

**PERMIT**

**For Donated Improvements (Turf Field)**

School District No. 1J, Multnomah County, Oregon, (“District”) grants this revocable permit ( “Permit”) to Permittee name (“Permittee”), to construct certain improvements pursuant to the following terms and conditions:

1. **Premises**
2. Permittee wishes to construct and donate to District a Project description (“Project”) on the location of new construction (ie field, parking lot, etc) at Project site name at Project site address Portland, Oregon (“Premises”) indicated on **Exhibit A**.

1. Fully describe Project here and as more specifically defined in the construction drawings attached as **Exhibit B.**
2. Permittee has independently raised or agreed to contribute 100% of the funds for the design and construction of the Project and said funds are available immediately to cover the costs of design, permitting, construction, and completion of the Project. District requires that Permittee submit construction drawings prepared by a District approved licensed engineer for District’s review and final approval.
3. Permittee agrees to pay 100% of the cost of all the repair and maintenance of the Project including GMAX testing during the life of the Project. Permittee further agrees to pay upon the occurrence of a Restoration Event (as defined below) 100% of the costs to restore the school site to its existing condition as of the date of this Permit or to install natural grass, as selected by the District at its sole discretion (the costs of repair, maintenance, and restoration referred to in this Section 4 are hereafter referred to as “Ongoing Project Costs”).
4. Permittee must submit to District a comprehensive Project Budget that includes all Project elements and contingencies required by District project managers for construction of the Project and Ongoing Project Costs. District must have approved the Project Budget before construction of the Project may commence. The Project Budget is attached as **Exhibit C**.
5. Permittee agrees to fund a reserve of 100% of the Ongoing Project Costs, as such costs are shown in the Project Budget, with such funds being deposited in a trust account as provided in Article II, Section 6 below. Prior to construction, Permittee will fund $10,000 of the Ongoing Project Costs. The remainder of the Ongoing Project Costs shall be funded in equal installments annually over 8 years, due on July 1 of each year. Any costs over the original Project Budget will be the responsibility of the Permittee. Under the direction of the Director of Facilities and Asset Management (“Director”), District will provide property owner oversight of the Permittee’s management of the Project.
6. District has determined the proposed improvements would be a valuable addition to District; the granting of the Permit to construct the Project, with conditions, is in the public interest; and that District will accept the gift of Permittee on the terms and conditions of this Permit.
7. The parties understand that the Project may be completed in phases, based on available funding or permitting. All stakeholders associated with the Project will be consulted regarding any contemplated funding and their concurrence obtained prior to a final decision to phase the Project.
8. The Project is funded entirely with private funds and no District funds or resources may be expended on the Project. District has no authority to represent or control Permittee, and Permittee has no authority to represent or control District. District has not contracted for and will not carry on any portion of the construction of the Project.
9. Permittee acknowledges that the District shall be under no obligation to the Permittee to maintain, relocate (permanently or temporarily), or reconstruct the Premises if the District, in its sole determination, needs the Premises for its own purpose. Permittee acknowledges that District may, in its sole discretion, at any time remove the Project improvements and use the land upon which the Project was located for whatever purpose District decides appropriate; provided that as a courtesy to Permittee District agrees to give Permittee at least 30 days’ prior notice of such removal. In no event shall District bear any financial liability to Permittee on account of such removal.
10. A “Restoration Event” shall have occurred when (a) District determines in its sole discretion that the land upon which the Project is located will be used for a purpose other than the Project; or (b) District determines that there are insufficient funds in the trust account to pay the Ongoing Project Costs, Permittee fails to deposit funds in the amount of the deficiency within 120 days after notice thereof, and District determines that it is not willing to assume responsibility.
11. **Revocable Permit**

District hereby grants to Permittee license to enter the Premises and install and construct the Project on the following conditions:

1. Scope of access.
   1. This Permit will become effective upon acceptance as stated in Section II., Paragraph 13, and shall continue until the earliest of (a) the date of final completion of the Project, or (b) the date on which Permittee ceases to exist as a legal entity, or (c) the date of revocation of this Permit pursuant to Section II., Paragraph 13, or (d) 15 days after the last work performed by Permittee or under its direction when there is reasonable evidence that Permittee has abandoned the Project.
   2. Permittee will have access to and control of the Premises during the period of this Permit, except that District may use those portions of the Premises necessary for scheduled school and community functions and athletic classes and events. Permittee shall maintain reasonable and safe access to portions of the Premises used by the District for those purposes. Permittee shall cooperate in avoiding conflicts with other activities at or near the Premises.
   3. District will determine and designate routes of entry and access to the Premises and the availability and use of off-site utilities and sanitation facilities. Permittee will be responsible for locating and protecting utility lines and easements, for making connections to utilities, and for maintaining routes of entry and access to the Premises.
   4. At all times under this Permit, Permittee shall be responsible for order at, and the policing of, the Premises. However, District reserves the right to maintain order on the Premises and may temporarily restrict access to District property, including without limitation the Premises as necessary to ensure the safety of students, employees, patrons, and the public.
   5. Permittee accepts the Premises as being suitable for construction of the Project and expressly assumes all risk of conditions on the Premises.
   6. Permittee shall be responsible to third parties for all conditions on the Premises, including without limitation those that existed before construction of the Project, until acceptance of the Project by the District.
   7. Permittee shall complete the Project no later than Indentify Final Project Completion Date.
2. District Design Standards. Permittee shall develop the design in accordance with District Design Standards found at [*http://www.pps.k12.or.us/departments/facilities/5467.htm*](http://www.pps.k12.or.us/departments/facilities/5467.htm).
3. Construction Authority. Permittee shall submit Project plans and specifications developed by a District approved licensed engineer for District’s review and final approval. District approval may include conditions or changes. Permittee shall be responsible for the means and methods used to construct the Project. The District’s Director and Assistant Director of Project Management must approve in writing any changes in design or materials during construction before those changes are initiated. The construction of the Project may take place in discrete and rational phases subject to the Director’s and the Assistant Director’s prior approval.
4. Ownership. The Project will be the property of Permittee until it has been completed by Permittee and accepted by the District. Upon final completion of the entire Project, Permittee shall donate and transfer all ownership, right, title, and interest in the Project to the District at no cost to the District. The Permittee will be responsible for reimbursing the District the cost associated with all maintenance, repair, and testing, either with the District’s own employees or by means of a third party contracted by the District at the District’s sole discretion. This Permit does not grant Permittee any naming rights to or use privileges of the Project or any other District facility.
5. Restoration of Premises at the end of Construction. Except to the extent required by the design for the Project, Permittee may not damage the existing Premises or its improvements. Within 45 days after completion of construction and at Permittee’s sole expense, Permittee will remove all remaining construction materials not incorporated in the Project and restore the property not affected by the Project to substantially the same condition it was in at the time this Permit was granted, as modified by the approved plans for the Project, all to the reasonable satisfaction of District.
6. Security for Completion.
   1. When Permittee is prepared to begin construction of a phase of (or the entire) Project, Permittee shall (a) place in trust money equal to the total sum as identified in Section I. above; and (b) submit the surety of individuals or entities to guarantee the availability of sufficient funds to support all financial commitments for the construction, maintenance, repair, and restoration of the Project;
7. Moneys held in trust may be held by a financial institution in an interest‑bearing account. Permittee shall grant District a security interest under the Uniform Commercial Code in the account to secure performance by Permittee of its obligations under this Permit. The financial institution shall execute a Control Agreement in which it acknowledges District’s security interest and agrees that District shall have control over the account. Moneys held in the account will be used only for payment for the design, permitting, construction, maintenance, repair, and restoration of the Project. District requires verification of the balance of trust funds.
8. If money remains in the trust account after the construction, maintenance, repair, and restoration of the Project has been completed and accepted and all expenses of the Project have been paid, the remaining money and any interest earned by the money held in trust are to be returned to Permittee free of trust.
9. Construction and Code Compliance. At its sole expense, Permittee shall:
10. Identify an individual to act as the Permittee’s Project Manager.
11. Employ a District approved design/engineer/architect currently licensed in the State of Oregon to perform the services.
12. Employ a general contractor currently registered and in good standing with the Oregon Construction Contractors Board (“CCB”) to perform and direct the construction, alteration, repair, improvement, movement, or demolition of any excavation, building, structure, or other physical improvement on the Premises.
13. Include the District project manager in all communications between the Permittee, the designer, and the contractor.
14. Provide District copies of contracts between Permittee and general contractor, the designer, any materials suppliers and any subcontractors in advance of execution.
15. Before beginning construction, obtain approval of its plans, drawings, and specifications for the Project by an architect or engineer, as appropriate, who is actively registered to practice in Oregon.
