

**MATTAWAN CONSOLIDATED SCHOOL  
OWNER'S REPRESENTATIVE SERVICES**

**REQUEST FOR PROPOSALS ("RFP")**

April 19, 2024

**I. SUBMISSION DEADLINE AND PROPOSAL REQUIREMENTS**

The date and time for receipt of Proposals is:

**MAY 3, 2024 at 11:00 am**

- 1.1 Proposal Envelope.** An opaque, sealed envelope containing your Proposal, and any other supporting data to be submitted therewith, must be marked in the lower right hand corner with the following description:

MATTAWAN CONSOLIDATED SCHOOL  
OWNER'S REPRESENTATIVE SERVICES RFP  
[PROPOSER'S NAME]  
[PROPOSER'S ADDRESS]  
[PROPOSER'S TELEPHONE NUMBER]

The envelope must be addressed and timely delivered to:

Mattawan Consolidated School  
Attention: Pam Stermer  
Chief Financial Officer  
56720 Murray Street  
Mattawan, Michigan 49071-9567

- 1.2 Late Proposals.** Each Proposer is responsible for submission of its Proposal. Proposals or revisions to Proposals received after the date and time specified above may be rejected for consideration by the School District. Any rejected proposals will be returned to the Proposer unopened. The School District is not liable for any delivery or postal delays.
- 1.3 Original Proposal and Copies.** Each Proposal must be an original and hard copy, and signed by an authorized member of the Proposer's firm. Oral, telephonic, telegraphic, facsimile, or email Proposals will NOT be accepted. Along with the original, signed Proposal, the Proposer shall also submit one (1) additional copy of the Proposal. A flash drive containing the proposal documents may be submitted in addition to the original and additional hard copy, but is not required and is not in lieu of paper documents.
- 1.4 Opening of Proposals.** The Proposals will be opened at the date and time stated above, by the Chief Financial Officer and/or such other administrator authorized by the Board of Education. No immediate decision will be rendered. To the extent permitted by law, proposals will not be reviewable by the public, nor disclosed to unauthorized persons prior to award of Contract. However, after award

of Contract, all Proposals shall be open to public inspection, subject to any continuing disclosure prohibition under Michigan law.

**1.5 RFP Clarifications and Addenda.**

1.5.1 *Intent to Respond.* Each Proposer who intends to submit a Proposal in response to this RFP may submit, via email, an “Intent to Respond” to Pam Stermer at [pstermer@mattawanschools.org](mailto:pstermer@mattawanschools.org) with the subject line "Owner's Representative Services RFP Intent to Respond." The *Intent to Respond* shall include the name of the Proposer, the name of the contact person, and that person’s email address. The School District intends to communicate with Proposers via email, including with respect to RFP clarifications and addenda. Those Proposers who fail to properly provide an *Intent to Respond* are not precluded from bidding, however, they will be solely responsible for obtaining any such information in an alternative manner.

1.5.2 *Requests for Clarification.* Proposers must examine this RFP and otherwise satisfy themselves as to the scope of the RFP and their respective responses. After submission of proposals, the School District will not entertain any complaint or claim that the terms of the RFP were misunderstood. Proposers may request clarification of information within the RFP. All such requests should be made in email to Pam Stermer at the email address given above and with the subject line "Owner's Representative Services RFP Request for Clarification." A written response to all written requests for clarification will be made within three (3) business days after the receipt of such requests. No requests for clarification will be accepted after the close of business five (5) business days before the deadline for submission of proposals. The responses to any requests for clarification will be provided to all Proposers who filed an Intent to Respond or are otherwise on record with the School District as having received an RFP.

1.5.3 *Addenda.* If it becomes necessary to revise any part of the RFP, by addition, deletion, clarification, or correction, notice of the revision will be emailed to all Proposers who filed an Intent to Respond in accordance with Paragraph 1.5.1 and will otherwise be available to all Proposers upon an appropriate request. All addenda shall become a part of the RFP. No Addenda shall be issued after the close of business five (5) business days before the deadline for submission of proposals. Each Proposer bears responsibility for confirming prior to submitting a Proposal that it has received all issued Addenda. To avoid miscommunication, each Proposer should acknowledge all addenda which it has received, but the failure of a Proposer to receive, or acknowledge receipt of any addendum shall not relieve the Proposer of the responsibility for complying with the terms thereof.

1.5.4 *Availability.* Copies of this RFP and any associated addenda may be received from the Mattawan Consolidated School Administrative Offices between the hours of 8 a.m. and 4 p.m., Monday through Friday, prior to the time and date specified above for the submission of Proposals.

**1.6 RFP/Proposal Information Controlling.** Each Proposer shall prepare its Proposal based only on the information contained in this RFP, notwithstanding any information that may have been previously provided to, or alternately obtained by, a Proposer. A Proposer noting any inconsistency between the information contained in this RFP and any information previously or alternately obtained should submit a request for clarification. No information communicated verbally or in writing to or from a Proposer shall be effective unless confirmed in writing in this RFP, an addendum to this RFP, a request for clarification response, or other another written response.

