departing: FRIDAY APRIL 14, 2017 3:15 PM

Date/Time Returning: SATURDAY APRIL 15, 2017 6:00 PM

Destination: LEO HIGH SCHOOL LEO, CEDARVILLE, IN
City State

Overnight Facility: COMFORT SUITES 3302 E. DUPONT ROAD FT WAYNE, IN

Mode of Transportation: YELLOW BUS

Reason for Trip: SOFTBALL TOURNAMENT

Names of Chaperones: BRENT BARDO - HEAD COACH
MARK MAES - VARSITY ASST
COREY HAUSBACH - VARSITY ASST.
TEACHMONS - KATY STANLEY, JENNIFER COBB, LORI COCHRANE

Cost per Student: \$25.⁰⁰ HOTEL \$10 MEALS \$35 TOTAL

Describe Plans for Raising Funds or Funding Source: ADVERTISEMENTS IN SOFTBALL COLOR PROGRAM

Plans to Defray Costs for Needy Students: SOFTBALL BUDGET

Are Needy Students Made Aware of Plans? YES

Signature of Teacher/Sponsor: Brent S. Bardo Head Softball Coach

Signature of Principal: Mark Battis - AAD Date: 1/17/17
Kevin Seay 1/20/17

Send to Assistant Superintendent for Instruction for approval and for submission to the Board of School Trustees.

Approval of Assistant Superintendent: [Signature] Date: 1/23/17

Approved by Board: _____
 (All overnight trips require prior approval by Board Policy IICA.)

RECD 1/23/17

**ELKHART COMMUNITY SCHOOLS
OVERNIGHT TRIP REQUEST**

School: Elkhart Central High School

Class/Group: JAG

Number of Students: 1

Date/Time Departing: 2/27/17 - 4:00 P.M.

Date/Time Returning: 2/28/17 - 8:00 P.M.

Destination: Indianapolis, IN

Overnight Facility: Fairfield Inn & Suites - Downtown City Indianapolis State

Mode of Transportation: Charter Van

Reason for Trip: 1 student from each JAG school/program

will work as a senate page & see how

government works. They will also be there

as representatives for JAG's 10 year anniversary.

Names of Chaperones: James Mauve & Julie Novak (JAG specialist)

Cost per Student: 0

Describe Plans for Raising Funds or Funding Source: N/A

Plans to Defray Costs for Needy Students: N/A

Are Needy Students Made Aware of Plans? N/A

Signature of Teacher/Sponsor: [Signature]

Signature of Principal: [Signature] Date: 2/10/17

Send to Assistant Superintendent for Instruction for approval and for submission to the Board of School Trustees.

Approval of Assistant Superintendent: [Signature] Date: 2/10/17

Approved by Board: _____

(All overnight trips require prior approval by Board Policy IICA.)

ELKHART COMMUNITY SCHOOLS
OVERNIGHT TRIP REQUEST

School: EACC

Class/Group: Motorcycle Tech/Hot Rodders of Tomorrow

Number of Students: 4

Date/Time Departing: 2/24/2017 8:00 AM

Date/Time Returning: 2/26/2017 4:00PM

Destination: Schaumburg IL
City State

Overnight facility: (Paid by Hot Rodders) Renaissance Convention Center

Mode of Transportation: Truck

Reason for trip: Hot Rodders Small Engines Contest

Names of chaperones: Ryan Gortney

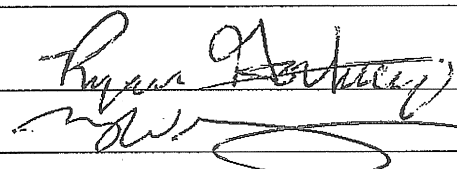
Cost per student: \$40 for food

Describe Plans for Raising Funds or Funding Source: Hot Rodders will help pay for the students if needed

Plans to defray costs for needy students: Hot Rodders of Tomorrow

Are needy students made aware of plans? Yes

Signature of Teacher/Sponsor



Signature of Principal:



Date: 2-13-17

Send to Assistant Superintendent for Instruction for approval and for submission to Board of School Trustees

Approval of Assistant Superintendent:



Date: 2/14/17

Approval by Board:

ELKHART COMMUNITY SCHOOLS
OVERNIGHT TRIP REQUEST

School: EMHS

Class/Group: Wrestling

Number of Students: 5

Date/Time Departing: 2/10/17 @ 4:00pm

Date/Time Returning: 2/11/17 @ 9:00pm

Destination: Fort Wayne

Overnight facility: Candlewood 5251 Distribution Dr. Fort Wayne IN

Mode of transportation: Mini Bus 255 46825

Reason for trip: Semi-State -


Names of chaperones: Brian Weaver

Cost per student: \$20 for what ever extra food they want

Describe Plans for Raising Funds or Funding Source: _____

Plans to defray costs for needy students: _____

Are needy students made aware of plans? YES

Signature of Teacher/Sponsor: 

Signature of Principal: SM Date: _____

Send to Assistant Superintendent for Instruction for approval and for submission to Board of School Trustees

Approval of Assistant Superintendent: Dawn McElrath Date: 2/14/17

Approval by Board: 2/14/17

(All overnight trips require prior approval by Board Policy IICA.)

