

## Services Agreement

Dated **November 14, 2024**, by and between **Suffolk Public Schools** (hereinafter referred to as "Customer") and **HES Facilities, LLC**. (hereinafter referred to as "Company").

### RECITALS

Company is prepared to provide agreed upon custodial services to Customer as requested by Customer.

Customer is prepared to contract with Company for the performance of agreed upon services to be performed on Customer's premises and within Customer's facilities.

In consideration of the mutual agreements and understandings below, both parties agree as follows:

### AGREEMENT

1. Services to be Provided: Company will provide custodial services (hereinafter referred to as "Services") according to the specifications set forth in Equalis Proposal #COG-2110A and designated by the Customer in Attachment A, Scope of Work.

### LIST OF FACILITIES

Booker T. Washington Elem.  
 Creekside Elem.  
 Elephant's Fork Elem.  
 Florence Bowser,Elem.  
 Hillpoint Elementary  
 Kilby Shores Elementary  
 Mack Benn, Jr. Elem.  
 Nansemond Parkway Elem.  
 Northern Shores Elem.  
 Oakland Elem.  
 Southwestern Elem.  
 Col. Fred Cherry Middle  
 Forest Glen Middle  
 John F. Kennedy Middle  
 John Yeates Middle  
 King's Fork Middle  
 Turlington Woods\_  
 King's Fork High  
 Lakeland High  
 Nansemond River High  
 CCAP (Pruden)  
 IT Building  
 School Administrative Offices  
 Operations Center  
 Transportation  
 Bright Lane Facilities Maint.

The terms of said Equalis RFP #COG-2110A and Attachment A are incorporated herein by reference. In the event of a conflict between the terms of the RFP #COG-2110A and the provisions of the terms set forth in this instrument, then the terms of this instrument shall prevail.

## **2. Consideration:**

- A. **Annual Contract Price:** The contract price for the first (6) months, beginning January 1, 2025, and ending June 30, 2025, shall be Five Hundred Seventy-One Thousand Six Hundred Thirty-Two Dollars (\$571,632.00). The annual contract price beginning July 1, 2025, shall be One Million Seven Hundred Thirty-Eight Thousand Four Hundred Eighteen and 24/100 Dollars (\$1,738,418.24).
- B. **Monthly Contract Pricing:** The monthly contract price for the first (6) months shall be Ninety-Five Thousand Two Hundred Seventy-Two and 00/100 Dollars (\$95,272.00). The monthly contract price beginning July 1, 2025, shall be One Hundred Forty-Four Thousand Eight Hundred Sixty-Eight and 18/100 Dollars (\$144,868.18).
- C. As Customer's full-time employees, or full-time equivalency positions ("FTE") leave the Customer's employment for any reason, Company will add an FTE to Company's payroll for \$39,921/year. In the event the costs covered by the \$39,921/year increase, the annual price adjustment will do the same. The Contract will be amended to reflect such increase every time the Company adds an FTE to its payroll.
- D. **Monthly Invoices:** Monthly Invoices will be billed at the beginning of the month in which the Services are to be rendered. Additional Services requested and approved by Customer will be invoiced at the beginning of each month for such Services provided during the prior month. Monthly Payments shall be made within Thirty (30) days from the date of the invoice.
- E. **Payment Terms:** The Customer shall pay the Company upon receipt of invoice via an ACH Debit initiated by Company. If the Customer is unable to provide an ACH initiated by Company, the Customer can elect to provide an ACH or wire transfer, or mail delivered to an address provided by Company. Payment not received within Twenty (20) days from the date of invoice will be subject to a \$25.00 late fee and 1% per month service charge.
- E. **Contract Price Adjustments:** The Contract Price may, with Customer approval, be adjusted as follows:
- i. **Change in Services and Additional Facilities:** Should Customer request a change in Services for reason of opening new units or buildings or permanent closings of units or buildings or a change tasks or frequencies to be performed or a significant change in the activity or use of Customer's Facility, and should such change result in a change of costs to Company, the Contract Price and the Monthly Payments shall be changed by the projected change in costs to Company, such changes taking effect from the date of the change in Services.
  - ii. **CPI Increase:** For multi-year Agreements or whenever this Agreement is extended, the Contract Price will be modified to reflect a cost-of-living adjustment equal to the greater of 3% or the applicable consumer price index rate for the preceding twelve months.
  - iii. **Collective Bargaining:** In the event of any increases in wages for Company's employees providing the Services as a result of any collective bargaining by such employees or contained in any collective bargaining agreement governing such employees, the Contract Price shall be changed by the projected change in costs to Company from the date of such

change in wages and/or benefits. In the event, Customer does not agree to such change in wages and/or benefits, Customer or Company may cancel this Agreement upon thirty (30) days' written notice to the other party.