**1.7 Reserved.**

**1.8 Reservation of Rights.** It is the intent of the School District to award any Contract in due course after a reasonable period of time to evaluate Proposals in light of the RFP requirements. The School District reserves the right to waive any irregularity in the RFP process or any Proposal, and the right to award the Contract to other than the Proposer(s) submitting the lowest bid. The School District reserves the right to request additional information from any or all Proposers, including an oral interview to discuss, clarify, and answer any questions regarding the Proposal. The School District reserves the right, in its sole discretion (for this provision and for all other provisions contained in this RFP), to accept or reject, in whole or in part, any or all Proposals with or without cause. Grounds for rejection of Proposals may include, but are not limited to:

- Failure of Proposal to conform to RFP requirements
- Submitting a Proposal imposing conditions which would modify the terms and conditions of the RFP or limit the Proposer's liability to the School District on any awarded contract
- Submitting a Proposal determined by the School District to be unreasonable in price
- The Proposer is determined by the School District not to be a responsible Proposer
- Any other reason deemed relevant by the School District and which is consistently applied

- 1.9 Release of Claims.** Each Proposer submitting its Proposal releases the School District from any and all claims arising out of, and related to, the RFP process and the selection of a contractor.
- 1.10 Proposer Bears Costs of Proposal.** A Proposer is responsible for any and all costs it incurs (or that are incurred by others on its behalf) in preparing or submitting a Proposal, in otherwise responding to this RFP, or in any negotiations incidental to its Proposal or this RFP.
- 1.11 Modification or Withdrawal of Proposals.**
- 1.11.1 Proposals submitted early may be modified or withdrawn prior to the submission deadline. Any modified or resubmitted Proposal shall be submitted in the same fashion as required by this RFP and shall be worded so as not to reveal the amount of the original proposal sum.
- 1.11.2 Proposals submitted and not timely modified or withdrawn shall be irrevocable for a minimum period of ninety (90) calendar days following the submission deadline.
- 1.12 Collusive Bidding and Relationship Disclosure.**
- 1.12.1 The Proposer certifies that their Proposal is made without any previous understanding, agreement or connection with any person, firm, or company making a Proposal for the same project and is in all respects fair and without outside control, collusion, fraud, or other illegal action.
- 1.12.2 The Proposer shall submit a Familial Relationship Disclosure in substantially the form attached hereto as **Attachment A**.
- 1.12.3 The Proposer shall submit an Iran Economic Sanctions Act Certification in substantially the form attached hereto as **Attachment B**.

**II. SELECTION TIME LINE, CRITERIA, AND EVALUATION**

2.1 The RFP shall be released and considered on the following schedule:

Release of RFP	April 19, 2024
Deadline for Requests for Clarification and Addenda	April 26, 2024
Proposals Due	May 3, 2024
Proposer Interviews	May 8-10, 2024
Contract Award	May 13, 2024
Commencement of Service	May 14, 2024

The School District reserves the right, in its sole discretion, to change, add to, or eliminate any or all portions of the above-identified selection timeline as it determines to be in its best interest, with or without notice to Proposers.

2.2 **Proposal Information.** Proposals must demonstrate an understanding of the scope of work and the ability to accomplish the tasks set forth herein and must include information that will enable the School District to determine the Proposer’s overall qualifications. Each Proposal shall include the information identified below and any other information required by this RFP, but may also include any other information that the Proposer feels is significant with respect to the School District making an informed decision relative to the Proposal.

2.2.1 Reserved

2.2.2 Original bid document and copies as required by Section 1.3.

2.2.3 The Proposal shall include a cover letter, including a brief executive summary, the legal name of the Proposer and a brief statement of its history, and a statement of whether the Proposer is a sole proprietor, a partnership, corporation, or other legal entity. The cover letter shall be on company letterhead and signed by a person authorized to bind the Proposer in contract.

2.2.4 The Proposed Contract Sum shall be identified on, and in compliance with, the Proposal Form attached hereto as Attachment C. The Proposed Contract Sum may be identified as either (1) a lump sum or (2) a percentage of construction cost, with a detailed explanation of how construction cost is to be calculated (if not in accordance with the description of construction cost contained therein). Other pricing methods and alternates may be considered, but only if the Proposer is first considered responsive to the pricing requirements identified above.

2.2.5 By submitting a Proposal, each Proposer is attesting to the following: (a) Proposer has read and understands the RFP and project requirements and the

Proposal is made in accordance therewith, (b) Proposer warrants that it is familiar with the local conditions under which the work will be performed, and (c) Proposer's price is inclusive of all personnel and services described in the RFP and in accordance with all terms and conditions without exception.

- 2.2.6 The Proposer shall submit a statement of the Proposer's qualifications, including any evidence that they have previously provided, or are currently providing, Owner's Representative Services for other K-12 construction projects of similar size, scope and complexity as the School District's project. The School District desires a Proposer with at least five (5) years' experience in providing Owner Representative Services for public school construction projects, with familiarity with applicable laws, bonds, codes, prevailing wage requirements as applicable, and safety and environmental requirements.
- 2.2.7 The Proposer shall acknowledge in writing all Addenda received and reviewed, if any, prior to submission of its Proposal.
- 2.2.8 The Proposal shall (i) include background information and qualifications of the management professionals and other personnel who will be dedicated to the School District's project, including a list of proposed on-site staff, (ii) describe the chain of command and reporting relationships, and (iii) include an organizational chart. The Proposer shall identify the relevant experience of each management professional dedicated to the project, focusing on, but not limited to, public school construction.
- 2.2.9 The Proposer shall provide a list of at least three (3) references, including contact names, addresses, and phone numbers, from separate school district entities who have contracted with Proposer to receive Owner's Representative Services, including the type and scope of services provided and the size of the project(s).
- 2.2.10 The Proposer shall provide evidence of its ability to furnish insurance required by this RFP and its financial stability, including an audited financial report for the three most recent fiscal years.
- 2.2.11 The Proposer shall acknowledge and agree to comply with all applicable federal, state, and local laws, rules, regulations, codes, ordinances and policies that apply to Michigan public schools and school building construction projects, particularly including, but not limited to, the Revised School Code and the School Building Construction Act.
- 2.2.12 The Proposer shall provide a list of all litigation, arbitrations, mediation and/or regulatory proceedings for the past five years related to Proposer's provision of Owner's Representative Services. It is not contemplated that

workers compensation or unemployment proceedings be disclosed pursuant to this section.

