

**AMENDED AND RESTATED  
LONGFELLOW SCHOOL JOURNEY HOUSE JOINT PROJECT  
DEVELOPMENT AGREEMENT**

This Amended and Restated Agreement is made as of the \_\_\_ day of October, 2010 (this “Agreement”), by and between the Milwaukee Board of School Directors (“MPS”), a body politic, organized and existing under Chapter 119, Wis. Stats., with its principal offices located at 5225 West Vliet Street, Milwaukee, Wisconsin and Journey House, Inc. (“Journey House” or the “Developer”), a Wisconsin nonprofit corporation organized under Chap. 181 Wis. Stats., with its principal offices at 1900 West Washington Street, Milwaukee Wisconsin, 53204.

R E C I T A L S:

WHEREAS, the City of Milwaukee, Wisconsin (the “City”) on behalf of and in trust for MPS is the owner of certain real property and the improvements thereon located at 1021 South 21st Street, Milwaukee, Wisconsin, 53221, Milwaukee, Wisconsin and more particularly described on **Exhibit A** attached hereto (the “Property”), which Property consists, in part, of the existing Longfellow School Building (the “Original Building”) and certain adjacent real property parking and related improvements adjacent to the Original Building and generally depicted on **Exhibit B** attached hereto (the “Project Site”), which Project Site currently comprises a part of the campus for Longfellow School (“Longfellow School”); and

WHEREAS, Journey House is a nonprofit corporation that, among other things, provides programs to the community, in particular, the community and neighborhood surrounding Longfellow School and is the current operator of the Longfellow School community learning center program (the “Longfellow CLC”); and

WHEREAS, Longfellow School is a K-8 school with an enrollment of approximately 912 students, roughly 47% are from the attendance area; and

WHEREAS, Journey House and MPS entered into that certain Longfellow School Journey House Joint Project Development Agreement dated as of May 1, 2009 (the “Original Development Agreement”) pursuant to which Journey House was granted the rights to ground lease the Project Site pursuant to a Ground Lease to be entered into by and between Journey House and MPS and, if applicable, the City (the “Ground Lease”) and to construct on the Project Site an addition to Longfellow School (the “Journey House Addition”); and

WHEREAS, pursuant to the Original Development Agreement, in general, Journey House and MPS agreed to share use of certain facilities in a manner to be detailed in an Operating Agreement to be entered into by Journey House and MPS (the “Operating Agreement”); and

WHEREAS, Longfellow School, its principal and staff, and Journey House, its Executive Director and staff, have a history of successfully working together for the benefit of the Longfellow students, their families and the surrounding community and are committed to the continuance of this strong working relationship and the creation of an environment that fosters a

dynamic learning environment for Longfellow students, their families and the surrounding community; and

WHEREAS, the Journey House Addition would provide Longfellow School with the following: (i) a new kitchen and cafeteria located in one area with seating for additional students resulting in fewer and longer lunch seatings, which are needed because the existing kitchen and cafeteria do not adequately serve the existing population of the school; (ii) a new, adequately sized, ground floor gymnasium with bleachers, scoreboards and a new gym floor, together with locker rooms, restrooms and new equipment allowing for a higher quality and variety of physical instruction and activities in a location that will not interfere with classroom instruction; and (iii) an all purpose room available for additional activities; all of which meet critical needs of Longfellow School as outlined above; and

WHEREAS, in addition to the importance to Longfellow School of having the right to use the cafeteria, kitchen, locker rooms, all purpose spaces and restrooms on the first floor of the Journey House Addition and the gymnasium included as part of the Journey House Addition (collectively, the “Shared Facilities”), the parties to this Agreement anticipate that the shared use of the Journey House Addition as described in this Agreement will promote the educational goals and mission of both Longfellow School and Journey House by allowing Journey House to operate the CLC for Longfellow School in immediately adjacent space and to provide enhanced programming for Longfellow students, their parents and siblings and the surrounding community in a single primary location adjacent to Longfellow School, thus allowing students to take advantage of Journey House programming without leaving the safety of the building and fostering a holistic family approach to physical, practical and academic educational instruction in the Longfellow community; and

WHEREAS, Journey House has agreed to provide community programming in the Journey House Addition and to enter into the Ground Lease and the Operating Agreement; and

WHEREAS, MPS has the right to issue qualified school construction bonds (“QSCBs”) and has agreed to apply up to \$2,565,650 of the proceeds from the issuance of the QSCBs and approximately \$384,350 in cash from the capital budget (collectively, the “JH QSCB Funds”) to fund costs associated with Shared Facilities in return for the right to use the Shared Facilities; and

WHEREAS, Journey House has or will have prior to commencement of construction, funds, committed pledges and/or other financing sources sufficient to timely pay for the construction of those portions of the Journey House Addition that are not part of the Shared Facilities as more particularly described herein; and

WHEREAS, pursuant to the terms of the Ground Lease, at all times during the construction Journey House will be granted the right to construct the Journey House Addition on the Project Site and will own the Journey House Addition; and

WHEREAS, the Original Building and the Journey House Addition shall initially be known as the Journey House/Longfellow Family Learning Center; and

WHEREAS, MPS via action on [ \_\_\_\_\_ ] authorized its proper officers to execute this Agreement; and

WHEREAS, Journey House has authorized its Chairman and Secretary to execute this Agreement;

NOW, THEREFORE, MPS and Journey House, in consideration of the foregoing premises and the mutual promises and undertakings contained herein, agree as follows:

## **ARTICLE I ACTIONS**

### 1.1. Developer/Journey House.

(a) The Developer agrees to provide MPS with written evidence that it has at least the Required JH Funds (as hereinafter defined) in cash or financing for the payment of the costs when due associated with the Journey House Addition prior to construction commencement and in any event by October 1, 2011. For purpose hereof, the term "JH Funds" shall mean \$2,595,000 which reflects a reasonably allocated portion of all construction costs, contingency funds, insurance costs, architect, engineering and construction management fees, applicable permit fees and funds for fixture, furniture, and equipment ("FF&E") for the second floor of the Journey House Addition (the "JH Facilities"). JH Funds shall not include those costs that are allocated to or otherwise attributable to the Shared Facilities and all FF&E to be located therein or used in connection therewith. For purposes hereof, the term "Required JH Funds" shall mean \$2,154,947 (the estimated hard costs of constructing the JH Facilities as a "white box" and expressly excluding the costs of FF&E and interior build out for the JH Facilities) less any amounts paid by Journey House towards those costs, all as more particularly set forth on the detailed estimated budget for the Journey House Addition set forth on **Exhibit C** attached hereto.

(b) Developer agrees to enter into the Disbursing Agreement with MPS and an Escrow Agent (as hereinafter defined in Section 2.1 and to be mutually agreed upon) pursuant to Article II below and to meet each draw request at least one business day before such draw request is to be disbursed by Escrow Agent pursuant to the terms of the Disbursing Agreement.

(c) Developer shall provide MPS with a construction schedule mapping out an estimated timeline for the construction of the Journey House Addition. The schedule must include the sequence of events and the process that the contractor and subcontractors will be directed to follow and estimated pricing. The schedule shall provide that the construction of the Journey House Addition on the Project Site shall, subject to the terms hereof, commence construction on or before the date which is eighteen (18) months after full execution of this Agreement, which date may be extended for reasons beyond the reasonable control of Developer as herein provided or upon mutual agreement of the parties

hereto (the “Construction Commencement Date”). Developer may convene status conferences from time to time, with the parties hereto to discuss the extension of this date as warranted.

(d) Developer agrees that it will enter into the Ground Lease with the City/MPS prior to construction commencement with the principal terms being: Commencement date being the date that is ten (10) business days after written notice from Journey House to MPS that Journey House intends to commence construction on the Project Site within the ninety (90) day period following the giving of such notice; 99 year term, with options to renew for three additional 20 year terms each, which renewals shall be automatic unless Journey House notifies MPS of termination at least ninety (90) days prior to the end of the then term; nominal rent; liability and property damage insurance to be carried in an amount reasonably satisfactory to MPS and naming MPS as an additional insured; except as set forth in the Operating Agreement (which Operating Agreement shall include the terms provided for in Section 1.3(a) hereof) and except for environmental matters pre-existing on the Project Site or otherwise arising out of the acts or omissions of MPS, its officers, directors, employees, representative agents or contractors, the Ground Lease will be a “net” Lease, all building structures and improvements on the Project Site shall be the property of Journey House, except for certain equipment and fixtures that MPS and Journey House agree will be the property of MPS; the costs, repair and replacement of any party wall shall be shared equally by Journey House and MPS; Developer may pledge, mortgage or assign the Ground Lease for financing purposes; the Ground Lease shall be assignable by either party as provided in Articles XVI and XVII; at the end of the Ground Lease the Journey House Addition shall revert to the ownership of MPS; and upon material default by Journey House that is not cured within a reasonable notice and cure period, as the same may be extended, MPS may commence proceedings to terminate the Ground Lease pursuant to Section 704.31 of the Wisconsin Statutes.

(e) Developer shall arrange construction of the Journey House Addition in accordance with the plans and specifications listed on **Exhibit D** attached hereto (the “Final Plans”) and as otherwise provided in connection with Article III of this Agreement and the provisions herein.

(f) MPS and Journey House shall mutually agree on the equipment and fixtures for the gymnasium and locker room/restroom portion of the Journey House Addition. Payment for all Shared Facilities, including, without limitation, equipment and fixtures, and small item equipment such as balls, badminton sets and similar items shall be paid for by MPS, but replacement small item equipment shall thereafter be purchased separately by each party and shall belong to the purchasing party and may be used only by the purchasing party unless the purchasing party consents to use by the other party.