November 11, 2009

REC'D 2/14/17

ELKHART COMMUNITY SCHOOLS
OVERNIGHT TRIP REQUEST

School: EMHS

Class/Group: Wrestling

Number of Students: 1-5

Date/Time Departing: 2/17/17 @ 10:00am

Date/Time Returning: 2/19/17 @ 2:00 pm

Destination: Indy

Overnight facility: Omni 40 W Jackson place City Indy State IN 46225

Mode of transportation: Mini Bus

Reason for trip: State Tourney

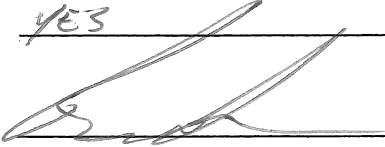
Names of chaperones: Brian Weaver

Cost per student: \$20 for what ever extra food they want

Describe Plans for Raising Funds or Funding Source: _____

Plans to defray costs for needy students: _____

Are needy students made aware of plans? YES

Signature of Teacher/Sponsor: 

Signature of Principal: SAL Date: _____

Send to Assistant Superintendent for Instruction for approval and for submission to Board of School Trustees

Approval of Assistant Superintendent: Dawn L. McCreath Date: 2/14/17

Approval by Board: 2/14/17

(All overnight trips require prior approval by Board Policy IICA.)

REC'D 2/14/17

ELKHART COMMUNITY SCHOOLS

Elkhart, Indiana

DATE: February 9, 2017
 TO: Dr. Robert Haworth, Superintendent
 FROM: Dr. Dawn McGrath *Dawn J. McGrath*
 RE: **Conference Leave Requests**
February 14, 2017 - Board of School Trustees Meeting

The following requests for excused absences are recommended for approval:

| 2016 - 2017 CONFERENCES | EXPENSES | SUBSTITUTE |
|--|------------|------------|
| <p>THE SUMMIT ON PROFESSIONAL LEARNING COMMUNITIES AT WORK This conference will provide dynamic keynotes and breakout sessions to help infuse the PLC at Work process into every aspect of school districts. This summit also provides practical knowledge based on the three big ideas that drive a PLC. Phoenix, AZ February 22 - 24, 2017 (3 day's absence) SHERYL KEESLAR - OSOLO (2-4) TINA NORTHERN - ESC (2-4) BRADLEY SHEPPARD - CENTRAL (1-2) BETH WILLIAMS - ESC (1-3)</p> | \$7,527.64 | \$0.00 |
| <p>THE EXPANDING WORLD OF PBS: SCIENCE, VALUES, AND VISION I will be presenting a session on "Best Practices in Bullying Prevention" as well as attending sessions on integration and alignment and how to apply PBS principles to support a fair and inclusive educational system. Denver, CO March 1 - 4, 2017 (3 day's absence) MARY YODER HOLSOPPLE - STUDENT SERVICES (3-8)</p> | \$0.00 | \$0.00 |
| <p>CUES (CREDIT UNION EXECUTIVES SOCIETY) EXECU/SUMMIT This conference will provide sessions for marketing, leadership, entrepreneurship, financial management, and change management. The information gained will enhance several classes within the Business Department. Aspen, CO March 5 - 10, 2017 (5 day's absence) RODNEY DONIGAN - MEMORIAL (0-0)</p> | \$0.00 | \$475.00 |
| <p>HRI, INC./C&T DESIGN VIP EQUIPMENT AND SOLUTION SEMINAR This seminar will provide opportunities to meet with food service equipment vendors. There will also be information provided about front of house equipment for revenue generation and back of house equipment for cost savings. Indianapolis, IN March 6 - 7, 2017 (1.5 day's absence) MARSHA HALL - KENT STREET (1-3) CANDY KIRCHNER - KENT STREET (0-0) PAM MELCHER - KENT STREET (1-3) NICOLE SCHEETZ - KENT STREET (1-3)</p> | \$302.00 | \$0.00 |