- 2.2.13 The Proposer shall list any instances in which it was terminated for cause or for convenience prior to completion of a project, along with an explanation of same.
- 2.2.14 If the Proposer does not exclusively provide Owner Representative Services, the Proposer should identify the percentage of its business devoted to exclusively Owner Representative Services over the past three (3) years, as well as any relationships – legally, contractually or otherwise – that could be perceived as a conflict of interest.
- 2.2.15 The Proposer should identify any software or other management systems in place to account for all direct and indirect program costs, to keep and maintain the project schedule, and to maintain all key project documentation (design documents, RFIs, submittals, invoices, correspondence, contracts, project manual, specifications, etc.)
- 2.2.16 The Proposer shall describe its method(s) of budget/cost control, quality control, and time schedule adherence that will be used for the project.
- 2.2.17 The Proposer shall describe how it stays up-to-date on all construction code, regulatory and other legal requirements related to school construction.
- 2.2.18 The Proposer shall describe its method of on-site observation that it will use for the project, including how it will ensure a same-day response if the School District needs on-site advice.
- 2.2.19 The Proposer shall identify all categories of anticipated reimbursable expenses that it will expect to charge to the School District in addition to its fee.
- 2.2.20 The Proposer shall identify its experience in participating in Michigan public school bond elections, including a general description of passage rate, strategies, process, programming, budgeting, and marketing with respect to such elections.
- 2.2.21 The Proposer shall identify its experience working with various project delivery methods, including construction manager-adviser, construction manager-constructor, general contractor, and others, and shall confirm its willingness to participate in all such project delivery methods. The Proposer may also identify its preference for a project delivery method, if any, and describe the reasons for such preference.



- 2.2.22 The School District currently anticipates working with Tower Pinkster as project architect and with American Village Builders (AVB) as project construction manager. The Proposer should describe its experience with these entities, including its willingness and ability to work with them.
- 2.2.23 The Proposer shall provide a detailed list of services that will be provided for the Project for the agreed-upon Contract Sum, as well as a list of services that may be provided for additional compensation upon appropriate authorization by the School District. A list of services is attached hereto that must be provided by the Proposer unless and to the extent an exception is identified in accordance with Section 2.2.24.
- 2.2.24 The Proposer shall specifically identify and explain any and all complaints or requested exceptions to its compliance with the requirements of this RFP and the form of Contract. **The failure to specifically identify and explain an exception shall be deemed an express agreement to be bound by the terms of the RFP and Contract.**

- 2.3 Evaluation of Proposals.** The purpose of this RFP is to consider a contractual relationship with an experienced and qualified individual or company to provide complete Owner Representative Services to the School District with respect to its 2024 Bond Projects in cooperation with the services of an Architect, Construction Manager, and/or other applicable consultants obtained or approved by the School District.

Proposals must demonstrate an understanding of the scope of work and an ability to provide a full-range of Owner Representative Services related thereto in an efficient and cost-effective manner, while maintaining a high level of performance, professionalism, expertise, and reliability. The Proposer's duties shall be as set forth in this RFP and in the Contract, and the Proposer should carefully review the terms of both prior to submitting a proposal. Additionally, given the complexity of the School District's 2024 Bond Projects, every aspect of required Owner Representative Services may not be detailed in the RFP and Contract, yet the Proposer shall perform such services as reasonably necessary for the Project and/or as are typically performed by an Owner Representative in the industry for a school project of similar size and complexity.

- 2.3.1 The School District shall have the right to take such steps as are necessary to determine the ability of the Proposer to perform the work in a prompt and efficient manner in accordance with the RFP and Contract. In determining the qualifications and responsibilities of the Proposer, the School District shall take into consideration those criteria listed in Section 2.2 and any other consistently-applied information the School District deems necessary.

- 2.3.2 The School District reserves the right, but shall not be obligated, to select one or more Proposers for post-Proposal investigation, discussions and/or negotiations. Such investigations, discussions and negotiations, if they occur, will involve only Proposers who submit Proposals falling within a competitive range to be determined by the School District. Proposals will be generally evaluated based on quality of response to this RFP and apparent capability of Proposer to perform required services.
- 2.3.3 The School District reserves the right to reject any and all Proposals and to waive all informalities and/or technicalities where the best interest of the School District may be served, including the right to award a Contract without further discussion or negotiation with anyone proposing these services.
- 2.3.4 The School District reserves the right to rescind an award or terminate without penalty a Contract with the successful Proposer in the event that one or more of its 2024 ballot propositions, as described in Section III, fail.

**2.4 Contract Award and Requirements.**

- 2.4.1 The Contract will be in the form attached as Attachment D, except that the School District may elect in its sole discretion to further negotiate the terms of same with Proposers whose Proposals fall within a competitive range as determined by the School District.
- 2.4.2 The award of a Contract is contingent upon securing an acceptable Proposal, as determined within the School District's sole discretion. A Contract shall be binding and enforceable only upon the following conditions: (a) successful negotiation of terms in accordance with Section 2.4.1, if applicable, and (b) authorization by the School District's Board of Education.
- 2.4.3 Insurance.
  - 2.4.3.1 The Proposer shall maintain insurance coverage set forth below, secured from an insurance company authorized by law to transact the business of insurance in the State of Michigan. The School District shall be named as an additional insured on all applicable policies. Proposer's insurance shall require a minimum of sixty (60) days notification to the District of cancellation or change in the policy. Proof of such insurance, a statement of coverage limits and a copy of the applicable policy (or, minimally, a certificate of insurance) shall be provided to the School District prior to execution of the Contract and prior to performing any work on the Project.