(g) Whenever the parties hereto are required to work together or approve or consent to any matter or item pursuant hereto, Journey House shall act in good faith, reasonably and with due diligence.

(h) Developer hereby agrees to cooperate, expedite and timely respond to any requests for information, approvals, expertise and/or input in connection with the Project.

1.2. MPS.

(a) MPS represents that it has on deposit with the City Treasurer all of the JH QSCB Funds, which JH QSCB Funds shall be used to pay all of the costs associated with and/or reasonably allocated to the Shared Facilities, which term includes all FF&E to be located in said areas or used in connection with said areas, including, without limitation, that portion of the construction costs, contingency funds, insurance costs, architect, engineering and construction management fees, applicable permit fees attributable to the Shared Facilities . The estimated costs by category allocated to the Shared Facilities are set forth on **Exhibit C**. Any remaining JH QSCB Funds will be used to pay costs associated with making improvements to Longfellow School.

(b) Subject to Article XVIII, MPS agrees to enter into the Disbursing Agreement and to deposit with the Escrow Agent the JH QSCB Funds necessary to meet each draw request at least one business day before such draw request is to be disbursed by Escrow Agent pursuant to the terms of the Disbursing Agreement. Developer shall provide MPS with as much notice as practicable as to the amount of the draw request, but in no event less than 15 days.

(c) MPS hereby agrees to cooperate, expedite and timely respond to any requests for information, approvals, expertise and/or input in connection with the Project, including, without limitation, the plans and specifications for the Journey House Addition.

(d) MPS agrees to allow the Developer to enter upon the Project Site in compliance with the terms of this Agreement and the Ground Lease as necessary or desirable in connection with the construction of the Journey House Addition.

(e) MPS and Developer shall mutually agree on the equipment and fixtures for the gymnasium and locker room/restroom portion of the Journey House Addition.

(f) The equipment to be used in the cafeteria and kitchen has been agreed to by MPS and are delineated on **Exhibit D**.

(g) Any equipment and fixtures for the JH Facilities shall be determined and paid for by Journey House.

(h) MPS agrees to enter into the Ground Lease and the Operating Agreement on the principal terms set forth in Sections 1.1(d) above and 1.3(a) below.

(i) MPS agrees to record a Certified Survey Map dividing the Project Site from the remainder of the Property if required in order for the Ground Lease to be in full compliance with all applicable laws.

(j) As more particularly noted in the Recitals, MPS acknowledges and agrees that it is of significant benefit to Longfellow School and the surrounding community to have the Journey House Addition adjacent to and connected to Longfellow School and that a specific inducement to contract for MPS and Journey House is that Journey House or a Permitted Provider Transferee (as hereinafter defined) operates in the Journey House Addition and provides programs such as CLC or similar programs to Longfellow School students. Consequently, MPS and Journey House agree that so long as a school is operated in the Original Building and Journey House or a Permitted Provider Transferee operates in the Journey House Addition, then, to the extent adequate funding is provided by a program or programs such as CLC, Journey House or such Permitted Transferee agrees to be the provider of before- and after-school programming, and summer programming for the benefit of Longfellow School students and, at Journey House's option, other children in the community, in the form of CLC or other comparable programming as reasonably agreed to by MPS. If Journey House or its Permitted Provider Transferee fails to so provide such before and after school programming or CLC or comparable programming in terms of hours of programming or quality of programming to the reasonable satisfaction of MPS, then if Journey House or the Permitted Provider Transferee does not modify its programming with respect to such hours or quality provided said modification(s) can be made on a commercially reasonable basis, within sixty (60) days after written notice from MPS specifically setting forth any such failures to meet MPS's reasonable standards or such longer time as may be reasonably necessary to correct such failures, then MPS shall have the right to elect to cease using Journey House or its Permitted Provider Transferee, as applicable, for such programming, by written notice given to Journey House at any time prior to Journey House or said Permitted Provider Transferee correcting said failures and thereafter MPS shall have the right to contract with any other service provider to perform those services provided such service provider is required to and continues to meet the same standards that MPS was requiring of Journey House or its Permitted Provider Transferee.

**(k) [INTENTIONALLY OMITTED]**

(l) Whenever the parties hereto are required to work together or approve or consent to any matter or item pursuant hereto, MPS shall act in good faith, reasonably and with due diligence.

1.3. Journey House.

(a) Journey House agrees that it will enter into an Operating Agreement with MPS with the principal terms being: MPS shall have the exclusive right to use the kitchen and cafeteria at any time that MPS has not expressly agreed to use by Journey House, except that Journey House will have the right to use (i) the kitchen before and after the official MPS school day in order to provide before- and after-school meals and programming and at other times subject to MPS' reasonable consent and (ii) the cafeteria at any time after the official school day consistent with the times that the gymnasium is controlled by Journey House; MPS shall have the right to use the gymnasium/locker rooms/restrooms and all purpose rooms on the first floor during school hours according to the current official MPS calendar, including 20 minutes before the commencement of the school day and 20 minutes at the end of the school day provided, however, that MPS and Journey House shall work together during said 20 minute periods to allow for the provision by Journey House of the before- and after-school programming for Longfellow School and provided that if the official MPS calendar in effect as of the date hereof is changed in any material respect, MPS and Journey House shall work together reasonably and in good faith to address the changes so that MPS and Journey House can continue to fulfill their missions, provided that if the Journey House Addition has been transferred to a party other than a Permitted Provider Transferee, then said successor to Journey House shall allow MPS to use the gymnasium/locker rooms/restrooms in accordance with the then current official MPS calendar, provided such successor entity shall be given at least six (6) months prior written notice of any change in said official MPS calendar; MPS, at MPS's cost and expense, will be responsible for the Daily Light Cleaning of the cafeteria, kitchen and gymnasium/locker rooms/restrooms and, to the extent in use by MPS, the all purpose room(s) during the school day consistent with the standard of the highest quality MPS school. "Daily Light Cleaning" means light cleaning necessary to keep the Shared Facilities clean, neat, free from garbage and debris and with the contents of said areas put in their appropriate places; MPS, at MPS' cost and expense, shall also be responsible for the continued maintenance (other than the Daily Light Cleaning that is the responsibility of Journey House during its periods of use), repair and replacement of the kitchen and cafeteria, including, without limitation, all fixtures and equipment therein; Journey House, at Journey House's cost and expense, shall be responsible for Daily Light Cleaning of the Shared Facilities during or with respect to use by Journey House; Journey House shall be responsible for the continued maintenance (other than the Daily Light Cleaning that is the responsibility of MPS), repair and replacement of the remainder of the Shared Facilities (expressly excluding the kitchen and cafeteria), including, without limitation, all fixtures and equipment therein, subject to the cost sharing provisions set forth herein and Section 1.1(f) hereof.

MPS and Journey House shall share equally in the costs of the repair and replacement of fixtures and equipment in the gymnasium/locker rooms/restrooms (excluding the rock climbing walls and other equipment that Journey House

determines will not be used as part of its programming, which costs shall be borne entirely by MPS); all cleaning and maintenance done by MPS and Journey House shall be undertaken at times and in a manner that does not interfere with the other party's programs; Journey House will carry liability insurance and name MPS and the City as additional insureds thereunder; the utilities serving the Shared Facilities shall, to the extent feasible, be separately metered and paid by MPS and if separately metering is not commercially reasonable and/or practical, then MPS shall pay its share of the utility costs attributable to the Shared Facilities that cannot be separately metered based on a reasonable allocation of the utility bills for that portion of the JH Facilities which includes the Shared Facilities that are not separately metered; the payment of all other utilities serving the Journey House Addition shall be paid by Journey House; the water and sewer for the kitchen will be connected to the lines serving the Original Building and paid by MPS and the water and sewer for the remainder of the Journey House Addition will be paid by Journey House; the Operating Agreement shall be assignable by either party subject to the terms of Articles XVI and XVII hereof; MPS, at its cost and expense, shall monitor security in the form of a security perimeter, provided that Journey House shall have the right to reasonably approve the system and the procedures for working the security system; Journey House, at Journey House's cost and expense, shall be responsible for the capital repairs and replacement of the Journey House Addition, including, without limitation, roof, foundation, walls and building systems, except as provided herein; and MPS, at MPS' cost and expense, shall be responsible for the capital repairs and replacement of the cafeteria and kitchen fixtures, furniture, equipment, venting and other systems serving only or primarily the kitchen and cafeteria, and the costs of repair and restoration of the Journey House Addition arising out of any such repairs and replacements by MPS. Journey House shall be solely responsible to maintain, repair and replace that portion of the Journey House Addition which is used solely by Journey House, as well as all furniture, fixtures and equipment located therein. Both parties agree to cooperate reasonably and in good faith to maintain clean and sanitary conditions in all of the Shared Facilities; and each party, at its cost, shall be responsible for repairs and replacement to the property of the other party caused by the willful misconduct of said party's employees, students, licensees, contractors or invitees.

(b) To the extent applicable, Journey House agrees to sign the Ground Lease with the terms set forth in Section 1.1(d).