- iv. Changes in Mandated Benefit Costs, Minimum Wages, Taxes or Other Employee Costs: In the event of a change in Federal, State, or Local Mandated Benefits, including, but not limited to: healthcare costs, paid sick time costs, paid leave costs, the Contract Price shall be changed by the actual change in the costs to Company. In the event of a change in the Federal, State, or Local minimum wage rates applicable to any of Company's employees, the labor cost portion of the Contract Price shall be changed by the percentage increase in the minimum wage rates. In the event of a change in social security taxes or the Federal or State unemployment taxes, or the imposition of new Federal, State or Local payroll or service taxes applicable to any of Company's employees or services provided by Company, the Contract Price shall be changed by the actual change in costs to Company. Any such changes shall be effective from the date such cost changes went into effect.
- v. Office Space and related Costs: Customer agrees, at no cost to Company provide suitable office, office furnishings and secure equipment storage space at Customer's facility. The costs of utilities and electric power used by Company to accomplish the Services will be borne by Customer. The Customer pays the cost of copier use, internal Customer e-mail use, local telephone service and internal Customer telephone service, the cost of all restroom and other supplies (including paper, plastic and other miscellaneous consumables). Customer pays all costs related to waste removal and disposal from Customer's facility. The cost of waste containers, compactors, bins, cans, bailers, shredders, dumpsters and related receptacles used to temporarily store or process waste at Customer's facility.

### **3. Term and Termination of Agreement:**

- A. Initial Term: Pursuant to the terms of contract, this contract is a five (5.5) year contract with annual terms after the initial term. The first term shall begin **January 1, 2025**, and end **June 30, 2025**. ("Initial Term") Each of the five (5) additional contract years shall be twelve (12) month terms ("Renewal Term"). Thereafter, the Agreement shall automatically renew on a yearly basis unless either party provides written notice of termination at least one hundred twenty (120) days prior to the end of the fiscal school year. Notwithstanding any provision to the contrary either party may terminate this Agreement upon a ninety (90) day written notice of termination.
- B. Termination for Non-Appropriation. Notwithstanding any provision to the contrary of this Contract, if the funds are not appropriated or otherwise made available to support continuation then Customer will have the right to terminate this Contract at no additional cost and with no penalty whatsoever by giving prior written notice documenting the lack of funding. Customer will provide at least thirty (30) days advance notice of such termination. Customer will use reasonable efforts to ensure appropriated funds are available.
- C. Termination for Unsatisfactory Service: If, in the sole reasonable opinion of Customer, Company is not performing the Services in accordance with the requirements of this Agreement, and Customer desires to terminate this Agreement, Customer must give Company thirty (30) days written notice of its intention to terminate this Agreement if such service deficiencies are not corrected within that time (the "Cure Period"), which notice shall specify the service areas in question. On or before the end of the thirty (30) day Cure Period, Customer shall reasonably determine that either (i) the service deficiencies have been corrected, in which case the Agreement will continue in full force and effect subsequent to the Cure Period, or (ii) the service deficiencies have not been corrected, in which event Customer may,

by further written notice, terminate this Agreement sixty (60) days from the end of the Cure Period. In the event that Customer does not act pursuant to either (i) or (ii) above, the service deficiencies shall be deemed corrected and the Agreement shall continue in full force and effect thereafter.