2.4.3.2 The following types of insurance, limits of liability, and policy extensions are required of the Proposer:

Comprehensive Commercial General Liability  
\$1,000,000 per occurrence  
\$3,000,000 aggregate

Comprehensive Automobile Liability  
\$1,000,000 combined single limit

Excess Liability  
\$2,000,000

Workers Compensation and Employers Liability Insurance  
At least at levels required by statute

Professional Liability  
\$5,000,000

2.4.4 The Contract, and any other contract between the parties based on this RFP, shall incorporate the terms of the RFP and accepted portions of the Proposer's response thereto. The Contract will be the form of agreement attached hereto as Attachment D, subject to: (a) the School District's ability, in its sole and absolute discretion, to negotiate the Contract's terms, and (b) any specific exception to the Contract's terms as identified and explained in writing by the Proposer pursuant to Section 2.2.24, and agreed to by the School District. In the event of any inconsistency between the Contract and the RFP and response, the provision that is most favorable to the School District (as determined in the School District's sole discretion) shall govern. Any submitted Proposal is an offer to enter into a contract based upon the foregoing.

### **III. SCHOOL DISTRICT 2024 BOND PROJECTS INFORMATION**

The District has placed two (2) propositions on the ballot for the May 7, 2024 special election, in which voters are being asked to consider approving the following projects:

1. A bond project consisting of erecting, furnishing, and equipping additions to school buildings, including the Middle School and High School buildings; remodeling, furnishing and refurbishing, and equipping and re-equipping school buildings; erecting, furnishing, and equipping athletic facilities, including a multipurpose athletic fieldhouse; erecting, furnishing, and equipping a transportation/maintenance facility; acquiring and installing instructional technology and instructional technology equipment for school buildings; purchasing school buses; and preparing, developing,

and improving athletic fields and athletic facilities, including a multipurpose athletic stadium, and sites; the estimated necessary cost of this project is \$92,911,792; and

2. A bond project consisting of erecting, furnishing, and equipping an indoor aquatics facility; preparing, developing, and improving the site; and purchasing school buses; the estimated necessary cost of this project is \$18,144,465.

The projects are further described in the School District's Application for Preliminary Qualification of Bonds No. 80-150-4-K12-19-01.

(collectively, the "2024 Bond Project").

All Proposers are placed on notice that the scope of the 2024 Bond Projects may be revised, expanded or reduced as allowed by law, based on which propositions, if any, are approved by voters, market conditions, received bids, value engineering, schedule changes, and other similar variables.

Further, in the event that the either or both of the propositions are not approved by voters, the School District will no longer have a need for Owner Representative Services. Accordingly, the School District reserves the right to rescind this RFP, cancel any award, and terminate any Contract entered into with a Proposer in the event either or both of the propositions fail. Proposers have taken this into consideration when submitting their proposals.

#### **IV. DESCRIPTION OF SERVICES**

Proposer shall furnish all Owner Representative Services in accordance with this RFP, the Contract, and any School-District accepted provisions of the Proposer's Response to this RFP. Without limiting the breadth of the foregoing, a list of services is attached hereto that must be provided by the Proposer unless and to the extent an exception is identified in accordance with Section 2.2.24. In the event of any inconsistency within, between, or among the relevant documents, the terms that are most favorable to the School District (as determined in the School District's sole discretion) shall govern.

Attachments to RFP: Attachment A – Familial Disclosure Form  
Attachment B – Iran Economic Sanctions Act Certification  
Attachment C – Proposal Form  
Attachment D – Form of Contract



3. I have authority to bind the aforementioned contractor with the representations contained herein, and I am fully aware that the school district will rely on my representations in evaluating bids for the owner representative services.

4. I declare the above information to be true to the best of my knowledge, information and belief. I could completely and accurately testify regarding the information contained in this affidavit if requested to do so.

\_\_\_\_\_  
*(signature of affiant)*

Dated: \_\_\_\_\_

Subscribed and sworn before me in \_\_\_\_\_ County,  
Michigan, on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(signature)  
\_\_\_\_\_  
(printed)

Notary public, State of Michigan, County of \_\_\_\_\_

My Commission expires on \_\_\_\_\_

Acting in the County of \_\_\_\_\_

**Attachment B – Iran Economic Sanctions Act Certification**

I am the \_\_\_\_\_ (title) \_\_\_\_\_ of \_\_\_\_\_ (bidder) \_\_\_\_\_, or I am bidding in my individual capacity ("Bidder"), with authority to submit a binding bid for the provision of owner representative services to Mattawan Consolidated School. I have personal knowledge of the matters described in this Certification, and I am familiar with the Iran Economic Sanctions Act, MCL 129.311, et seq. ("Act"). I am fully aware that the school district will rely on my representations in evaluating bids.

I certify that Bidder is not an Iran-linked business, as that term is defined in the Act. I understand that submission of a false certification may result in contract termination, ineligibility to bid for three (3) years, and a civil penalty of \$250,000 or twice the bid amount, whichever is greater, plus related investigation and legal costs.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(printed)

\_\_\_\_\_  
(date)

**Attachment C - Proposal Form**

Proposer shall provide necessary information including but not limited to the information below. Proposer can attach additional pages as necessary to provide additional information or explanation.