(c) As more particularly set forth in the Recitals, Journey House acknowledges and agrees that it is a benefit to Journey House's mission to have the Journey House Addition adjacent to and connected to Longfellow School and that as a specific inducement to contract for Journey House and MPS is that Journey House or a Permitted Provider Transferee provide the CLC or similar before and after school or other programming at Longfellow School. Consequently, MPS agrees that so long as a school is operated in the Original Building and Journey House or a Permitted Provider Transferee (as hereinafter defined) operates in the Journey House Addition, Journey House or such

Permitted Provider Transferee shall have the exclusive right to be the provider of before- and after-school programming, and summer programming for the benefit of Longfellow School students, in the form of CLC or other comparable programming as reasonably agreed to by MPS. If Journey House or its Permitted Provider Transferee fails to so provide such before and after school programming or CLC or comparable programming in terms of hours of programming or quality of programming to the reasonable satisfaction of MPS, then if Journey House or the Permitted Provider Transferee does not modify its programming with respect to such hours or quality provided said modification(s) can be made on a commercially reasonable basis, within sixty (60) days after written notice from MPS specifically setting forth any such failures to meet MPS's reasonable standards or such longer time as may be reasonably necessary to correct such failures, then MPS shall have the right to elect to cease using Journey House or its Permitted Provider Transferee, as applicable, for such programming by written notice given to Journey House at any time prior to Journey House or said Permitted Provider Transferee correcting said failures and thereafter MPS shall have the right to contract with any other service provider to perform those services provided such service provider is required to and continues to meet the same standards that MPS was requiring of Journey House or its Permitted Provider Transferee.

(d) Whenever the parties hereto are required to work together or approve or consent to any matter or item pursuant hereto, Journey House shall act in good faith, reasonably and with due diligence

(e) As long as the QSCBs are outstanding, Journey House shall continue to be an organization described under Section 501(c)(3) of the Internal Revenue Code. As long as the QSCBs are outstanding, Journey House shall not use, or permit any other person to use, the Shared Facilities in any manner inconsistent with their use as a public school. It is understood and agreed that use for community learning center programming, youth programming, including recreation, education and social opportunities, or any other use approved by MPS, otherwise undertaken in accordance with the terms of this Agreement, complies with this covenant.

#### 1.4. Conditions.

If Journey House determines that it will be unable to or otherwise elects not to commence and fund construction on or before the Construction Commencement Date, then either party may terminate this agreement with no further rights or obligations accruing by either party. The Construction Commencement Date set forth herein may be extended by mutual written agreement.

**ARTICLE II**  
**ESCROW AND DISBURSING GENERAL PROVISIONS**

2.1. Escrow Agent.

Developer and MPS shall agree on the selection of an escrow agent, preferably a title insurance company, able to carry out the escrow and disbursing functions under this Agreement. This agent shall be designated the “Escrow Agent.” Subject to Article XVIII, Developer and MPS shall enter into an Escrow and Disbursing Agreement with the Escrow Agent consistent with the terms of this Agreement and such other terms and provisions as are reasonably acceptable to the parties hereto (the “Disbursing Agreement”).

2.2. Processing of Draw Requests.

Draw Requests (pursuant to the Disbursing Agreement) shall be paid by the Escrow Agent to Developer in monthly installments as promptly as possible after receipt by the Escrow Agent of a draw request and funds as more particularly set forth below. Developer shall first submit the draw request (which shall be in a mutually and reasonably agreed to form), accompanied by a supporting certificate of the Project Architect to the MPS Representative (as hereinafter defined), which request shall certify the percentage of completion of the Journey House Addition, a reasonably detailed breakdown of both the costs to be paid from JH QSCB Funds toward the Shared Facilities and the costs to be paid from JH Funds for the JH Facilities and lien waivers for the work to be paid from such draw (provided that with the exception of the general contractor, such liens shall be presented on a one draw delay basis). MPS requires a minimum of a five percent (5%) retainage of hard costs but it is understood and agreed that Journey House may require an additional retainage so long as the Final Payment Request (as hereinafter defined) includes at least a five percent (5%) retainage for the hard costs of the Shared Facilities. For purposes hereof, the term “Final Payment Request” shall reflect the entire amount of retainage for the Journey House Addition. Payment of said work shall not be construed as an acceptance of any defective work or any portion thereof. The MPS Representative shall within ten (10) business days after receipt of the payment request review it, and if he/she disapproves the request or portion thereof, state the specific reasons therefor in writing and approve the request as to those items as to which he/she approved and withhold approval only as to those items specifically disapproved; provided, however, that the MPS Representative may only object to items relating to the Shared Facilities, exterior building aesthetics and First Floor Layout, but may provide comments and suggestions with respect to the remainder of the Journey House Addition. The MPS representative shall authorize the deposit with the Escrow Agent of an amount sufficient to pay MPS’ portion of the Draw Request.

The Final Payment Request shall then be made in accordance with the settlement provisions of Article XI, below.

**ARTICLE III  
PLANS AND SPECIFICATIONS**

3.1. Project Architect.

Journey House has selected an architect (the “Project Architect”). The Project Architect shall be required to follow MPS Insurance and Risk Management insurance requirements as set out in **Exhibit G**. Additionally, Journey House shall use commercially reasonable efforts to have the contract with the Project Architect include an indemnification pursuant to which the Project Architect shall indemnify, defend and hold harmless Journey House, if applicable, Developer, MPS and the City from all claims, liabilities, demands, actions, suits, damages, judgments, orders, liabilities or disbursements arising out of or as a result of negligent architectural services rendered. With MPS approval, which approval shall not be unreasonably withheld, conditioned or delayed, Journey House may change its architect.

3.2. Scope of Journey House Addition.

The Project Architect has designed the Journey House Addition so that it is compatible with the Original Building as more particularly set forth in Section 3.4 and in the Final Plans. At either party’s request, MPS shall review and comment on the functional/operational design of the Journey House Addition based on its expertise in the design of school buildings and similar space, however, nothing in this Agreement shall relieve the Project Architect of any responsibility for the design of the Journey House Addition.

3.3. Payment.

An allocated portion of the cost of the Project Architect shall be included in the costs of the Shared Facilities as shown on **Exhibit C**.

3.4. Compatibility; Exterior and First Floor Layout.

The Final Plans are listed on **Exhibit D** and MPS has approved the Final Plans. MPS shall have the right to review any modifications to the Final Plans for the Journey House Addition to reasonably determine if (i) the design of the Shared Facilities remains consistent, in all material respects, with the design reflected in the Final Plans, (ii) the design of the exterior of the Journey House Addition remains aesthetically compatible with the Original Building, and (iii) the general layout of the first floor space (the “First Floor Layout”) provides, to the extent commercially feasible, for the spatial separation of the Shared Facilities from the JH Facilities so as to protect the security of the Longfellow students, if the proposed modifications could reasonably be expected to impact any of the foregoing. MPS hereby consents to exterior building signs on the Journey House Addition identifying the Journey House Addition as “The Journey House Family Learning and Youth Athletics Center” or similar name provided the sign is in compliance with applicable law and is aesthetically compatible with the Original Building. Said determinations shall not be unreasonably withheld, conditioned or delayed. If MPS reasonably determines that the modification to the Final Plans indicate that the that Journey House Addition will not be so compatible or that the First Floor Layout is inadequate or the Shared Facilities are no longer so consistent, MPS shall promptly provide written notice to Journey House and the Project Architect setting forth specific and detailed reasons as to why the

Journey House Addition is not so compatible or why the First Floor Layout does not provide for adequate separation to meet MPS' security concerns or why the Shared Facilities are not so consistent. For purposes hereof, the term "First Floor Layout" shall refer only to the spatial separation between the Shared Facilities from JH Facilities and similar space. Journey House will make reasonable efforts to keep MPS updated on the status of any changes to the Final Plans and will use commercially reasonable and practical efforts to respond to any questions or concerns raised by MPS in connection with the Journey House Addition. All such reviews shall be reasonable and prompt.

3.5. Timetable/Cafeteria.

MPS shall make all decisions with respect to any modifications impacting the Final Plans for the Shared Facilities within 15 days after request for said decisions by Journey House or the Project Architect; provided, however, once the Final Plans have been submitted for bid, change orders may only be submitted in accordance with the terms and provisions of Article VI hereof.

3.6. Approval.

The Representatives (as hereinafter defined) shall act reasonably, in good faith with due diligence to resolve design issues, if any, with respect to the Shared Facilities, the exterior aesthetic compatibility of the Journey House Addition with the Original Building, and the First Floor Layout. The MPS Representative shall have decision-making authority for the kitchen and the cafeteria provided the design is consistent with the remainder of the Journey House Addition, and Journey House, through the Journey House Representative (as hereinafter defined), shall have decision-making authority for the remainder the Journey House Addition, subject to MPS' rights with respect to approving material changes to the other Shared Facilities, First Floor Layout and the exterior aesthetic compatibility of the Journey House Addition to the Original Building. The Shared Facilities, the First Floor Layout and the exterior aesthetic appearance of the Journey House Addition shall not be modified or amended in any material respect except with the approval of MPS as set forth herein.

3.7. Approval Authority.

All review, consents and/or approvals required or requested in connection with the design, construction, draws, including the timing and manner thereof, change orders, completion and compliance determinations, and all matters arising out of or relating thereto shall be made or given by the MPS Representative or by the MPS Director of Facilities and Maintenance ("Director of Facilities") or said director's designee and shall not require the approval of the MPS Board.

## **ARTICLE IV PROJECT BUDGET**

4.1. Representatives.

Journey House shall select a representative to act as the "Journey House Representative" in connection with the construction of the Journey House Addition. The

Journey House Representative shall be authorized to act on behalf of Journey House in connection with the construction of the Journey House Addition, including, without limitation, approving change orders and construction drawings, as more particularly provided herein. MPS shall select a representative to act as the “MPS Representative” in connection with the construction of the Journey House Addition. The MPS Representative shall be authorized to act on behalf of MPS in connection with the construction of the Journey House Addition, including, without limitation, and, as applicable, approving change orders and construction drawings, as more particularly provided herein. The MPS Representative shall be Gina Spang. Either Journey House or MPS may change its representative by five (5) days written notice to the other party, but except in the event of an emergency or with the consent of the other party, each party may only change its respective representative twice during construction of the Journey House Addition.