#### **4. Insurance:**

A. **Insurance to be carried by Company:** Company shall procure and maintain during the term of this Agreement, at Company's sole expense, the following insurance:

- i. **Worker's Compensation and Employer's Liability Insurance** covering obligations imposed by federal and state statutes with jurisdiction over Company's employees.
- ii. **Property Insurance** covering Company's equipment and other personal property now or hereafter located on Customer's Facility against "All Risk" of Loss within an amount at least equal to replacement value. "All Risk" shall mean at a minimum coverage for Special Causes of Loss perils.
- iii. **Commercial General Liability Insurance** providing coverage for Company's operations:  
Each Occurrence, General Aggregate, Products-Completed Operations Aggregate, Personal Injury, Automobile Liability.
- iv. **Umbrella Liability Insurance** providing excess coverage over the underlying Commercial General Liability, Automobile Liability and Employers Liability policies.
- v. **Employee Theft Coverage** for the acts of Company's employees.

Upon Customer's request, Company shall furnish Customer with a Certificate of Insurance evidencing the coverage above.

#### **5. Indemnification:**

A. **Indemnification of the Customer by the Company:** Company agrees to indemnify, hold harmless and defend Customer, its officers, employees, and directors from and against any and all liability for loss, damage or expense for which Customer may be held liable by reason of injury (including death) to any person or damage to any property which are proximately caused by Company's negligent or intentional acts or omissions in the Services provided, except to the extent due to any act or omission of Customer or any of its employees, subcontractors or agents. In addition, the Company's indemnification for any and all claims here under this Agreement shall be expressly limited to the extent of insurance coverage that is paid to the Company for such claims, if any, under the Company's insurance policies required under this Agreement.

B. **Indemnification of the Company by the Customer:** To the maximum extent permitted by law, the Customer shall indemnify and hold the Company harmless from and against all claims or losses incurred by the Company, including reasonable attorney's fees, (i) that are proximately caused by the acts or omissions of the Customer or its employees or authorized agents, or by the Customer's breach of this Agreement; or (ii) arise from any injury to Substitute Staff or other persons on the premises of the Customer or while performing services on behalf of the Customer and not caused by the acts or omissions of the Company, Substitute Staff, or other employees or authorized agents of the Company.

C. **Notification Right to Defend:** A party incurring any claim or loss for which indemnification may be provided pursuant to this section 5 shall promptly notify the other party in writing. The recipient of such notice may, at its

own cost and expense, thereupon assume the defense of any third party claim using counsel reasonably satisfactory to the notifying party.

**D. Limitation of Liability/Damages:** Notwithstanding anything to the contrary contained in this Agreement, in no event shall either party be liable to the other for any of the following: (i) indirect damages, punitive damages, incidental damages, or consequential damages including without limitation lost profits, opportunity, use, or savings, or injury to business goodwill or reputation; or (ii) damages for any other claim or liability arising out of or relating to the Services or this Agreement in an aggregate amount which exceeds the amount actually paid by Customer for the Services under this Agreement during the six month period immediately preceding the event giving rise to such claim or liability. Under no circumstances shall the Company be liable for special, indirect, consequential, punitive, expectancy, lost profit or goodwill damages, or for damages caused by the unsatisfactory performance of Company's Staff that does not result in a finally adjudicated claim of damages against the Customer brought by a third party.

**E. Complete Agreement:** The parties agree that this section 5 sets forth their complete agreement with respect to any possible indemnification claim and waive their right to assert any common-law indemnification or contribution claim against the other.