**Proposer Information:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**Pricing Terms:**

1. Basic Fee: Lump Sum: \$ \_\_\_\_\_

*or*

Percentage of Construction Cost: \_\_\_\_\_%

(For purposes of determining the above percentage, *unless otherwise explicitly stated above along with a separate, detailed description*, Construction Cost shall not include compensation of the Architect or the Architect's consultants, compensation of the Construction Manager or the Construction Manager's consultants, compensation of the Technology Designer or the Technology Designer's consultants, if applicable, reimbursable expenses for either of the foregoing, nor shall it include the cost of land, rights-of-way, financing, unused contingency dollars, or work for which the Proposer does not provide Owner Representative Services.)

2. Additional Services: To be negotiated by the parties prior to performance, based on the following hourly rates:

Position:	Hourly Rate:
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

3. Estimated Number of Hours Budgeted for All Services: \_\_\_\_\_

4. Optional Alternates: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Addenda:**

Proposer \_\_\_ has / \_\_\_ has not requested, received and reviewed all addenda to this RFP.

**Exceptions:**

Proposer identifies the following exceptions to the RFP in accordance with Section 2.2.24:

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I hereby certify that I am authorized to submit this Proposal on behalf of the Proposer and that the pricing described herein is in accordance with all terms and conditions of the RFP and Contract.

Name of Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

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

**Attachment D – Form of Contract**

**AGREEMENT FOR OWNER REPRESENTATIVE SERVICES**

This Agreement for Owner Representative Services (“Services Agreement” or “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between Mattawan Consolidated School, a Michigan general powers school district, organized and operating pursuant to the terms of the Revised School Code, MCL 380.1, et seq., as amended, whose registered address is 56720 Murray Street Mattawan, Michigan 49071-9567 (“District”) and \_\_\_\_\_, a Michigan \_\_\_\_\_, whose address is \_\_\_\_\_ (“Representative”) for the provision of owner representative services, as more particularly described herein.

**WHEREAS**, the District issued a Request for Proposal for Owner Representative Services related to its 2024 Bond construction projects, dated \_\_\_\_\_ (“RFP”), and the District selected Representative to provide such services based upon District accepted portions of Representative’s response to the RFP (“Response”).

**NOW THEREFORE**, the parties hereto agree as follows:

**SECTION 1**  
**DESCRIPTION OF SERVICES –**  
**RELATIONSHIP OF PARTIES**

- 1.1 Representative shall provide owner representative services relating to the District's 2024 Bond construction projects ("Project"), including preliminary/general services, pre-construction-phase services, construction-phase services, and post-construction-phase services, as more particularly set forth Appendix 1, attached hereto, and in the RFP, which is incorporated herein by reference (collectively, the "Services"). In the event of any inconsistency within, between or among the RFP, this Agreement, Appendix 1, or any other Contract Document, the terms and conditions that are most favorable to the District (as determined in the District's sole discretion) shall control.
  
- 1.2 Personnel assigned by Representative to provide Services under this Agreement shall be fully qualified (and, if necessary, licensed and certified) and shall comply with all applicable statutes, rules, regulations, and District policies and guidelines. Key personnel dedicated to this Project by Representative are as follows: \_\_\_\_\_  
\_\_\_\_\_.
  
- 1.3 The District reserves the right to reasonably refuse Representative’s assignment of any individual, agent or employee of Representative to render Services, or to reasonably request the replacement of such individual, where the individual fails to adequately perform, performs in a manner or has a history/criminal history that jeopardizes the rights, property or reputation of the District, subject to the parties' independent contractor relationship and Representative's rights and status as employer of such individual(s).

- 1.4 In the performance of Services, Representative (its agents, contractors and employees) shall be regarded at all times as performing as independent contractors of the District. Consistent with that status, Representative reserves to itself the right to designate the means and methods of accomplishing the objectives and purposes of this Agreement, and the District shall not exercise (or have the right to exercise) control or direction over the means and methods utilized by Representative in providing Services. However, the District shall have the right to prioritize the Representative's Services after consultation between the parties.
- 1.5 Representative shall be regarded, designated and considered to be the employer with respect to all individuals whom Representative may select and assign to provide Services under this Agreement. Representative shall be exclusively and solely responsible for compensating, hiring, retaining, evaluating, disciplining, dismissing and otherwise regulating the employment conditions, employment rights, compensation, benefits, tax filings, deductions, and other similar matters relative to all individuals whom Representative utilizes in connection with providing Services under this Agreement.
- 1.6 Representative agrees that the individuals providing Services will adhere to professional standards and will perform all services required under this Agreement in a manner consistent with the highest level of proficiency and competency for the type and nature of services rendered.
- 1.7 Representative shall comply with any and all federal, state, and local laws, statutes, rules, regulations, ordinances, and District policies, guidelines and procedures when performing its Services pursuant to this Agreement. Representative acknowledges that it is a professional in the field of school building construction and is aware of applicable laws related to same.
- 1.8 Notwithstanding any other provision in this Agreement, Representative shall not make any agreement, expenditure or decision, or incur any expenses on behalf of the Owner, without the prior written approval of the Owner.

**SECTION 2**  
**TERM OF AGREEMENT AND TERMINATION**

- 2.1 Unless otherwise agreed by the parties, the Term of this Agreement shall commence on the date hereof and shall continue until the Project is completed, including the completion of all applicable warranties and/or trade contractor correction period work. If Services are required beyond this time period, the parties shall reasonably negotiate provisions in this Agreement relating to scope and compensation.
- 2.2 This Agreement may be terminated for any reason during its term by either party upon thirty (30) days written notice to the other party. In the event that this Agreement is terminated prior to completion of the Project, the District will pay Representative for its services properly performed under this Agreement up to and including the effective date of termination. Any funds remitted by the District to Representative in excess of the pro-

rata charges for services performed by Representative up to and including the effective date of termination will be returned to the District by Representative. Any such amounts owed by either party to the other shall be paid within thirty (30) days of the effective date of termination of this Agreement.