4.2. QSCB Fund Requirements.

In managing construction of the Journey House Addition, Journey House shall comply with the federal Davis-Bacon Act requirements as provided in US Department of Labor Memorandum No. 208 dated May 5, 2010, or any successor guidance, and, to the extent notified in writing by MPS, any other law applicable to the JH QSCB Funds. Journey House shall be responsible for any RFP’s or other packages; provided, however, that, MPS, upon the request of Journey House, may assist in the preparation or review of said RFP’s or other information packages and MPS insurance requirements set out in **Exhibit G** shall be included.

4.3. HUB and Other Standards.

As part of the mission of Journey House, Journey House intends for all construction contracts to meet the Historically Underutilized Business and COIN standards set forth on **Exhibit E** attached hereto to the extent reasonably possible.

4.4. JH QSCB Funds.

The payment of the JH QSCB Funds for the costs allocated to the Shared Facilities as set forth on **Exhibit C** shall be disbursed as those costs are incurred and the general contractors and Architect shall be directed to prepare the draw requests so that the request sets forth in reasonable detail the amounts to be paid from JH QSCB Funds for the Shared Facilities and the amount to be paid from JH Funds for the JH Facilities.

**ARTICLE V  
INTENTIONALLY DELETED**

**ARTICLE VI  
PROJECT CONSTRUCTION**

6.1. Plans and Specifications.

The Journey House Addition shall be constructed substantially in accordance with this Agreement, with the Final Plans, with such further plans and specifications or modifications thereto, and in accordance with all applicable federal, state and local laws, codes, ordinances and

regulations. Developer shall be responsible for obtaining all permits, licenses, variances and approvals required to construct the Journey House Addition; provided that MPS shall provide assistance and, to the extent permitted by applicable law, shall cooperate with Developer in connection therewith.

## 6.2. Changes.

(a) No material changes shall be made that affect, in any material respect, any of: the Shared Facilities, the First Floor Layout, the exterior aesthetic appearance of the Journey House Addition in a manner that negatively impacts the compatibility of the Journey House Addition with the Original Building, without, in each case, Developer requesting, and receiving, the written approval of the MPS Representative, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, field decisions may be made by the Developer, or the contractor in accordance with its contract, and the MPS Representative shall be informed of such changes as soon as reasonably possible. Field decisions shall mean (i) changes that have no material adverse effect on the Property or Original Building, or on the design, quality, or utility of the Shared Facilities and either reduce the cost of the Shared Facilities or increase said costs by no more than \$10,000 or (ii) changes that must be made immediately to prevent a delay, in any material respect, in the completion of the Journey House Addition; provided that under (i) and (ii) reasonable attempts shall be made to contact the MPS Representative for approval.

(b) The MPS Representative shall make his/her decision as to whether or not to approve such change within five (5) business days of receiving a written request for the change from the Developer. If a response is not received within five (5) business days, the Developer shall send a final written notice to MPS requesting a response. MPS shall have 48 hours to respond to the request. If the Developer receives no response after the second notice to MPS, the change request will be deemed approved.

## 6.3. Guarantees and Warranties.

(a) Journey House shall include in its direct contracts with the contractors a provision whereby the applicable contractor agrees to remedy and make good in the manner and time directed by Journey House any defective workmanship or materials if the contractor is notified of such defective workmanship or materials in writing within one (1) year from the date of award of final payment of the work, provided that such defects are not clearly due to abuse or misuse by Journey House or occupants of the Project after occupancy.

(b) To the same, and only to the same, extent that the guarantees and warranties relating to the Journey House Addition as set forth in the preceding paragraph are received by the Developer, then if Developer has not lost its right to enforce such guarantees and warranties on account of the passage of time or otherwise, Developer agrees to use commercially reasonable efforts to cause its

contractor or contractors and any or all of their subcontractors to remedy any defects in the Shared Facilities due to faulty design, materials or workmanship provided that Journey House or Developer is notified in writing of such defect at least ten (10) days prior to the expiration of the above referenced one (1) year period.

(c) Journey House or Developer will also use commercially reasonable efforts to include in its direct contracts with its contractors a provision allowing MPS to enforce the above guaranty and warranty directly against such contractor as to the kitchen and cafeteria.

#### 6.4. Construction Drawings.

Developer, upon completion of the Journey House Addition, shall turn over to MPS “as built” drawings of the Journey House Addition which Developer’s consultants and/or contractor(s) have maintained during construction.

#### 6.5. Inspections.

(a) Other than the requirement that MPS make available the JH QSCB Funds and otherwise comply with this Agreement, the Ground Lease, the Operating Agreement and the Escrow Agreement, MPS shall have no responsibility for the completion of the aforesaid Journey House Addition, and nothing contained in this paragraph shall create or affect any relationship between MPS and Developer’s funding sources or any contractor or subcontractor employed by Developer in the completion of the Journey House Addition.

(b) MPS personnel may make reasonable inspections of the Shared Facilities and the First Floor Layout at reasonable times during the period of construction thereof and shall have a right of entry for such purposes. Any such entry shall be MPS’s own risk.

(c) In the event the MPS Representative determines as a result of the inspections made by MPS personnel that Developer or its contractor(s) or subcontractor(s) are not constructing the aesthetic aspects of the exterior of the Building or the Shared Facilities or the First Floor Layout substantially in accordance with the Final Plans, and/or such further plans and specifications or modifications as the parties hereto shall agree or be permitted to make hereunder, and the provisions of this Agreement, the MPS Representative shall give written notice to Developer of such noncompliance. Within 2 business days of receipt of the written notice, Developer will schedule a consultation meeting with the MPS Representative, or designee, to determine corrective measures and shall promptly commence the corrective measures so determined.

**ARTICLE VII  
ENVIRONMENTAL CONDITIONS**

7.1. Asbestos and Lead.

MPS will promptly provide Journey House with copies of any environmental studies, reports, tests or similar information in the possession of MPS with respect to the Original Building and the Property. Journey House will have the right to conduct whatever testing and sampling that Journey House desires to undertake with respect to the condition of the Property, including groundwater and soil testing, at any time after the execution of this Agreement. Journey House shall provide copies of the result of any testing to MPS within five (5) days. Journey House, by written notice to MPS, may elect to terminate this Agreement, in its sole discretion, based on the results of any such testing or sampling, whereupon this Agreement shall terminate and the parties shall have no further rights or obligations hereunder. MPS represents to Journey House that, to the knowledge of MPS, there are no hazardous materials, substances or conditions affecting the Property or that portion of the Original Building which was constructed in 2004/05 and which is immediately adjacent to the Journey House Addition.

Developer, through the Project Architect, shall provide MPS with a signed affidavit assuring that the newly constructed portion of the Journey House Addition is free of asbestos and/or lead contaminating materials.

7.2. Construction Management Plan.

Developer and its contractor(s) may develop a construction management plan and rules and regulations for the construction site and Longfellow School to be implemented and followed during the construction period, copies of which shall be delivered to MPS and MPS shall use reasonable and good faith efforts and act with due diligence to implement and follow such construction management plan and rules and regulations.

**ARTICLE VIII  
RECORDS**

To the extent required by Wisconsin Public Records Law, Wis. Stat. § 19.21, and by the laws and regulations applicable to funds provided by QSCBs, Developer shall keep (and Developer shall require its contractor(s) and subcontractor(s) to keep) accurate, full and complete books and accounts directly relating to all aspects of the construction of the Shared Facilities and shall provide MPS with copies of such books and accounts. All books, accounts, and financial statements kept or prepared by or for Developer in connection with the Shared Facilities shall be in accordance with generally accepted or tax basis accounting principles consistently applied. Said records and accounts shall be kept for a period of seven (7) years after the date of substantial completion of the Journey House Addition.

During such seven (7) year period, MPS or any authorized representative of MPS, shall have the right, upon reasonable written notice to Developer, to examine the foregoing books, accounts and records during normal business hours.

## **ARTICLE IX INSURANCE**

### 9.1. Property Loss.

During construction, Developer shall bear the risk of loss or damage to the Journey House Addition by fire or other casualty. Developer shall purchase and maintain or cause its general contractor to purchase and maintain insurance as required in **Exhibit G** to the full insurable value thereof, but the amount of insurance shall be at least equal to the hard costs of the Project Budget. Milwaukee Public Schools is a municipal body corporate that self funds for liability under Wis. Stat. § 893.80 and Wis. Stat. § 895.46(1). Milwaukee Public Schools reserves its right to self insure for purposes of comprehensive and general liability.

Developer shall have power to adjust and settle any loss to the Journey House Addition with the insurers. Any insured loss is to be adjusted with Developer and made payable to it as trustee, subject to the requirements of any applicable mortgage clause.

MPS and Journey House each waive and release each other from and against all claims for recovery against the other for any loss or damage to the property of such party arising out of fire or other casualty coverable by a standard “causes of loss special form” property insurance policy or such other insurance providing greater coverage as may be standard in the industry for the types of buildings comprising the Original Building and the Journey House Addition and the uses then made of such buildings, even if such loss or damage shall be brought about by the negligence of the other party, its officers, members, shareholders, directors, employees, agents, students, clients or representatives.