## **6. Miscellaneous Provisions:**

- A. **Severability:** If any provision of this Agreement is held invalid for any reason, the other provisions of this Agreement will remain in effect, insofar as consistent with law.
- B. **Amendments; Waivers:** This Agreement may be amended as agreed between the parties. No amendment, modification, or waiver of any provision of this Agreement shall be binding unless in writing and signed by the party against whom the operation of such amendment, modification, or waiver is sought to be enforced. No delay in the exercise of any right shall be deemed a waiver thereof, nor shall the waiver of a right or remedy in a particular instance constitute a waiver of such right or remedy generally.
- C. **Independent Contractor:** The parties agree that in all aspects their relationship will be that of an independent contractor, and that neither party will act or represent that it is acting as an agent or incur any obligation on the part of the other party.
- D. **Non-Discrimination:** Company agrees that it is an equal opportunity employer and it shall not discriminate against any of its employees or applicants for employment on the basis of race, color, creed, sex, gender, gender identity, national origin, age or any other protected factor.
- E. **Interpretation and Applicable Law:** This Agreement has been negotiated at arm's length between the parties hereto, both of which are sophisticated and knowledgeable in the matters dealt with in this Agreement. Accordingly, any rule of law or legal decision that would require ambiguities in this Agreement to be interpreted against the party that drafted it are not applicable and are hereby waived. This Agreement shall be subject to, and enforceable under, the laws of the State in which the Customer's property is located, and any dispute arising out of this Agreement shall be submitted to a court of competent jurisdiction in the State. Company and Customer agree that each party is responsible for any attorney's fees or costs associated with any dispute arising out of this Agreement.
- F. **"Piggyback" Provision:** Pursuant to applicable state law institutes of higher education (colleges, universities, community colleges, technical colleges and trade schools) as well as K-12 school districts may negotiate pricing, terms and conditions directly with Company for equipment-goods and services being provided to Customer under the terms of the Agreement. Each piggyback institution shall issue its own purchasing documents for purchasing equipment-goods/services provided under this Agreement. Customer shall bear no responsibility or liability for any agreements between Company

and the other institutions who desire to exercise this option.

- G. Binding: This Agreement shall inure to and bind all parties, their successors, assigns, agents or representatives.
- H. Signature in Counterparts or Facsimile: This Agreement may be signed in counterparts, each of which shall be deemed to be a fully-executed original. An original signature transmitted by facsimile shall be deemed to be original for purposes of this Agreement.
- I. Non-solicitation of Certain Company and Customer Employees: Company and Customer agree that at no time during the term of this Agreement, and for a period of one (1) year immediately following the termination or expiration of this Agreement, will either in any way directly or indirectly, for themselves or on behalf of, or in conjunction with any other person, firm, partnership, corporation or association, approach, solicit, hire, employ or take away any of the other's management personnel, or otherwise interfere with the contractual relationship or employment of the other's management personnel. For purposes of this Section, "management personnel" shall include any and all position titles of Customer, and the following position titles of Company: Directors, Coordinators, Site Manager, Assistant Site Manager, Administrative Assistant, Area Manager, Regional Manager, Regional Vice President and Sales Director.
- J. Force Majeure: Neither party shall be liable for the failure to perform their respective obligations under this Agreement when such failure is caused by fire, explosion, water, act of God or unavoidable accident, civil disorder or disturbance, strikes, vandalism, war, riot, sabotage, weather or energy related closings, governmental rules or regulations, or like causes beyond the reasonable control and without the fault or negligence of such party, or for real or personal property destroyed or damaged due to such causes.
- K. Survival: The indemnification provision and each representation, covenant and warranty of the parties shall survive the termination or expiration of this Agreement for a period of one year.
- L. Titles and Captions: All article, section and paragraph titles and captions contained in this Agreement are for convenience only and are not deemed a part of the context hereof.
- M. Language Construction: The language of this Agreement shall be construed in accordance with its fair meaning and not for or against any party. The parties acknowledge that each party and its counsel have reviewed and had the opportunity to participate in the drafting of this Agreement and, accordingly, that the rule of construction that would resolve ambiguities in favor of non-drafting parties shall not apply to the interpretation of this Agreement.
- N. Payment of Fees: In the event of a dispute arising under this Agreement finally resolved through litigation or alternate dispute resolution, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.
- O. Entire Agreement: This Agreement contains the entire agreement between the parties. All prior negotiations between the parties are merged in this Agreement, and there are no understandings or agreements other than those incorporated or referred to herein. This Agreement may not be modified except by an instrument in writing signed by both parties. This Agreement may not be assigned by either party without the written consent of the other party. Consent to an assignment to a wholly owned subsidiary or affiliate of the assignor shall not be unreasonably withheld.
- P. Notices: All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by courier, registered or certified mail, return receipt requested, properly addressed and postage prepaid, or by overnight mail by

a reputable carrier, and addressed as follows:

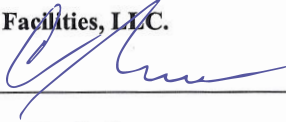
TO Company: HES Facilities, LLC.  
2160 Lakeside Centre Way, Suite 302  
Knoxville, TN 37922

TO Customer: Suffolk Public Schools  
100 N. Main Street  
Suffolk, VA 23434

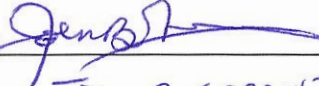
or at any other address as may be given by either party to the other by notice in writing pursuant to the provisions of this Section.