**SECTION 3**  
**FEES, INVOICE AND PAYMENT**

- 3.1 For the proper performance of Services described in this Agreement, the Owner will compensate the Representative in the amount or percentage set forth in the Representative's response to the RFP, or as otherwise agreed by the parties in writing.
- 3.2 The Representative shall submit no more than one invoice per month, which reflects the estimated value of services performed during the preceding month. The District will remit payment on all undisputed invoices, or undisputed portions of invoices, within thirty (30) days of receiving the invoice.
- 3.3 Any Additional Services or Reimbursable Expenses in excess of the Representative's fee shall be invoiced only as permitted under the RFP and in amounts and categories expressly identified therein.

**SECTION 4**  
**LIABILITY, INSURANCE AND INDEMNITY**

- 4.1 Representative shall indemnify and hold the District (and its officers, employees, board members, representatives and agents) harmless from and against all liabilities, damages, fines, penalties, demands, forfeitures, claims, suits, causes of action or any other liabilities or losses, including all costs of defense, settlement and prosecution along with attorney, expert and other professional fees, arising out of or related to any negligence, wrongful act or breach of this Agreement by Representative or any of its employees or others for whom it is responsible in connection with the performance of this Agreement.  
  
Representative shall be solely and entirely responsible for its acts and omissions and for the acts and omissions of Representative's agents, employees and subcontractors in connection with the performance of Services and agrees to defend and indemnify the District from any and all such claims and/or judgments resulting from such acts or omissions.
- 4.3 Representative shall obtain and maintain throughout the Term of this Agreement insurances in amounts and types reasonably required by the District, but no less than required by the RFP. Representative's insurance shall be primary, and the District's insurance shall be excess and non-contributory. Representative's insurance shall be obtained and maintained throughout the Project and (i) if on an occurrence-basis, for at least two years after substantial completion, and (ii) if on a claims-made basis, for at least seven years after substantial completion.

**SECTION 5**  
**MISCELLANEOUS**

- 5.1 Neither party shall assign this Agreement nor its rights and duties hereunder nor any interest herein without prior written consent from the other.
- 5.2 This Agreement, Appendix 1 attached hereto, and the RFP constitute the entire agreement between the parties regarding its subject matter and supersede any prior or contemporaneous understandings or agreements with respect to the services contemplated.
- 5.3 None of the terms and provisions of this Agreement may be modified or amended in any way except by an instrument in writing executed by authorized representatives of Representative and the District.
- 5.4 Failure by either party at any time to require performance by the other party or to claim breach of any provision of this Agreement shall not be construed as a waiver of any subsequent breach nor affect the validity and operation of this Agreement, nor prejudice either party with regard to any subsequent action to enforce the terms of this Agreement.
- 5.5 Any notice or other communications required or permitted under this Agreement shall be sufficiently given if in writing and delivered personally or sent by confirmed facsimile or email transmission, or other wire transmission (with request for assurance in a manner typical with respect to communications of that type), overnight air courier (postage prepaid), registered or certified mail (postage prepaid with return receipt requested) addressed to the party's principal place of business or such other address of which the parties may have given notice.
- Unless otherwise specified herein, notices shall be received: (a) on the date delivered, if delivered personally, by wire transmission or confirmed facsimile or email transmission; (b) on the next business day after deposit with an overnight air courier; or (c) three (3) business days after being signed for, if sent by registered or certified mail.
- 5.6 This Agreement shall be interpreted and enforced under the laws of the State of Michigan applicable to contracts made and to be performed entirely within such State without giving effect of choice of law principles of such State. The parties irrevocably consent to the jurisdiction of the Courts of Michigan to determine all issues which may arise under this Agreement.
- 5.7 If any provision of this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected, impaired or prejudiced thereby, unless omission of such term(s) materially alters the intention of this Agreement.

- 5.8 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which constitute one and the same agreement.
- 5.9 Nothing in this Agreement shall be intended to confer third party beneficiary status or rights, pursuant to MCL 600.1405 or under the common law, to any person or entity that is not a party to this Agreement.
- 5.10 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns. Notwithstanding the foregoing, neither party shall assign this Agreement or any part thereof without the prior written consent of the other party.
- 5.11 Nothing herein shall be interpreted to reduce or eliminate the Owner's defense of governmental immunity.

**SECTION 6**  
**DISPUTE RESOLUTION**

- 6.1 The Representative desires to maintain the highest level of Owner satisfaction. To that end, the parties will first attempt to resolve any disputes with an informal meeting between Owner and Representative. If a mutually acceptable agreement cannot be reached, or if one or both parties believe informal settlement discussions to be unnecessary or unreasonable under the circumstances, the parties agree that disputes will be resolved by any legal or equitable means available. Notwithstanding the foregoing, the Owner shall have the right and authority to consolidate any disputes with the Representative with disputes involving the Project Architect, Project Construction Manager, or any other Project participant if the Owner believes such consolidation will avoid unnecessary duplication of time, expense or effort. Representative agrees to joinder in any such instance.

**MATTAWAN CONSOLIDATED SCHOOL,**

\_\_\_\_\_

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

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

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

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

**Dated:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

## APPENDIX 1 – SERVICES

### 1. **Project Planning/Evaluation and Programming**

Assist in the Development of a final Project program that clearly identifies the size, cost, delivery method(s), and operational costs of the proposed Project. Activities shall include the following as reasonably required to complete the project:

- Development of final Project Scope
- Development of the phasing/delivery plan
- Development of a final Project budget
- Development of a final Project schedule
- Development of final site program
- During all Phases of the Project serve as the key liaison between Mattawan Consolidated School, the commissioned architect, technology designer, construction manager and/or general contractor. This service shall include, but shall not be limited to, the coordination of activities and resolution of any resulting problems and attendance and reporting of progress issues to the Board at their meetings as necessary.
- Provide input for the Project in all design stages as required. This service shall include, but shall not be limited to, input regarding product/material selections. Construction methodology to assure quality levels established by monitoring of budget established to address all possible cost savings while not reducing the Scope of Project or quality of design, and input regarding all cost estimates prepared by the architect, construction manager and/or general contractor as required by Mattawan Consolidated School.