16. Before beginning construction, obtain any permits or approvals for the Project required by the City of Portland, Multnomah County, and any other government entity whose approval is required. For purposes of obtaining building permits, Permittee will submit application to the Director, who will cooperate in applying for and obtaining the permits as the District’s and Premises owner’s representative.
17. Require that any work that by law, regulation, or code be performed by a licensed registered trade contractor be performed by such a contractor. All contractors and subcontractors must be continuously registered with the Oregon CCB throughout the Project.
18. Obtain required special inspections and inspections and final approvals from governmental inspectors with jurisdiction over the Project as a condition of final completion of the Project.
19. Comply with all health and safety requirements, standards, regulations, and statutes applicable to the Project and the Premises, including without limitation controlling access to the Premises; maintaining safe working conditions on the Premises; and requiring the safe storage, movement, and use of tools, equipment, and materials on the Premises.
20. Keep the Premises free from any substance defined or designated as being radioactive, infectious, hazardous, dangerous, or toxic by any federal, state, or local environmental statute, regulation, or ordinance presently in effect or subsequently enacted (“Hazardous Materials”). To the extent that the plans for the Project call for the use of Hazardous Materials, Permittee shall notify District and obtain District’s written consent to use those materials. Permittee shall ensure the safe storage, use, and transportation of all Hazardous Materials, including without limitation the preparation and execution of a written Hazardous Materials plan, a copy of which will be provided to District. Permittee shall immediately notify District of any unauthorized or uncontrolled release of Hazardous Materials. All damages, fines, and costs resulting from any release of Hazardous Materials by Permittee or its contractors or agents shall be paid by and be the responsibility of Permittee.
21. Require Permittee’s general contractor to certify, before beginning construction, that it and its subcontractors (a) are fully informed of all local, state, and federal ordinances, regulations, codes, and statutes that affect the Project in any manner; (b) agree to comply with all such requirements at all times during construction of the Project; and (c) agree to indemnify the District and its directors, staff, employees, and agents against any claim or liability arising from the violation of any such requirements.
22. Require all persons and entities working on the Premises, whether as contractors, volunteers, or otherwise to comply with District policies at all times. In all cases personnel on school property shall carry photo identification, acceptable to District, and shall present such identification to anyone on request. Permittee shall ensure that all Project personnel are in compliance with applicable identification, uniform, and badge requirements for all Project personnel at no cost to District.:
23. To execute agreements provided by the District holding the District harmless from liability for their activities on the Project or the Premises.
24. As required by schools and other District locations, District may require personnel to sign in before entering District properties.
25. No Smoking. Smoking or other use of tobacco is prohibited on all District property.
26. No Drugs. District’s property sites are all designated drug-free zones, which designation is enforced by the Portland Police Bureau.
27. No Weapons or Firearms. Except as provided by Oregon statutes and District policy, weapons and firearms are prohibited on District’s property.
28. Confidentiality. **Family Education Rights and Privacy Act (“FERPA”) prohibits the re-disclosure of confidential student information.** Except in very specific circumstances, Permittee shall not disclose to any other party without prior consent of the parent/guardian any information or records regarding students or their families that Permittee may learn or obtain in the course and scope of its performance. Any re-disclosure of confidential student information must be in compliance with the re-disclosure laws of FERPA. Permittee is not to re-disclose information without prior written notification to and written permission of Portland Public Schools. If Portland Public Schools grants permission, Permittee is solely responsible for compliance with the re-disclosure under 34 CFR §99.32(b). Consistent with FERPA’s requirements, personally identifiable information obtained by Permittee in the performance of this Permit must be used only for the purposes identified in this Permit.
29. Security. Permittee shall not use or disturb District’s property, materials or documents except for the purpose of completion of the Work under this Permit. Permittee shall treat all documents as confidential and shall not disclose such documents without approval from District. Any unauthorized disclosure of documents or removal of District property will be deemed a substantial breach of this Permit. Permittee shall bear sole responsibility for any liability including, but not limited to, attorneys’ fees, resulting from any action or suit brought against District as a result of Permittee’s willful or negligent release of information, documents, or property contained in or on District property. District hereby deems all information, documents, and property contained in or on District property privileged and confidential.
30. Child Abuse Reporting Act. Permittee shall comply with the child abuse reporting law (ORS 419B.005 through 419B.050) as if Permittee were a mandatory abuse reporter. Permittee shall immediately report to the proper state or law enforcement agency circumstances supporting reasonable cause to believe that any child has been abused. Permittee shall report to the Principal or designated school authority the circumstances supporting reasonable cause to believe that any child has been abused.
31. Employee Removal. At District’s request, Permittee shall immediately remove any employee from all District properties in cases where District determines in its sole discretion that removal of that employee is in District’s best interests.
32. Unsupervised Contact with Students; Criminal Background Checks. This provision is required by statute. “Unsupervised contact” with students means contact that provides the person opportunity and probability for personal communication or touch with students when not under direct supervision by District personnel. ORS 326.603; OAR 581-021-0500.