| 2016 - 2017 CONFERENCES | EXPENSES | SUBSTITUTE |
|--|------------|------------|
| <p>MOCK EXAM READING/TRAINING This reading/training will be extremely beneficial. There will be five weeks to prepare the AP Biology students so they have a better understanding of the actual exam. Indianapolis, IN March 10, 2017 (1 day's absence) ERIN CISNEROS - CENTRAL (2-4)</p> | \$265.92 | \$95.00 |
| <p>INDIANA INTERSCHOLASTIC ATHLETIC ADMINISTRATORS ASSOCIATION This conference will provide an opportunity to gain information and techniques for athletic administration for management of the EMHS program. Indianapolis, IN March 18 - 20, 2017 (1 day's absence) JACQUIE ROST - MEMORIAL (0-0) PHYLLIS TUBBS - MEMORIAL (0-0)</p> | \$1,082.40 | \$0.00 |
| <p>COABE (CONFERENCE ON ADULT BASIC EDUCATION) CONFERENCE 2017 This conference will help me learn more about career resources and learn about family literacy. Lake Buena Vista, FL April 2 - 5, 2017 (4 day's absence) KIM DEHAVEN - EACC (4-6)</p> | \$1,949.03 | \$0.00 |
| <p>HIGH ABILITY EDUCATION: INFUSING HIGHER ORDER THINKING & PROBLEM SOLVING IN CORE CONTENT AREAS This conference will provide tips and tricks to teach high ability thinking and problem solving skills. Fishers, IN April 11, 2017 (1 day's absence) DANA KNAPP - PINESWOOD (0-0)</p> | \$236.82 | \$95.00 |
| <p>IAACE (INDIANA ASSOCIATION FOR ADULT AND CONTINUING EDUCATION) ANNUAL CONFERENCE 2017 This conference will provide information on careers and literacy specific to Indiana. Administrators will receive information on DWD offerings and the library strand will provide needed insight and direction for the 2017-18 program year. French Lick, IN April 26 - 28, 2017 (3 day's absence) KIM DEHAVEN - EACC (5-10) DARCEY MITSCHELEN - EACC (6-10)</p> | \$1,479.04 | \$0.00 |
| <p>2017 CACFP (CHILD AND ADULT CARE FOOD PROGRAM) NEW MEAL PATTERN TRAINING This mandatory training will provide a detailed review of requirements, hands-on activities, materials/resources and discussion for compliance. The CACFP new meal pattern will go into effect October 1, 2017. Plymouth, IN May 4, 2017 (1 day's absence) TAMMARA OBENDORF - EACC (0-0) LORNA SUGGS - EACC (0-0)</p> | \$72.00 | \$0.00 |

| 2016 - 2017 CONFERENCES | EXPENSES | SUBSTITUTE |
|--|---------------------|--------------------|
| FOR CONFIRMATION ONLY: (RECEIVED TOO LATE FOR PRIOR APPROVAL) | | |
| SUICIDE PREVENTION This conference will show how to recognize someone at risk for suicide, demonstrating increased knowledge of intervention skills. We will learn some referral resources and then how to refer someone for help. South Bend, IN January 30, 2017 (1 day's absence) AMY GARRETSON - CENTRAL (0-0) LISA MILANESE - CENTRAL (0-0) | \$0.00 | \$190.00 |
| HASTI (HOOSIER ASSOCIATION OF SCIENCE TEACHERS, INC.) This conference will help me assist my current and future students become more engaged in the classroom by learning new ideas to make my class more interactive. Indianapolis, IN February 1 - 3, 2017 (3 day's absence) ERIN CISNEROS - CENTRAL (1-1) | \$190.00 | \$285.00 |
| | \$13,298.77 | \$665.00 |
| 2016 YEAR-TO-DATE GENERAL FUNDS | \$17,026.09 | \$2,545.00 |
| 2017 YEAR-TO-DATE GENERAL FUNDS | \$2,454.02 | \$95.00 |
| 2016 YEAR-TO-DATE OTHER FUNDS | \$193,206.37 | \$23,505.00 |
| 2016 YEAR-TO-DATE ADJUSTMENTS | \$0.00 | \$0.00 |
| 2017 YEAR-TO-DATE OTHER FUNDS | \$23,492.69 | \$3,010.00 |
| 2017 YEAR-TO-DATE ADJUSTMENTS | (\$270.00) | \$0.00 |
| GRAND TOTAL | \$235,909.17 | \$29,155.00 |

(Figures in parentheses are the number of conferences & the number of absence days previously approved for the current school yr.)



HUMAN RESOURCES

ELKHART
COMMUNITY SCHOOLS

INTERNAL MEMO

TO: DR. ROBERT HAWORTH
FROM: MS. CHERYL WAGGONER
DATE: FEBRUARY 14, 2017

HUMAN RESOURCE RECOMMENDATIONS

CERTIFIED

- a. **Administrative Appointment** – The administration recommends confirmation of the following administrative appointment effective February 15, 2017:

Cheryl Waggoner **Director of Human Resources**

- b. **Consent Agreement** – We recommend the approval of a consent agreement regarding unpaid time.