### 2. **Architect, Construction Manager and/or General Contractor Selection**

Assist Mattawan Consolidated School in the selection of an architect, technology designer construction manager and/or general contractor selection to determine the most effective approach for the Project, keeping in mind to qualify, each must show successful K-12 Education renovation/multi-phased projects, including:

- Assist Mattawan Consolidated School with development of the architect's, construction manager's, and/or general contractor's contracts for the following:
  - Proposed Team/Staff Members
  - Responsibilities
  - Scope Changes
  - Payments and Invoicing
  - Instruments of Service
  - Standard of Care
  - Reimbursables
  - General Conditions
  - Budget Evaluation

- Sole Sourcing
- Schedules
- Terms and Conditions
- Conduct same/similar process, as outlined above, for all other required consultants and vendors, as may be appropriate:
  - Engineering
  - Interior Design
  - Landscaping
  - Site Development/Civil Engineering
  - Demolition
  - Geotechnical and Material Testing

### 3. **Design Process Oversight**

Provide professional expertise and leadership by reviewing, analyzing, and presenting options for the design of Mattawan Consolidated School facilities through the schematic and design development process. Owner's Representative will continue working with the selected team and provide professional expertise to Mattawan Consolidated School during the design development and construction documentation process. Activities shall include the following as reasonably required to complete the project:

- Confirm the Project schedule, arranging the time required for the design development, bidding, construction, and move-in and start-up phases
- Monitor architect's progress through the design process
- Schedule and attend progress meetings and produce meeting minutes
- Assist in the selection of finishes (carpeting, wall coverings, and lighting)
- Compare budget of preliminary design to Project budget
- Review design for consistency with original Project scope
- Assist the architect, technology designer, construction manager and/or general contractor, interior designer, and other vendors in the ongoing value-engineering process to identify alternative construction methods or materials, reducing cost and/or construction time
- Assist in providing multiple constructability reviews and assist the architect, technology designer, construction manager and/or general contractor in the process of preparing cost analyses
- Perform budget and schedule updates as necessary
- Assist in defining the scope for phased construction for the Project
- Assist in determining specifications for major long lead equipment such as air handling units; emergency generators, electrical transformers and switchgear



- Monitor trade, labor and construction market trends that could impact the cost or schedule for the Project
- Assess material and labor availability in the local marketplace and evaluate alternative systems and building products
- Identify material and assist in the preorder of items requiring long lead times for delivery
- Review architect, technology designer, construction manager and/or general contractor invoices on behalf of Mattawan Consolidated School and make recommendations for payment
- Develop and update final Project budget and schedule
- Review final drawings and bid packages
- Present progress updates to the Board at regularly scheduled meetings
- Identify and coordinate with the owner any governmental or quasi-governmental authorities having jurisdiction over the Project; assist in obtaining required approvals and permits.

#### 4. **Contractor Selection**

Assist in the selection of the contractor(s) using a criteria-based selection in compliance with competitive bidding laws requiring selection of the "lowest responsible bidder" and applicable Board policies. Activities shall include the following as reasonably required to complete the project:

- Assist Mattawan Consolidated School in evaluation contractor(s) selection methods to determine the most effective approach for the Project, keeping in mind to qualify, a contractor must be "responsible," which may take into consideration successful K-12 Education renovation/multi-phased projects
- Assist Mattawan Consolidated School with compliance with its obligations under the Michigan Prevailing Wage Act, MCL 401.1101, et seq., as applicable, including related to creating form Owner/Contractor Agreements and General Conditions
- Review the qualifications of the contractor(s) through evaluation of comparable work experience, staff credentials, reference checks, financial credibility and any prior relationship with Mattawan Consolidated School
- Assist Mattawan Consolidated School with drafting and delivery of Request for Proposals (RFPs) to contractor(s) and for posting and publication as required by competitive bidding laws
- Participate as an advisor to Mattawan Consolidated School in pre-bid conference
- Provide assistance as required by the architect, technology designer, construction manager and/or general contractor with the bidding phase of the Project. Possible tasks shall include, but shall not be limited to: review of the plans to insure compliance with the functional and operational needs, use of alternates to address areas of the work where cost versus budget may be in question, work with the architect, technology designer, construction manager and/or general contractor to assure good bid coverage, provide assistance to ensure compliance with competitive bidding requirements, including but not limited to bid

advertising, and assist with the analysis of final bids to insure responsible pricing for the Projects has taken place

- If at any time the lowest bona fide estimate of costs, or the actual received bids and negotiated proposals, exceeds the Owner's fixed budget for the Project, Representative will assist in re-bidding at no additional cost to the Owner.
- Participate as an advisor to Mattawan Consolidated School in interviews of the contractor(s)
- Analyze contractor bids and qualifications and prepare executive summary in a comparative format
- Provide a recommendation of the contractor(s) for the Project on a Project-by-Project basis. Assist Mattawan Consolidated School with development of the contractor's contract and include the same in RFP for the following:
  - Proposed Team/Staff Members
  - Contractor's Responsibilities
  - Scope Changes
  - Payments and Invoicing
  - Instruments of Service
  - Reimbursables
  - General Conditions
  - Budget Evaluation
  - Schedules
  - Terms and Conditions
  - Based upon information gleaned from selection process, update Project budget and schedule
  - Prevailing Wage
  - Commissioning
  - Familial Disclosure Requirements
  - Iran-Linked Business Certification