### 9.2. General Liability.

During the period of construction of the Journey House Addition and until at least substantial completion of the Journey House Project, Developer shall require its general contractor to maintain and to cause its subcontractor(s) to maintain comprehensive general liability insurance in amounts set forth on **Exhibit G**.

All such liability coverage shall, as to the Project, name MPS and the City as additional insureds. Developer shall furnish to MPS and the City certificates of insurance showing that each is named an additional insured prior to the start of any work and providing thirty (30) days written notice of cancellation, non-renewal or material change. After substantial completion and conveyance to Journey House, the Ground Lease and/or the Operating Agreement shall govern the maintenance of insurance.

Milwaukee Public Schools is a municipal body corporate that self funds for liability under Wis. Stat. § 893.80 and Wis. Stat. § 895.46(1). Milwaukee Public Schools reserves its right to self-insure for purposes of comprehensive and general liability.

**ARTICLE X  
TIME OF COMMENCEMENT  
AND SUBSTANTIAL COMPLETION**

10.1. Construction Commencement. Developer shall use reasonable efforts to commence construction of the Journey House Addition on or before the Construction Commencement Date.

10.2. Substantial Completion. Developer shall also use reasonable efforts to substantially complete the Journey House Addition as described in Article XI below within 15 months after commencement of construction of the Journey House Addition, which date shall be extended for reasons beyond Developer's control (the "Substantial Completion Date"). If the Journey House Addition cannot be substantially completed by the Substantial Completion Date, Developer agrees to convene a meeting of the parties hereto to determine a new substantial completion date and what actions must be taken in order to address problems arising from the delay. MPS shall not be liable for any such delay, unless caused by MPS. Notwithstanding the foregoing, Developer shall substantially complete construction of the Shared Facilities and the "white box" portion of the JH Facilities no later than June 1, 2013.

**ARTICLE XI  
FINAL SETTLEMENT**

11.1. Defects or Deficiencies.

Upon issuance of an occupancy permit/certificate for the Shared Facilities by the City ("Substantial Completion"), and a statement by MPS Representative or his/her designee (which statement as to items (i) and (ii) below, MPS agrees to deliver to Developer within 30 days after receipt of the aforesaid permit/certificate), (i) describing any defects and/or deficiencies (the "MPS Punchlist") in the Shared Facilities, if applicable, and the amounts necessary to correct said defects and deficiencies, and (ii) certifying that, as of the time of final disbursement of the JH QSCB Funds, the Shared Facilities are substantially completed in accordance with **Exhibit D** hereto and any changes to **Exhibit D** approved or otherwise made as herein provided, or if not, stating why (in which case this precondition will not be satisfied), Developer and MPS shall make settlement in accordance with the terms hereof; provided, however, that Developer shall continue to be obligated to and shall correct and complete all MPS Punchlist items within ninety (90) days after such settlement, as such date may be extended for reasons outside of Developer's control. Upon completion of the preparation of the MPS Punchlist, the MPS Representative shall approve the Final Payment Request for the Journey House Addition, as provided in Article II, above; provided, however, if MPS Representative's statement referenced above, indicates that there are any material defects or deficiencies in the Shared Facilities, if applicable, the MPS Representative may direct the Escrow Agent to withhold from the Final Payment Request, the amounts reasonably necessary, as reasonably determined by the MPS Representative, for the completion of the defects. This withheld amount shall be paid to Developer or, as directed by Developer, to the applicable contractors upon certification by the MPS Representative that the defects and deficiencies in the Shared Facilities, if applicable, have been corrected. Notwithstanding the foregoing, no payments of JH QSCB Funds can be made after June 15, 2013 and any undisbursed JH QSCB Funds remaining on

deposit with the Escrow Agent as of such date shall be returned to MPS. After June 15, 2013, MPS shall have no liability or obligation to advance or disburse any JH QSCB Funds.

11.2. Liens.

Provided that MPS has paid in full all costs allocated to the Shared Facilities up to the full amount of the JH QSCB Funds to the Escrow Agent and Escrow Agent has disbursed such funds in accordance with the Disbursing Agreement, filed mechanics or materialmen's liens which are a lien against the Journey House Addition shall be satisfied or released of record or bonded or insured over within one hundred eighty (180) days after MPS' written request for such action. In no event shall Developer incur any cost or expense in construction of the Journey House Addition in excess of the amount of JH QSCB Funds and the Required JH Funds unless Journey House has funds available to pay for such costs.

**ARTICLE XII  
FEDERAL TAX MATTERS**

12.1. Tax Ownership.

Journey House agrees that it will not claim any federal tax ownership benefits based on tax ownership of the Shared Facilities portion of the Journey House Addition.

12.2. Changes in QSCB Interpretation.

If, based upon an audit of the QSCB issuance that generated the JH QSCB Funds or IRS guidance or ruling, which in each case were not available on the date of this Agreement, nationally recognized bond counsel delivers an opinion addressed to Journey House and MPS stating that the Shared Facilities do not qualify for QSCB funding, then MPS and Journey House agree that they will negotiate in good faith to modify the terms of the Operating Agreement and/or the Ground Lease to attempt to address the issues raised by said opinion. As part of any such negotiations if so requested by Journey House, MPS and Journey House will actively and in good faith consider, as an alternative to modifying either of the above referenced agreements, obtaining a private letter ruling from the IRS specific to the Shared Facilities and/or having either or both of the parties hereto enter into a voluntary compliance agreement with the IRS relating thereto.

**ARTICLE XIII  
MAINTENANCE, TAXES AND RELATED MATTERS**

13.1. Maintenance: Original Building.

MPS, at its sole cost and expense, shall be responsible for the operation, maintenance, repair and replacement of the Original Building.

13.2. Taxes.

Each party shall be responsible for paying any taxes levied against its portion of the Property during the term of the Ground Lease, and any personal property located therein.

13.3. Insurance.

Journey House shall maintain property insurance on the Journey House Addition at full replacement cost subject to a reasonable deductible. Such property insurance requirement shall be more particularly set out and incorporated in the Ground Lease and/or the Operating Agreement. Journey House shall be responsible for, and shall insure, its personal property and contents in the Journey House Addition and at the Project Site. MPS shall either maintain property insurance on the Original Building at full replacement cost subject to a reasonable deductible or shall self insure the Original Building at the same level and coverage. If MPS no longer owns the Original Building, then the party owning the Original Building shall not self insure without Journey House's consent.

13.4. Security and Utilities; During Construction.

MPS and Developer shall work reasonably and in good faith to provide adequate security for the Project during construction. The construction contract for the Journey House Addition shall contain requirements for the contractor to have a Construction Safety Program approved by Journey House and MPS, for a safe and secure construction site. The construction contract shall also provide that Journey House and MPS shall be held harmless and shall not bear any risk for contractor/subcontractor safety, theft or vandalism, damage or loss of any kind to tools and equipment. Upon completion of the Journey House Addition, MPS shall provide to the Project the level of security that MPS typically provides to similarly situated schools and community centers within the MPS system or such higher level as may be agreed to by MPS and Journey House, all to be more particularly set forth in the Ground Lease and/or the Operating Agreement. All utilities for the construction of Journey House Addition which can be provided through existing utilities, except for temporary heating, (unless Journey House agrees to pay the additional costs associated therewith), shall be provided and paid for by MPS during construction as more particularly set forth in the MPS Guide Specifications (provided, however, that MPS shall not be required to pay the cost of any propane tanks, any heat source, or similar independent energy sources that are not powered through existing utility connections); provided, however, that upon receipt of invoices therefor from MPS, Developer shall pay a percentage of such utility costs based on an estimate of its use of such utilities during construction as allocated to the JH Facilities, such estimate to be agreed upon by MPS and Developer acting reasonably and in good faith.

13.5. Security and Utilities; Post-Construction.

MPS agrees to pay all costs associated with a building intrusion alarm or such other security system as MPS selects, subject to the approval of Journey House, which shall not be unreasonably withheld, conditioned or delayed. Utilities shall be handled as more particularly provided in the Ground Lease and/or Operating Agreement.

**ARTICLE XIV  
CONFLICT OF INTEREST**

No member, officer or employee of MPS or the City during his/her tenure has had or will have any interest, direct or indirect, in this Agreement or the proceeds hereof.

**ARTICLE XV  
SEVERABILITY**

Should any portion, term, condition or provision of this Agreement be declared by a court of competent jurisdiction to be illegal or in conflict with any law of the United States of the State of Wisconsin or be otherwise rendered unenforceable or ineffectual, the legality and enforceability of the remaining provisions shall not be affected thereby.

**ARTICLE XVI  
JOURNEY HOUSE: RIGHTS OF ASSIGNMENT AND CONVEYANCE**

16.1. Collateral Assignment.

Journey House shall have the right from time to time to collaterally assign, pledge and/or mortgage any or all of its right, title and interest under the Ground Lease and the Operating Agreement as security solely for the purpose of obtaining financing on behalf of Journey House.

16.2. Subleasing.

Journey House shall have the right from time to time to sublease portions of the Journey House Addition provided that Journey House shall provide MPS with written notice within 10 days after the effective date of any such sublease and provided further that any subleases of space on the first floor of the Journey House Addition shall be subject to the applicable terms of this Agreement and the Operating Agreement and MPS' prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. For purposes hereof, MPS approval shall mean the approval of the current Director of Facilities & Maintenance and, if Longfellow School continues to operate as a school, the current principal or school leader of the same. If such approval is denied, Journey House shall have the right to take the issue of consent to the MPS Board.