The parties to this Agreement have executed this Agreement as of the day and year first written above.

**HES Facilities, LLC.**

By   
Name Charlie Spencer  
Title President and CEO  
Date 12/17/2024

**Customer**

By   
Name John B. Gorman  
Title Division Superintendent  
Date 12/17/24

## ATTACHMENT A - Scope of Work

### General Specifications

**Overview:** The General Specifications address the expectations of the Customer and the Company for Custodial services and note variations to **Equalis Proposal #COG-2110A** and the resulting contract.

**Initial term, Section 3.A. of the agreement, beginning January 1, 2025, and ending June 30, 2025. Company clarifications to our proposal follow:**

1. Customer employees remain on Customer payroll to protect pay, benefits, and other needs. Customer employees may opt-in to become Company employees with Customer and Company approval.
2. Customer employees shall receive sixty (60) day notice in writing for changes to their work hours.
3. Customer to provide equipment, chemicals, paper products, floor care products, and supplies during the initial term described in section 3.A. Company and Customer decide what is purchased by Customer.
4. Customer can purchase supplies, equipment, and other needs from Company by purchase order utilizing the Equalis Group cooperative contract.
5. Customer to provide repairs and replacement of defective Customer supplied equipment during the initial term described in section 3.A.
6. Company to provide repairs and replacement of equipment due to negligence or neglect by the Company.
7. Company to clean all doorway mats. Customer to replace as necessary.
8. Company to provide all Company staff with laptops, phones, vehicles and related costs, i.e. fuel, insurance.
9. Customer to provide human resources related needs for Customer employees to include typical duties such as discipline, promotion, evaluations, terminations.
10. Company to provide all management for proposed services.
11. Company to supply 14 full-time equivalency (FTE) custodians at start of agreement.
12. Customer to retain management of part-time special needs staff and daytime associates who will report to site principals.
13. Company to supply custodial staff to Customer at \$39,921 per FTE with price increase for that amount by amendment to Agreement and approved by Customer. See section 2.C. of Agreement.
14. Company provides co-branded uniforms for all Company and Customer employees.
15. Customer shall not hire Company employees without Company consent.
16. Company shall not hire Customer employees without Customer consent.
17. Company shall match wage increases offered by Customer if Customer provides contractual CPI increase to Company
18. Should either party terminate this Agreement, the Customer shall have the right to retain Company non-management staff.

**Annual agreement renewal terms, Section 3.A of the agreement, beginning July 1, 2025, Company clarifications to our proposal follow:**

1. Customer employees remain on Customer payroll to protect pay, benefits, and other needs. Customer employees may opt-in to become Company employees with Customer and Company approval.
2. Company to provide all equipment, chemicals, paper products, floor care products, and supplies.
3. Customer employees shall receive sixty (60) day notice in writing for changes to their work hours.
4. Company to provide all management for proposed services.
5. Company to supply 14 full-time equivalency (FTE) custodians at start of agreement.
6. Company to supply custodial staff to Customer at \$39,921 per FTE with price increase for that amount by amendment to Agreement and approved by Customer. See section 2.C. of Agreement.
7. Company to provide repairs and replacement of defective Company supplied equipment.
8. Company to clean all doorway mats. Customer to replace as necessary.



9. Company to provide all Company staff with laptops, phones, vehicles and related costs, i.e. fuel, insurance.
10. Company provides all training, development, supervision of work for Company and Customer staff.
11. Customer to provide human resources related needs for Customer employees to include typical duties such as discipline, promotion, evaluations, terminations.
12. Company provides co-branded uniforms for all Company and Customer employees.
13. Customer to retain management of part-time special needs staff and daytime associates who will report to site principals.
14. Customer shall not hire Company employees without Company consent.
15. Company shall not hire Customer employees without Customer consent.
16. Company shall match wage increases offered by Customer if Customer provides contractual CPI increase
17. Should either party terminate this Agreement, Customer shall have the right to retain Company non-management staff.