##### **5. Construction Oversight**

In order to have high predictability in the outcome, it will be necessary to have competent contractor(s) that are best suited for the Project. Once the contractor(s) is selected, Owner's Representative's activities shall include the following as reasonably required to complete the project:

- Schedule and attend a kick-off meeting to review project goals and objectives
- Assist and advise the team through construction process to meet Project objectives
- Assist in obtaining permits

- Define, schedule, attend and produce meeting minutes for weekly construction progress meetings
- Monitor Request for Information (RFI) logs, shop drawing submittal logs and facilitate issue resolution, if needed
- Oversee Project cost accounting and budget tracking process
- Monitor Project expenditures to ensure that the proposed budget is being met
- Provide change order tracking and facilitate issue resolution, including developing an accountability log that will be used for all change orders issued for the Mattawan Consolidated School project that will indicate the source and cost of the any and all change orders (e.g., field condition, Owner initiated, Architect initiated, Construction Manager initiated, etc...)
- Update major milestone schedule for Project and identify potential conflicts
- Track Project budget including expenses to date versus total budget and remaining Project cost estimates
- Prepare monthly Project status reports for Mattawan Consolidated School
- Assist in developing RFP and evaluate bids for signage, security systems, carpeting, wall coverings, and window coverings, and any other RFP required for completion of the Project, in accordance with competitive bidding requirements, if applicable
- Coordination of other vendor(s) activities with architect, technology designer, construction manager and/or general contractor and the contractors
- Review of payment applications from contractors and consultants (e.g., architect, technology designer, construction manager) in accordance with contractual arrangements and make recommendations for payment
- Review and ensure timely receipt of insurance certificates, performance and payment bonds, waivers, sworn statements, and other contractor-required or consultant-required information.
- Assist in monitoring construction activities for timeliness, safety, general compliance with contract documents.
- Assist in evaluating disputes relating to contract interpretation and requirements.
- Review change order requests for cost, reason, need and responsibility.
- Review and comment on all safety measures proposed by each contractor, including those with respect to environmental conditions, if any, and make recommendations with respect to any changes thereto that Representative deems necessary or appropriate.
- Notify Owner if Representative becomes aware that the work of a contractor or consultant is not being performed in accordance with the requirements of the Contract Documents or industry standards
- Notify Owner when Representative believes the work under a construction contract is substantially complete and that a punch list should be prepared. Representative shall coordinate with the architect/designer and assist in its determination of the date of substantial completion.

## 6. **Move Management, Building Commissioning and Project Closeout**

### **Move Management**

Identify the requirements to relocate and move staff and equipment to allow construction to proceed without interruption of work flow and to minimize down time. This process formally begins when building plans and specifications are ready for bidding. On behalf of Mattawan Consolidated School, Owner's Representative will coordinate and oversee the process of advertising and soliciting bids from qualified moving vendors. Activities shall include the following as reasonably required to complete the project:

- Coordinate the logistics of the move with staff to minimize disruptions to operations
- Identification and prequalification of move vendors and write RFP
- Assist Mattawan Consolidated School in obtaining and reviewing proposals from vendors
- Assist Mattawan Consolidated School by providing on-site coordination during moves
- Assist in the procurement of temporary facilities, if required
- Provide recommendation to negotiate final mover contract
- Coordinate removal and placement of office equipment and furniture prior to construction and upon completion of the Project
- Provide an occupancy checklist
- Develop a schedule for occupancy activities

### **Building Commissioning & Project Closeout**

Monitor activities of the architect, technology designer, construction manager and/or general contractor, and contractor(s) to ensure they complete their respective contractual obligations. Post construction services typically commence after construction is substantially complete. Owner's Representative will continue to advocate on behalf of Mattawan Consolidated School to ensure the close-out procedures are completed in a timely manner. Activities shall include the following as reasonably required to complete the project:

- Identification of punch list items
- Monitor architect's, technology designer's, construction manager's and/or general contractor's completion of punch list activities
- Conduct final Project walk-through/inspections with the architect, construction manager and/or general contractor, to review compliance with the Contract Documents for quality of finished construction
- Coordinating of the delivery of warranties and guarantees certificates
- Submittal of release waivers of liens and sworn statements
- Coordination of building systems testing
- Assistance in obtaining occupancy permit
- Coordination of as-built drawings, and operational manuals
- Assistance in scheduling of training staff on building systems

- Provide call-back services for a period at least extending through the correction period

#### **7. General Requirements**

- Representative shall provide a report to the Owner at least monthly containing (a) the status of the Project; (b) a comparison of the Project budget to costs incurred through the date of the report; (c) a comparison of the Project schedule to the work actually completed through the date of the report; (d) any revision to the Project schedule or Project budget made during the time period covered by the report; (e) a summary of change orders made during the time period covered by the report; (f) a list of all pending change orders and all outstanding issues requiring action or approval by Owner; (g) the status of any governmental requirements and activities required to facilitate approval of the Project; and (h) any other reports concerning the Project as Owner may reasonably request.
- Representative shall be available for questions and follow up either by telephone or via in-person site meetings with Owner, as the circumstances require.
- Representative shall help to develop positive working relationships with and among the Owner, architect, technology designer, construction manager, general contractor, trade contractors and consultants.
- Representative shall provide all services that are reasonably incidental and attendant to the services identified in the Agreement, this Appendix 1, or the RFP, as well as any other services agreed to by the parties.