16.3. Assignment to an Affiliate or Successor.

Journey House may assign the Ground Lease and convey the Journey House Addition to an affiliate of Journey House or to a successor entity to Journey House by acquisition, merger, consolidation or similar structure, provided that the successor entity intends to continue to operate the Journey House Addition for substantially the same principal uses as Journey House (each, an "Affiliated Transferee") and provided that said assignment and conveyance shall be subject to MPS' prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. For purposes herein, approval shall be deemed given if given by the current Director of Facilities & Maintenance and, if Longfellow continues to operate as a school, the current principal or school leader of the same. If such approval is denied, Journey House shall have the right to take the issue of consent to the MPS Board.

16.4. Assignment to Unrelated Entity Providing Similar Programs.

Journey House shall also have the right to assign the Ground Lease and convey the Journey House Addition to an unrelated entity that would continue to operate the

Journey House Addition for substantially the same principal uses as Journey House, including, without limitation, adult education, community activities and before- and after-school programs, (together with an Affiliated Transferee, a “Permitted Provider Transferee”) provided that such assignment and conveyance shall be subject to the prior written approval of MPS, which approval shall not be unreasonably held, conditioned or delayed. For purposes hereof, such approval shall be deemed given if given to by the current Director of Facilities & Maintenance and, if Longfellow continues to operate as a school, the current principal or school leader of the same. If such approval is denied, Journey House shall have the right to take the issue of approval to the MPS Board.

16.5. Assignment to Third Party for Other Uses.

If Journey House elects to or desires to assign the Ground Lease and the Operating Agreement and to convey the Journey House Addition or to lease the entire Journey House Addition to a third party that intends to use the Journey House Addition for purposes materially different than Journey House’s principal uses, then prior to any such conveyance or lease, Journey House shall notify MPS in writing of its intent to so convey, together with the price at which Journey House intends to market its rights under the Ground Lease and the Operating Agreement and in and to the Journey House Addition, which notice may also include other material terms of such proposed conveyance or lease. MPS shall have a reasonable period of time, not to exceed sixty (60) days, to decide whether or not MPS elects to purchase or to so lease the Journey House Addition on said terms or such other terms as may be agreed to by MPS and Journey House. If MPS does elect to exercise its right of first offer and purchase the Journey House Addition, then such closing shall take place within one hundred eighty (180) days after said notice on the terms and conditions set forth in the Journey House offer notice or at such later time as may have been set forth in such notice or such other date or on such other terms and conditions as may be agreed to by and between MPS and Journey House. If MPS does elect to exercise its right of first offer with respect to a lease and lease the Journey House Addition, then such lease shall be executed within the later of the date set forth in the Journey House offer notice or the date which is one hundred twenty (120) days after said notice on the terms and conditions set forth in the Journey House offer notice or at such other date or on such other terms and conditions as may be agreed to by and between MPS and Journey House. If MPS does not elect to exercise its right of first offer, then Journey House shall have the right to sell the Journey House Addition and to convey its rights under the Ground Lease and the Operating Agreement to a third party provided that the purchase price is not less than 20% of the purchase price at which the Journey House Addition was last offered to MPS or that the lease rent is not less than ten percent (10%) of the annual rent including all additional rent and related costs, at which the lease of the Journey House Addition was last offered to MPS, as applicable, and provided that in either case the use of the building by said third party would be compatible with the use of the Original Building as a school (provided that the Original Building is then being used as a school) as reasonably determined by MPS. If the purchase price is to be less than 80% of the purchase price last offered to MPS or the rent to be reduced beyond the above referenced ten percent (10%) of the last rental rate offered to MPS, then Journey House shall be required to reoffer the Journey House Addition to MPS at the reduced purchase price or rent, as applicable, and MPS shall have sixty (60) days to determine whether or not it elects to purchase the Journey House Addition at the reduced purchase price or rent, as applicable. If MPS does not so elect to purchase or lease, then Journey House would have the right to offer the Journey House Addition

and its rights under the Ground Lease and the Operating Agreement to third parties at the reduced purchase price or rent, as applicable, subject to the foregoing provisions. In addition, upon any such conveyance by Journey House to a third party who is operating the Journey House Addition for purposes materially different than Journey House's principal uses, then as a condition of such conveyance, the kitchen and cafeteria shall be closed off to the extent reasonably possible and the use thereof shall be exclusive to MPS, and said third party buyer shall have no rights whatsoever to use the kitchen or the cafeteria. If desired by said third party buyer, the third party buyer shall continue to have the right to shared use of the Shared Facilities pursuant to the terms of the Operating Agreement.

16.6. Waiver by MPS.

If (i) MPS no longer owns the Original Building or (ii) MPS is no longer occupying the Original Building and the Original Building is not operated as a school for K-12 students, then MPS shall have no rights to approve any of the transfers or conveyances by Journey House and shall have no right of first offer.

16.7. Ground Lease and Operating Agreement.

Notwithstanding the foregoing, the Ground Lease and Operating Agreement shall continue to be binding upon and inure to the benefit of the owner of the Original Building and the Property and the owner of the Journey House Addition and tenant under the Ground Lease, except as may be herein specifically provided with respect to the exclusive use of the kitchen and the cafeteria.

16.8. Tax Status of QSCBs.

Notwithstanding the foregoing, Journey House shall not assign or convey its interests in the Shared Facilities if MPS, after 30 days' notice from Journey House, provides Journey House with a written opinion from nationally recognized bond counsel that such assignment or conveyance will adversely affect the tax status of the QSCBs.

**ARTICLE XVII**  
**RIGHTS OF CONVEYANCE: MPS**

17.1. Leasing.

MPS shall have the right from time to time to lease portions of the Original Building, provided that MPS shall provide Journey House with written notice within ten (10) days after the effective date of any such lease and provided that any use by any such tenant of the Original Building shall be compatible with the uses of the Journey House Addition by Journey House. If the Original Building is used as a school, but is not being used as an MPS School, then Journey House will have the right to approve the operator of the school, which approval shall not be unreasonably withheld, conditioned or delayed. The lease of all or substantially all of the Original Building shall require the consent of Journey House, which approval shall not be unreasonably withheld, conditioned or delayed.

17.2. Cessation of Use of Original Building As School.

If MPS ceases to use the Original Building for an MPS school, then MPS may use the Original Building for any MPS purpose not incompatible with the use of the Journey House Addition with the consent of Journey House, not to be unreasonably withheld, conditioned or delayed.

17.3. Conveyance.

If MPS intends to convey the Original Building or to lease the Original Building for uses unrelated to childhood education, then MPS shall notify Journey House in writing of its intent to so convey or lease, together with the purchase price or rent that MPS intends to market the Original Building or the lease rights therein, which notice may also include other material terms of such proposed conveyance or lease. Journey House shall have a reasonable period of time, not to exceed sixty (60) days, to decide whether or not Journey House elects to purchase or lease, as applicable, the Original Building on said terms or such other terms as may be agreed to by MPS and Journey House. If Journey House does elect to exercise its right of first offer with respect to a conveyance and purchase the Original Building, then such closing shall take place within the later of the date set forth in the MPS offer notice or 180 days after the date of said notice on the terms and conditions set forth in the MPS offer notice or at such other date or on such other terms and conditions as may be agreed to by and between MPS and Journey House. If Journey House does elect to exercise its right of first offer with respect to a lease and lease the Original Building, then such lease shall be executed within the later of the date set forth in the MPS offer notice or the date which is 120 days after said notice on the terms and conditions set forth in the MPS offer notice or at such other date or on such other terms and conditions as may be agreed to by and between MPS and Journey House. If Journey House does not elect to exercise its right of first offer, then MPS shall have the right to sell or lease the Original Building to a third party provided that the purchase price is not less than twenty percent (20%) of the purchase price at which the Original Building was last offered to Journey House or that the lease rent is not less than ten percent (10%) of the annual rent including all additional rent and related costs, at which the lease of the Original Building was last offered to Journey House and provided that in either such case that the use of the building by said third party purchaser or tenant would be compatible with the use of the Journey House Addition as reasonably determined by Journey House. If the purchase price or rent is to be reduced beyond the applicable percentages set forth above and last offered to Journey House, then MPS shall be required to reoffer the lease or sale of the Original Building to Journey House at that reduced purchase price or rent, as applicable, and Journey House shall have sixty (60) days to determine whether or not it elects to purchase or lease the Original Building at the reduced purchase price or rent, as applicable. If Journey House does not so elect to purchase or rent, then MPS would have the right to offer the Original Building to third parties at the reduced purchase price or reduced rent, as applicable, subject to the foregoing provisions. In addition, upon any such conveyance or lease by MPS to a third party, Journey House shall have the right to approve such third party for purposes of determining whether the third party's use will be compatible with the use of the Journey House Addition, which approval shall not be unreasonably withheld, conditioned or delayed. Any such conveyance or lease shall expressly restrict the use of the Original Building so that said use remains compatible with the use of the Journey House Addition as a covenant "running with the land" binding upon the Original Building for the

benefit of the Journey House Addition during the term of the Ground Lease. This right of offer shall apply to any future buyer of the Original Building so long as the Ground Lease remains in effect.

**ARTICLE XVIII  
NEW MARKET TAX CREDITS**

MPS acknowledges that Journey House intends to structure the funding of the Journey House Addition through a leveraged two-tier new market tax credit structure. Subject to the approval of MPS' bond counsel confirming that the use of that portion of the JH QSCB Funds that are proceeds from QSCBs for the new market tax credit structure will not have an adverse affect on the tax-exempt status of said funds, MPS agrees (i) to the restructuring of the funding of the JH Funds, or any portion thereof, and the JH QSCB Funds as part of a new market tax credit financing so that said funds will be funded through an entity that will then loan the funds to the investment fund to be formed to facilitate the new market tax credit structure; (ii) to such other modifications as may be necessary to effectuate the new market tax credit structure; and (iii) to modifications to the Disbursing Agreement so that, among other modifications, the parties would be Journey House, the new market tax credit "lower tier" lender and MPS, as "ground lessor."