- c. **New Certified Staff** – We recommend the following new certified staff for employment in the 2016-17 school year:

Amber Genovese **Hawthorne/Grade 2**

John Zahlmann **Hawthorne/Grade 6 (temporary contract)**

- d. **Resignation** – We report the resignation of the following employees:

Ricky Fiene **Pierre Moran/Physical Education**
Began: 8/23/99 Resign: 2/10/17

Cherise Richards **Riverview/Grade 2**
Began: 8/13/12 Resign: 5/26/17

- e. **Medical Leave** – We recommend a medical leave for the following employees:

Rose Griffy **Roosevelt/Grade 2**
Begin: 2/3/17 pm End: 2/28/17

Amy Miller **Roosevelt/Special Education**
Begin: 8/15/17 End: 6/6/18

- f. **Death** – We regretfully report the death of the following employee:

David Robinson **Monger/Physical Education**
Began: 8/1/03 Deceased: 1/25/17
29 Years of Service

g. **Retirement** – We report the retirement of the following employee effective February 16, 2017:

Jolene Ritchie Hawthorne/Grade 5 41 Years of Service

CLASSIFIED

a. **Administrative Appointment** - The administration recommends confirmation of the following administrative appointments effective February 15, 2017:

Anthony Gianesi Chief Operating Officer

Magdalena Lozano Assistant Director of Human Resources

b. **Retirement** – We report the retirement of the following employees:

Ruth Iannarelli Eastwood/Paraprofessional
Began: 10/3/94 Retire: 5/26/17
Years of Service: 22

James Rowe Transportation/Head Mechanic
Began: 1/1/81 Retire: 6/1/17
Years of Service: 36

Cathy Spry Monger/Paraprofessional
Began: 11/3/86 Retire: 5/26/17
Years of Service: 30

Barbara Yike Eastwood/Paraprofessional
Began: 8/25/95 Retire: 3/31/17
Years of Service: 21

c. **Resignation** – We report the resignation for the following classified employees:

Jane Cooper Pierre Moran/Food Service
Began: 8/1/16 Resign: 2/3/17

Stanley Davis Pierre Moran/Food Service
Began: 9/8/15 Resign: 2/17/17

Denise Finn Transportation/Bus Driver
Began: 5/4/16 Resign: 1/31/17

Anthony Horvath Transportation/Mechanic
Began: 7/28/14 Resign: 2/23/17



Dinorah Kuehn
Began: 1/3/11

Pinewood/Paraprofessional
Resign: 2/17/17

Renzo Olcese
Began: 9/20/16

Career Center/Paraprofessional
Resign: 1/13/17

Meghan Swihart
Began: 5/24/16

Osolo/Academic Trainer
Resign: 1/31/17

Tammy Watson
Began: 11/13/00

Pierre Moran/Food Service
Resign: 2/10/17

Brooke Wilcox
Began: 8/4/16

Transportation/Bus Driver Unassigned
Resign: 1/27/17

d. **New Hires** – We recommend regular employment for the following classified employees:

Fred Blaisdell
Began: 11/30/16

Transportation/Bus Helper
PE: 2/8/17

Jacqueline Coots
Began: 11/28/16

Career Center/Paraprofessional
PE: 2/7/17

Rachel Fletcher
Began: 12/05/16

Hawthorne/Paraprofessional
PE: 2/13/17

Mykayla Meachum
Began: 12/13/16

Central/Custodian
PE: 2/6/17

Seth Miller
Began: 11/28/16

Memorial/Paraprofessional
PE: 2/6/17

Mesha Olson
Began: 11/30/16

Bristol/Paraprofessional
PE: 2/8/17

Brittnee Taylor
Began: 11/17/16

Commissary/Food Service
PE: 1/26/17

Angela Turpin
Began: 11/28/16

Elkhart Academy/Permanent Sub Teacher
PE: 2/6/17

e. **Revision** – We recommend the revision of the resignation date reported on the January 10, 2017 Board report for the following employee:

Brian Buckley
Began: 7/29/09

Central/H.S. Athletic Director
Resign: 3/17/17



f. **Medical Leave** – We recommend an unpaid medical leave for the following classified employee:

Sharon Kirkpatrick
Begin: 1/25/17

Pierre Moran/Food Service
End: 2/24/17





HUMAN RESOURCES

ELKHART
COMMUNITY SCHOOLS

INTERNAL MEMO

TO: DR. ROBERT HAWORTH
FROM MS. CHERYL WAGGONER
DATE: FEBRUARY 14, 2017

ADDENDUM TO HUMAN RESOURCES REPORT

CERTIFIED

- a. **Administrative Appointment** – The administration recommends confirmation of the following administrative appointment effective January 10, 2017:

Keith Baker

Beck/Assistant Principal