**CHOOSE ONE:**

Permittee will have no direct, unsupervised contact with students in the performance of this contract.

* Permittee shall ensure that Contractor, any subcontractors, and their officers, employees, and agents will have no direct, unsupervised contact with students.
* Permittee will discuss any questions or concerns about these requirements with District Point of Contact (named on the first page of this Contract) before beginning work.
* Permittee, Contractor, any subcontractors, and their officers, employees and agents must immediately remove themselves from any situation involving direct, unsupervised contact with students.
* If Permittee is unable to ensure through a security plan that none of its officers, employees, or agents or those of its subcontractors will have direct, unsupervised contact with students in a particular circumstance or circumstances, then Permittee shall notify District Point of Contact and undergo a criminal background check before beginning any work that could result is such contact.
* Permittee must check in at the school office and wear a visitor badge while on District property or in the presence of District students.
* A violation of these provisions is grounds for immediate termination of this Contract by the District.

**OR**

Performance under this Contract may require or cause Permittee to have direct, unsupervised contact with students. As required by ORS 326.603, **Permittee must undergo a finger-print based criminal background check before beginning work under this Contract**.

* Permittee authorizes District to obtain information about Permittee or its Contractor and their history and to conduct a criminal background check, including fingerprinting, of any Permittee, Contractor officers, employees, or agents who will have unsupervised contact with students. Permittee shall cause its employees and/or Contractors and subcontractors, if any, to authorize District to conduct these background checks.
* Permittee shall pay all fees assessed by Oregon Department of Education for processing the background check.
* After completion of the criminal background check, Permittee or its Contractor will be provided with a District badge.
* Permittee or its Contractor must the wear the badge provided by the District while on District property or in the presence of District students.