**ARTICLE XIX  
NOTICES**

Any notice provided herein or given pursuant to this Agreement, shall be deemed in compliance herewith if in writing and sent by United States certified or registered mail, postage prepaid, return receipt requested, or by receipted personal delivery to the parties as follows:

To MPS:  
1124 North 11th Street  
P.O. Box 0529  
Milwaukee, WI 53205-0259  
Attention: Director of Facilities &  
Maintenance Services

With a copy to:  
City Attorney's Office  
Room 800, City Hall  
200 East Wells Street  
Milwaukee, WI 53202

And

Joan Aguado  
Contracts Attorney  
Milwaukee Public Schools  
P.O. Box 2181  
Milwaukee, WI 53201

To Journey House/Developer:  
c/o Journey House  
1900 West Washington Street  
Milwaukee, WI 53204  
Attention: Executive Director

With a copy to:  
Foley & Lardner LLP  
777 East Wisconsin Avenue, Suite 3600  
Milwaukee, WI 53202  
Attention: Sarah O. Jelencic

## **ARTICLE XX GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Wisconsin. If any term or provision of this Agreement or any exhibits hereto, or the application thereof to any person or circumstance, shall to any extent be declared invalid or unenforceable, then the remainder of this Agreement and exhibits, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by applicable law.

## **ARTICLE XXI COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

## **ARTICLE XXII HEADINGS AND CAPTIONS**

The headings and captions on the various sections of this Agreement are for convenience of reference only and shall not affect the construction or interpretation of any provision herein.

**ARTICLE XXIII  
SUCCESSORS**

This Agreement, the Ground Lease and the Operating Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the Parties. The permitted assigns of the Parties shall be limited to entities approved in writing by each of the other Parties, acting reasonably and as more particularly set forth in Articles XVI and XVII.

**ARTICLE XXIV  
WAIVER**

The waiver by any Party of the breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by such breaching Party.

**ARTICLE XXV  
DEFAULT**

25.1. Events of Default.

If any one or more of the following events occur, it is hereby defined as and declared to be and to constitute an “Event of Default” under and for purposes of this Agreement.

(a) Any party shall default in the performance or observance of any of the covenants, agreements or conditions on the part of such party set forth in this Agreement and the continuance thereof for thirty (30) days following receipt and written notice from another party specifying such default and requesting that it be corrected, provided that if such default cannot reasonably be cured within said 30 day period, then such longer period of time as may be reasonably necessary to cure such default but in any event not to exceed an additional ninety (90) days unless consented to by the MPS Representative as to Journey House defaults and by the Journey House Representative as to MPS default, which consent shall not be unreasonably withheld, conditioned or delayed;

(b) Any party shall:

(i) Make a general assignment for the benefit of creditors or to an agent authorized to dissolve a substantial amount of its property; or

(ii) Become subject (either voluntarily or involuntarily unless dismissed within ninety (90) days after such filing) to an order for relief within the meaning of the bankruptcy code; or

(iii) File a petition to effect a plan or other arrangement with creditors; or

(iv) File an answer to a creditor’s petition, admitting the material allegations thereof, for dissolution, reorganization or to effect a plan or other arrangements with creditors; or

(v) Apply to a court for the appointment of a receiver for any of its assets; or

(vi) Have a receiver appointed for any of its assets (with or without consent) and such receiver shall not be discharged within ninety days (90) after appointment;

(vii) Otherwise become the subject of any federal or state bankruptcy or insolvency proceedings unless dismissed within ninety (90) days after such filing; or

(viii) Assign or attempt to assign the Ground Lease in violation of this Agreement.

(c) Journey House, its permitted tenants under Article XVI and its successor or assigns shall cease all operations from the Journey House Addition for a period of 24 months which period shall be extended for the period of any cessation that arises from causes outside of the reasonable control of Journey House or its successors or assigns, as applicable.

#### 25.2. Remedies.

If an Event of Default shall occur, the aggrieved party may pursue any available remedy against the party in the default either at law or in equity, including, but not limited to, seeking specific performance, provided that MPS shall not have the right to terminate the Ground Lease or the Operating Agreement, except pursuant to Section 704.31 of the Wisconsin Statutes. In the event MPS successfully enforces the remedy granted pursuant to Section 704.31 of the Wisconsin Statutes, MPS shall have no liability to Journey House for the cost or value of any improvements constructed upon any part of any property subject to the Ground Lease provided that, notwithstanding the provisions of Section 704.31, Journey House shall have no personal liability or obligation for any amounts then due MPS and/or the City.

IN WITNESS WHEREOF, the parties hereto have had these presents duly executed in their respective names by their respective officers as of the date and year first above written.

MILWAUKEE BOARD OF SCHOOL DIRECTORS

By:

\_\_\_\_\_

\_\_\_\_\_, President

\_\_\_\_\_

Gregory Thornton, Superintendent of Schools

JOURNEY HOUSE, INC.

By:

\_\_\_\_\_

\_\_\_\_\_, Executive Director

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Approved as to form and  
Execution this \_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Assistant City Attorney

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

THE SOUTH 25 FEET OF LOT 12, EXCEPT THE EAST 40 FEET FOR ALLEY; ALL OF LOTS 1 TO 6 INCLUSIVE, EXCEPT THE WEST 10 FEET FOR ALLEY, ALL IN BLOCK 26. ALSO, LOTS 1 TO 12 INCLUSIVE, IN BLOCK 29, ALL IN CLARK'S ADDITION, IN THE SOUTHWEST ¼ OF SECTION 31, IN TOWNSHIP 7 NORTH, RANGE 22 EAST, IN THE CITY OF MILWAUKEE, COUNTY OF MILWAUKEE AND STATE OF WISCONSIN, TOGETHER WITH VACATED WASHINGTON STREET WHICH IS ADJACENT TO BLOCKS 26 AND 29 OF CLARK'S ADDITION, EXCEPT THAT PART DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF LOT 12 IN BLOCK 26 IN CLARK'S ADDITION; THENCE WEST 40 FEET; THENCE SOUTH 7 FEET; THENCE EAST 20 FEET; THENCE SOUTHEASTERLY TO A POINT, SAID POINT BEING 17 FEET SOUTH OF THE SOUTH LINE OF SAID LOT 12 AND 20 FEET WEST OF THE EAST LINE OF THE ALLEY EXTENDED IN SAID BLOCK 26; THENCE EAST 20 FEET; THENCE NORTH 17 FEET TO THE SOUTH LINE OF LOT 6 IN BLOCK 26, IN SAID SUBDIVISION; THENCE WEST 10 FEET TO THE PLACE OF BEGINNING. SAID EXCEPTION TO BE USED FOR ALLEY.

**EXHIBIT B**  
**DEPICTION OF PROJECT SITE**

**EXHIBIT C**  
**ESTIMATED BUDGET AND COST ALLOCATION**

**EXHIBIT D  
FINAL PLANS**

**EXHIBIT E**  
**HISTORICALLY UNDERUTILIZED BUSINESS AND OTHER REQUIREMENTS**

1. 30% coin worker with respect to an amount equal to the JH QSCB Funds (less the amounts allocated to the Gym Conversion)
2. 25% HUB vendor with respect to an amount equal to the JH QSCB Funds (less the amounts allocated to the Gym Conversion)
3. Paid Student Employment requirement in an amount to be determined based on an amount equal to the JH QSCB Funds (less the amounts allocated to the Gym Conversion)
4. 10 hour Student Career Awareness activity

**EXHIBIT F**  
**INTENTIONALLY OMITTED**

## **EXHIBIT G INSURANCE REQUIREMENTS**

1. Developer shall purchase and maintain or cause to be purchased and maintained, at its or its contractor's sole expense, insurance as outlined below until all services to be rendered have been fully completed, unless otherwise specified herein. The Developer shall require any of its construction consultants or subcontractors not protected under Developer's or Contractor's insurance to maintain insurance of the same kind and in the same amounts as specified below. The Developer shall not commence any work under this contract nor shall any of its contractors or sub-contractors be permitted to commence work until they obtain the required insurance and the Developer approved the proof of the required insurance as more particularly set forth herein.

2. During construction, Developer shall bear the risk of loss or damage to the Journey House Addition by fire or other casualty. Developer shall purchase and maintain or cause its general contractor to purchase and maintain Builder's Risk and Boiler and Machinery insurance (including hot testing and cold testing) to the full insurable value of the Journey House Addition on a replacement cost basis.

This insurance shall protect and include the interests of the Developer and its contractors/subcontractors, MPS, and Journey House in the work and shall name said parties as additional named insureds. This insurance will be at least as broad as coverage provided by Insurance Services Offices Forms CP 00 20 10 90, CP 10 30 10 91 and BM 00 25 06 95 unless otherwise agreed to in writing by MPS. This insurance will also apply to losses caused by flood or other water damage, earth movement, testing and start-up, collapse, electrical injury, mechanical breakdown and explosion of steam boilers. This insurance will not cover the cost of making good faulty or defective workmanship, material, construction, designs, plans and/or specifications but this exclusion shall not apply to direct physical loss or direct physical damage resulting from such faulty or defective workmanship, material, construction, designs, plans and/or specifications.

