

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

AGREEMENT

THIS AGREEMENT, made and entered into this 10th day of October, 2023, by and between the CITY OF FAYETTEVILLE, hereinafter called "CITY", and the CUMBERLAND COUNTY BOARD OF EDUCATION, hereinafter called "BOARD", both of the State of North Carolina.

WITNESSETH:

WHEREAS, the official agencies of the CITY and the BOARD are mutually interested in an adequate program of community recreation under the auspices of the Fayetteville-Cumberland County Parks and Recreation Department; and

WHEREAS, the BOARD made available to the CITY community recreation activities in all school areas and facilities located in their schools situated in areas of Cumberland County served by the Fayetteville-Cumberland County Parks and Recreation Department; and

WHEREAS, the track at Reid Ross Classical Middle/High School located at 3200 Ramsey Street, Fayetteville, NC 28301, needs to be resurfaced; and

WHEREAS, in the interest of providing the best service with the least possible expenditure of public funds, full cooperation between the CITY and the BOARD is necessary.

NOW, THEREFORE, in consideration of these premises, the CITY and the BOARD do now agree pursuant to N.C.G.S § 160A-460, et seq., to enter into an Agreement as follows:

1. Purpose:

(a) The BOARD will contribute and pay to the CITY \$200,000.00 for the Reid Ross resurfacing project ("the Project").

(b) The CITY will contribute \$249,905.00 towards the Project, oversee the Project, and be responsible for the maintenance costs of the track.

2. **Term:**

This Agreement shall terminate when the Project is completed.

3. **Payment:**

The BOARD will make one lump sum payment to the CITY prior to the beginning of the Project. The CITY will provide copies of the contract and invoice to the BOARD at the completion of the Project.

4. **Governing Law:**

The Parties expressly agree that if litigation is brought in connection with this Agreement and (1) the litigation proceeds in the Courts of the State of North Carolina, the Parties agree that the appropriate venue shall be in Cumberland County (Twelfth Judicial District of North Carolina); or (2) the litigation proceeds in a federal court, the Parties agree that the appropriate venue shall be the United States District Court for the Eastern District of North Carolina.

5. **Force Majeure:**

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, adverse governmental actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

6. **Morality Clause:**

If, in the sole opinion of the CITY, at any time BOARD or any of its owner(s) or employee(s) or agent(s) (collectively referenced as an "Actor") engages in any one or more actions that bring disrepute, contempt, scandal, or public ridicule to the Actor or subject the Actor to prosecution or

offend the community or public morals or decency or denigrate individuals or groups in the community served by the CITY or are scandalous or inconsistent with community standards or good citizenship or may adversely affect the CITY's finances, public standing, image, or reputation or are embarrassing or offensive to the CITY or may reflect unfavorably on the CITY or are derogatory or offensive to one or more employee(s) or customer(s) of the CITY, the CITY may immediately upon written notice to BOARD terminate this Agreement, in addition to any other rights and remedies that the CITY may have hereunder or at law or in equity.

7. **Amendment:**

This Agreement may be amended at any time by written consent of both Parties.

8. **State Auditor Access to Persons and Records:**

Pursuant to N.C.G.S. § 147-64.7(a)(4), the Parties agree that the State Auditor and the State Auditor's authorized representatives shall have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of or derived from or under his Agreement.

9. **Non-Appropriation:**

Notwithstanding any other provisions of this Agreement, the Parties agree that payments due hereunder from the CITY are from appropriations and monies from the City Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the CITY to pay the terms of this Agreement for any fiscal year, this Agreement shall terminate immediately without further obligation of CITY.

10. **Entire Agreement:**

This Agreement constitutes the entire agreement between the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on their behalf.

**CUMBERLAND COUNTY BOARD OF
EDUCATION**

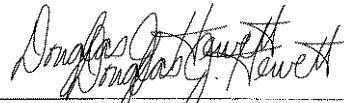
BY: 

KEVIN COLEMAN
Associate Superintendent for Auxiliary
Services

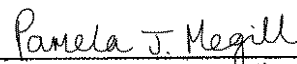
APPROVED AS TO FORM:


NICKOLAS J. SOJKA, JR.
Board Attorney, Cumberland County Schools

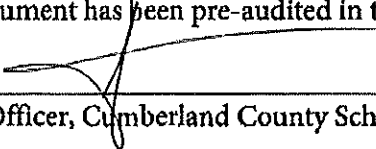
CITY OF FAYETTEVILLE

BY: 
DOUGLAS J. HEWETT, ICMA-CM
City Manager

ATTEST:


PAMELA J. MEGILL, City Clerk

This instrument has been pre-audited in the manner required by the School Budget and Fiscal Control Act


Finance Officer, Cumberland County Schools

10/24/23
Date



THE ULTIMATE
SURFACE EXPERIENCE

Reid Ross Athletic Complex

Sourcewell Breakdown Contract #031622-FTU

Proposal Date:

7-Jul-23

Sourcewell Line #	ITEMS ON FIELDTurf Sourcewell CONTRACT:	MRSP	9% Sourcewell Discount	Sourcewell Base Price	QTY	Unit	Total Extended	Additional Discount	Final Cost to Customer
99	BSS-1000 13 mm Running Track Surface	121.00	9%	110.11	5,657	SY	\$ 822,892	-172,987.27	\$ 449,905.00
	TOTAL								\$ 449,905.00