### **Scope of Work for Initial Term and Annual Terms**

#### **Procedure:**

The custodial staff, under the leadership and direction of the Head Custodian or Building Mechanic, will complete all listed tasks in all spaces as indicated on the daily, weekly, and monthly task lists. Head Custodians and Building Mechanics will perform daily, weekly, and monthly inspections to ensure that all required tasks are being completed in an acceptable manner and sign off in FMX online portal.

The Custodial Supervisor will conduct unannounced inspections.

*It is the responsibility of the SPS custodial staff to clean and disinfect all spaces being used by the AlphaBest daycare program.*

*SPS Head Custodians and Building Mechanics will place the current Cleaning Procedure in their Log Books for reference.*

*Your online entries in FMX for Daily, Weekly and Monthly tasks will serve as your signature that all tasks have been completed.*

#### **SPS Cleaning Checklist**

*This task list applies to all instructional spaces, offices, and common spaces including gymnasiums, locker rooms, and media centers.*

**When staff is out, you must assist in other assigned areas (Gym and media center).**

#### **Daily Tasks**

1. Clean all light switches and door frames with Alpha HP
2. Empty all trash cans and clean them as required.
3. Clean all countertops, sinks, faucet handles, classroom restroom fixtures, cabinet knobs, and door handles/knobs with Alpha HP.
4. Clean exterior surfaces on all hand towels, toilet tissue, and soap dispensers.
5. Refill all classroom paper towel dispensers, toilet paper dispensers, and soap dispensers as required.

6. Sweep/dust mop all classroom tiled floor areas.
7. All drinking fountains and stair rails are cleaned and disinfected.

### Weekly Tasks

1. Dust and clean corners.
2. All VCT and terrazzo hallway floors are dust mopped on Monday, Wednesday, and Friday.
3. Spots, gum, or other debris is removed from floors when discovered.
4. VCT and terrazzo floors in all areas are wet mopped on Monday, Wednesday, and Friday or as needed.
5. Graffiti is removed when discovered.
6. Vacuum all carpet areas on Tuesday and Friday or as needed. Remove stains as required.
7. Floor molding/baseboards are dusted and cleaned as necessary.
8. Desk and other hard surfaces are to be sprayed weekly with Alpha HP.
9. Cabinet doors and frames cleaned with Alpha HP
10. Trash can liners replaced weekly or sooner if damaged.
11. Trash receptacles cleaned/disinfected weekly or sooner if needed.
12. Damaged trash receptacles are replaced as needed.

### Monthly Tasks

1. Clean all HVAC diffusers/return grills with Alpha HP.
2. Clean all light fixtures and fixture covers with Alpha HP.
3. Dust and clean all window blinds or shades.
4. Clean all doorway mats.
5. Check all mechanical and electrical spaces to ensure no clutter or unauthorized items are stored in spaces.
6. Ensure all custodial equipment is cleaned and maintained as required.
7. Dust and clean all windowsills.
8. Clean all exterior HVAC cabinets with Alpha HP
9. Clean wall surfaces as required.
10. Remove chipping or peeling paint.
11. Ceiling cobwebs and dust removed.
12. Interior windows and door glass cleaned.
13. All classroom furnishings are free of graffiti.
14. Clean all desktops with Alpha HP.

### SPS Restroom Cleaning Checklist

*This task list applies to ALL restrooms including group restrooms, locker room restroom facilities, office restrooms, and classroom restrooms that are used on any given day.*

### Daily Tasks

1. Dust and clean ceilings and corners.
2. Clean all light fixtures and fixture covers with ALPHA HP.
3. Clean all HVAC vents and diffusers with ALPHA HP.
4. Clean and disinfect all floors, walls, stalls, partitions, countertops, sinks, urinals, toilets, and floors with TFC 400 machines.
5. Clean and disinfect all faucets, soap dispensers, hand dryers, paper towel dispensers, toilet paper dispensers, sanitary product disposal containers, light switches, and doors with ALPHA HP. Cleaning should take place after regular school day hours.
6. Spray all surfaces with the Titan 440 and/or the Victory Hand-held sprayers and Alpha HP and allow to air dry for a minimum of five minutes.
7. Refill all soap dispensers, paper towel dispensers, and toilet paper dispensers.