This insurance coverage will apply to Property In Transit with a minimum limit of \$500,000 and to Property Stored Off Site/Property at Unnamed Locations with a minimum limit of \$500,000. Extra expense coverage with a minimum limit of \$500,000 will apply to damage to Property in Transit and Property Off-Site/Property at Unnamed Locations. Extra Expense coverage with a minimum limit of \$1,000,000 will apply to the Journey House Addition construction.

Developer shall have power to adjust and settle any loss to the Journey House Addition with the insurers and loss will be made payable to it as trustee, subject to the requirements of any applicable mortgage clause or reasonable requirements of any lender to the Project. MPS shall have the power to adjust and settle any loss to the extent it involves the Original Building including its contents and improvements, or to the extent it involves solely the interests of MPS in the Journey House Addition including any contents and improvements owned by MPS, with loss made payable to MPS or in accordance with any applicable mortgage clause or reasonable requirements of any lender to the Project and this Agreement.

The parties shall secure mutual waivers of subrogation from their respective property insurance carriers during the construction of the Journey House Addition.

3. Commercial General Liability for Bodily Injury, Personal Injury, Property Damage, Advertising Injury, Contractual Liability, and Explosion, Collapse and Underground Hazards Coverage.

General Aggregate (other than Products - Completed Operations) per project	\$2,000,000
Products-Completed Operations	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit - Any One Fire	\$ 50,000
Medical Expense - Any One Person	\$ 5,000

Products and Completed Operations coverage shall be maintained for a minimum period of at least 2 (two) years after either 90 days Substantial Completion or Final Payment, whichever is earlier. Developer or Contractor’s Commercial General Liability Policy shall be specifically endorsed to provide this coverage on the issued policy.

4. Automobile Liability for Owned, Non-Owned and Hired Autos with a minimum limit of \$1,000,000 combined single limit per accident for bodily injury and property damage.

5. Umbrella liability with a minimum limit of \$5,000,000 per occurrence; \$5,000,000 aggregate providing coverage as broad as the underlying Commercial General Liability, Automobile Liability and Employer’s Liability. These limits shall be dedicated limits for the Journey House Addition and are not to be impaired by exhaustion of the aggregate.

6. Workers Compensation	Statutory Limits
Employers Liability:	
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$100,000 each employee
Bodily Injury by Disease	\$500,000 policy limit

Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of the following parties including their directors, officers, agents and employees:

Journey House  
 Milwaukee Board of School Directors  
 City Of Milwaukee

7. Contractor Professional Liability Insurance

During the period of construction of the Journey House Addition, Developer shall purchase and maintain or cause its contractor to purchase and maintain Contractor Professional Liability insurance with limits no less than \$2,000,000 per wrongful act and \$4,000,000 aggregate per project. This insurance shall include coverage for bodily injury, property damage, contractual

liability, punitive or exemplary damages and pollution liability. If coverage is provided on a claims made basis, coverage will at least be retroactive to the commencement of contractor or, if applicable, developer services for the Journey House Addition. This coverage shall be maintained for a period of at least three (3) years after the date of final payment under this Agreement. Any consultants or subcontractors retained by the general contractor who performs services for the Journey House Addition shall be covered under the contractor's professional liability insurance.

Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of the following parties:

Journey House  
Milwaukee Board of School Directors  
City of Milwaukee

#### 8. Additional Insurance Requirements

Unless otherwise agreed to in writing by Journey House and MPS, insurance is to be placed with insurers who have a Best's Insurance Reports rating of no less than A- and a financial size of no less than Class VIII, and who are authorized as an admitted insurance company in the State of Wisconsin.

All insurance coverage for the additional insureds shall be on a primary and non-contributory basis. All policies shall provide that any insurance maintained by the additional insureds is excess and non-contributing with any insurance required hereunder. The insurance coverage for the additional insureds shall be at least as broad as that provided by the Additional Insured - Designated Person or Organization Endorsement, Insurance Services Office Form #CG 20 26 11 85, or the most recent State of Wisconsin approved version of this form unless otherwise agreed to in writing by MPS.

Any and all deductibles are the responsibility of the Developer or its contractor. Any deductible or form of retention shall not be greater than \$10,000 unless otherwise approved in writing by Journey House and MPS.

Prior to commencement of any work under this Agreement, the Developer shall furnish Journey House and MPS certificates of insurance, which evidence the required insurance or certified copies of the insurance policies. If coverage is evidenced by certificates of insurance, the Developer must provide certified copies of the insurance policies within ninety (90) days after commencing the work.

Not less than two weeks before the expiration of the insurance coverage required by this agreement, the Developer must provide to Journey House and MPS certificates of insurance which evidence renewal or continuation of the required insurance policies or certified copies of such insurance policies. If renewal is evidenced by certificates of insurance, the Developer must provide Journey House and MPS certified copies of the required insurance policies within 90 days of the expiration of coverage.

Upon failure to provide such evidence of coverage and/or policies or certified copies of insurance policies within the time periods required, Journey House and MPS have the authority to order the Developer to cease all operations until the required documents have been provided. Any expenses from such interruption or cessation of work shall be the responsibility of the Developer.

## INSURANCE

The Project Architect shall purchase and maintain at its sole expense, unless otherwise indicated herein, insurance as outlined below until all services to be rendered have been fully completed unless otherwise required herein. The Project Architect shall require any of their consultants or subcontractors not protected under the firm's insurance to maintain insurance of the same kind in the amounts as specified below. The Project Architect shall not commence any work under this contract or shall any of their sub-contractors be permitted to commence work until they obtain the required insurance and the Developer and Journey House have approved the proof of the required insurance.

9.	Workers Compensation	Statutory Limits
	Employers Liability:	
	Bodily Injury by Accident	\$100,000 each accident
	Bodily Injury by Disease	\$100,000 each employee
	Bodily Injury by Disease	\$500,000 policy limit

Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of the following parties including their directors, officers, agents and employees:

Journey House  
 Milwaukee Board of School Directors  
 City of Milwaukee  
 Developer

10. Commercial General Liability for bodily injury, personal injury, advertising injury and property damage

General Aggregate Limit (other than Products - Completed Operations)	\$2,000,000
Products - Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit - Any One Fire	\$ 50,000
Medical Expense Limit - Any One Person	\$ 5,000

The policy deductible shall not be greater than \$50,000.

11. Automobile Liability - Owned, Non-owned and Hired

Combined Single Limit	\$1,000,000
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12. Umbrella

\$5,000,000 each occurrence/\$5,000,000 aggregate

Coverage must be following form and as broad as the underlying Commercial General Liability, Automobile Liability and Employer’s Liability. The above are dedicated limits for Journey House and Milwaukee Public Schools project(s) and are not to be impaired by exhaustion of the aggregate.

13. Architect’s professional liability including coverage for bodily injury, property damage, contractual liability, punitive or exemplary damages and pollution liability. If coverage is provided on a claims made basis, coverage will be at least retroactive to the earlier of the date of this contract or the commencement of Project Architect’s services in relation to the project. This coverage is to be specific to this project and is to be maintained for a period of three years after the date of completion of the Project. Any consultants or subcontractors retained by the Project Architect who perform services under this Contract shall be covered under Project Architect’s professional liability insurance.

Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of the following parties including their directors, officers, agents and employees:

Journey House  
Milwaukee Board of School Directors  
City of Milwaukee  
Developer

Minimum Limit of Liability	
Per Wrongful Act	Per Project Aggregate
\$2,000,000	\$2,000,000

14. Acceptability of Insurers

Unless otherwise agreed to in writing by Developer, Journey House, and MPS, insurance is to be placed with insurers who have a Best’s Insurance Reports rating of no less than A- and a financial size of no less than Class VIII, and who are authorized as an admitted insurance company in the State of Wisconsin.

15. Additional Insureds

The following parties including their directors, officers, agents and employees shall be named as additional insureds on all Project Architect’s Commercial General Liability and Umbrella Liability policies for liability arising out of the project work:

Journey House  
Milwaukee Board of School Directors  
City of Milwaukee  
Developer

All insurance coverage for the additional insureds shall be on a primary and non-contributory basis. All policies shall provide that any insurance maintained by the additional insureds is excess and non-contributing with any insurance required hereunder. The insurance coverage for the additional insureds shall be at least as broad as that provided by the Additional Insured-Designated Person or Organization Endorsement, Insurance Services Office Form #CG 20 26 11 85, or the most recent State of Wisconsin approved version of this form unless otherwise agreed to in writing by MPS.

16. Additional Insurance Requirements

- (a) Any and all deductibles or other forms of retention are the responsibility of the Project Architect. All deductibles or other forms of retention are subject to the approval of the Developer and Journey House.
- (b) Prior to commencing the work, the Project Architect shall furnish Developer, Journey House and MPS certificates of insurance, which evidence the required insurance or certified copies of the insurance policies. If coverage is evidenced by certificates of insurance, the Project Architect must provide certified copies of the insurance policies within ninety (90) days after commencing the work.
- (c) Not less than two weeks before the expiration of the insurance coverage required by this Contract, the Project Architect must provide to Developer, Journey House and MPS certificates of insurance which evidence renewal or continuation of the required insurance policies or certified copies of such insurance policies. If renewal coverage is evidenced by certificates of insurance, the Project Architect must provide Developer, Journey House and MPS certified copies of the required insurance policies within ninety (90) days of the expiration of coverage.
- (d) Upon failure to provide such evidence of coverage and/or policies or certified copies of insurance policies within the time periods required, Developer, Journey House and MPS have the authority to order the Project Architect to cease all operations until the required documents have been provided. Any expenses arising from such interruption of cessation of work shall be the responsibility of the Project Architect.