1. Upon Project completion and before District acceptance, Permittee shall provide copies of all design and as-built drawings to District. If any of the drawings are copyrighted, Permittee will cause its design professional to grant to District an irrevocable license to use the drawings.
2. Indemnities; Warranties.
3. District will not be responsible for any injury or damage to Permittee or any contractor, architect, engineer, employer, principal, agent, employee, volunteer, or other person or entity working on behalf of Permittee, either (a) as an owner of the Premises or (b) as a result of Permittee’s exercise of this Permit, presence on the Premises, or activities while on the Premises or in conjunction with the Project. Permittee waives all claims, whether in tort, contract, or strict liability, or pursuant to statute, including without limitation premises liability and negligence, that Permittee may have or acquire against District arising from or relating to Permittee’s activities under this Permit, Permittee’s presence on the Premises, or Permittee’s activities on the Premises.
4. Permittee shall protect, indemnify, and defend District and its directors, agents, and employees and hold them harmless from and against all claims, actions, damages, injuries, costs, financial losses, or expenses incidental to the investigation and defense thereof, based in whole or in part on or arising out of the acts or omissions of Permittee or the use of or presence on the Premises by Permittee or those acting on Permittee’s behalf or under its control (including without limitation volunteers) for (a) personal injury, bodily injury, property damage, or death or (b) loss of, damage to, alteration of, or custody of the Premises, except to the extent that liability arises solely out of the willful misconduct or gross negligence of the District.
5. Permittee will obtain from its general contractor, subcontractors, suppliers, and manufacturers written warranties against defects in materials and workmanship of at least one year’s duration (commencing no later than the date that ownership of the Project is transferred to District). Concurrently with transfer of ownership of the Project to District, Permittee and its contractors shall assign to District all warranties relating to any of the work. Permittee agrees to cooperate with District in obtaining and enforcing any such warranties.
6. Permittee’s general contractor will warrant to Permittee and to District that upon substantial completion, the work will substantially conform to the Project’s approved plans and specifications, and construction will be free of defects in materials and workmanship.
7. Insurance. Permittee shall provide or cause its general contractor to provide continuous, uninterrupted commercial general liability insurance throughout the course of the Project in average amounts specified by District, but in any event no less than $2 million per occurrence and $2 million annual aggregate for bodily injury, personal injury, and property damage. The insurance shall include business automobile liability coverage in the amount of $2 million per accident for damages or injuries arising out of the use of automobiles or other motor vehicles. The insurance will name as additional insureds Permittee and District and will protect them from any and all claims, demands, actions, and suits for damage to property or personal injury (including without limitation death) arising from the work of Permittee, the general contractor, the architect, subcontractors, and engineers, and their respective officers, agents, volunteers, or employees on the Project**.** If Permittee will be employing a design professional, then Permittee shall provide or cause its design professional to provide continuous and uninterrupted errors and omissions/professional liability insurance in amounts specified by District, but in case less than $2,000,000 for each claim, incident, or occurrence, and at least $2,000,000 annual aggregate coverage. This coverage shall provide extended reporting period coverage for claims made within two years after this Permit is completed or otherwise terminated according to its terms.
8. Workers’ Compensation. Permittee shall provide or cause its general contractor to provide workers’ compensation insurance for workers and employees continuously throughout the duration of the Project.
9. Payment.
10. Permittee shall pay in a timely manner all contractors, suppliers, workers, lessors, and subcontractors providing services, materials, or equipment for carrying out work under this Permit, except for volunteer contributions. Permittee shall indemnify District and its directors, employees, and agents and hold them harmless from and against any claims for payment for labor, materials, equipment, or other construction services related to the Project.
11. Because no District or other public agency funds will be used either directly or indirectly to construct the Project, the Project is exempt from Payment of prevailing wage under ORS 279C.810(2)(B). Permittee agrees to defend, indemnify and hold the District harmless from any claim or action that the Project is subject to payment of prevailing wage under ORS 279C.800 to 279C.870, including any judgments or penalties assessed by an agency or court of competent jurisdiction based upon a determination that the Project is subject to payment of prevailing wage
12. Permittee shall comply with and require its contractor and subcontractors to comply with all applicable federal, state, and local laws and regulations pertaining to the Project.
13. Revocation. This Permit shall be revoked automatically if the Project has not been completed and accepted by the Director on or before Identify Acceptable Deadline Date. The failure of Permittee or its architect or contractors or other agents, employees, or volunteers to comply with the requirements or limitations imposed on them by this Permit will be cause for revocation of the Permit. Otherwise, this Permit may be revoked by District only for cause as determined in District’s sole discretion. Neither expenditure of funds nor construction of improvements nor any other reliance on this Permit, nor any lapse of time, nor any other act or thing shall act as an estoppel against District, nor shall it alter or diminish District’s right to revoke this Permit.
14. Acceptance. This Permit becomes effective when (1) Permittee’s authorized representative signs this Permit, (2) Permittee files with the District evidence of the security required under Section II., Paragraph 5, and the insurance required in Section II., Paragraph 9, and (3) District’s authorized representative signs this Permit.
15. Waiver; Severability. The failure of District to enforce any provision of this Permit shall not constitute a waiver by District of that or any other provision. The parties agree that if any term or provision of this Permit is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Permit did not contain the particular term or provision held to be invalid.
16. **ACCEPTANCE**

I certify that I am the Permittee or the Permittee’s duly appointed representative, that I have authority from Permittee to represent it in this matter, that the Permittee approves and accepts the terms of this Permit, and that Permittee hereby agrees to be bound by the terms of this Permit as of the date shown below.

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| **PERMITTEE**    Signature    Printed Name and Title    Date | **DISTRICT**  School District No. 1J,  Multnomah County, Oregon    Emily Courtnage  Director, Purchasing & Contracting    Date |

**EXHIBIT A – Premises**

**EXHIBIT B – Project Construction Drawings**

**EXHIBIT C: Project Budget**