

OPTIMIZATION SERVICE AGREEMENT

This Agreement is made this 19th day of May, 2022, between Navitas, LLC, with a corporate business address of 25618 West 103rd Street, Olathe, Kansas 66061 (“Navitas”) and Platte County R-III School District, with a business address of 998 Platte Falls Road, Platte City, Missouri 64079 (“Client”).

BACKGROUND

WHEREAS Navitas provides its clients with certain energy and utility tracking and optimization services; and

WHEREAS Navitas and Client desire to enter into this Agreement pursuant to which Navitas will perform the Services defined in this Agreement for the benefit of Client.

NOW, THEREFORE, in consideration of the foregoing and the Parties’ mutual covenants and agreements set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties hereby agree as follows:

SECTION 1. SCOPE AND SERVICE DELIVERABLES. Navitas will furnish all labor, materials, equipment, tools and services required to perform the following Scope of Services:

Real-time Data Analytics: Through the use of real-time data analytics, the facility operation and electric energy consumption will be tracked and analyzed. This will include items trended through the Building Automation Systems (BAS) such as rooftop units, chillers, etc.. Navitas will communicate efficiency, and optimization opportunities as well as items for corrective actions regularly through phone calls and/or emails. Potential findings would include issues prohibiting optimization of equipment and in-turn impacting energy consumption. A report of any notable findings will also be presented to the Client on a quarterly basis.

Utility Reporting: Navitas will record and review the utility bills for each of the Client’s facilities included, as defined in this agreement. Discovered utility bill errors will be noted and shared with the Client for resolution. Navitas can assist the Client in working with the utilities to resolve any billing issues discovered. Navitas will report performance metrics to the Client on a quarterly basis.

Energy Management: Navitas will support the Client in their energy management initiatives through the use of an energy management professional. This role will meet with the Client on a regular basis. Review of the data, scheduling/oversight of the building automation system calendars, advisement on facility shutdown procedures and equipment optimization, communication campaigns, lead as the Chair/Co-chair Client’s energy committee, auditing of facilities, and consulting of new technologies related to energy efficiency are among the main job responsibilities. The energy manager works closely with the Client’s facility managers, custodians, maintenance technicians, and Client leadership to help Client achieve energy optimization goals. This role also leverages the utilization of Navitas’ internal engineering, project execution, and leadership expertise to provide valuable insights of optimal equipment operation and processes.

Supplemental Services: If additional engineering or other consulting services are desired for equipment problem investigation and resolution beyond the identification and reporting through data analytics, service may be provided at our standard engineering rate stated in Section 2.

Facilities Included:

Barry School
District Education Center
Northland Career Center
Pathfinder Elementary School
Paxton
Platte County High School
Platte City Middle School
Siegrist Elementary School
Compass Elementary School

Any future facilities, including additions and expansions, will be completed through a separate proposal and invoice.

SECTION 2. ANNUAL SERVICE FEES AND PAYMENT TERMS.

Navitas will invoice Client the first Annual Service Fee upon the commencement date and each subsequent year’s fee at the anniversary of this date. Client agrees to pay Navitas within thirty (30) days after invoice receipt.

Annual Service Fees	
Energy Management, Utility Monitoring, and Real-Time Data Analytics Year 1 (Program Year 7), Starts – July 1, 2022.	\$74,300
Energy Management and Real-Time Data Analytics Year 2 (Program Year 8), Starts – July 1, 2023.	\$76,530
Energy Management and Real-Time Data Analytics Year 3 (Program Year 9), Starts – July 1, 2024	\$78,830
Supplemental Service Hourly Engineering Rate	\$140/Hour

SECTION 3. AGREEMENT TERM AND RENEWAL. The term of Agreement is for three (3) years (“Initial Term”), commencing on July 1, 2022 (“Commencement Date”). This Agreement may be renewed for an indefinite number of consecutive one-year terms (each a “Renewal Term”) upon terms agreeable to both Parties, at the anniversary of the Commencement Date, if agreed to in writing by both Parties prior to the anniversary of the Commencement Date.

SECTION 4. CHANGES IN WORK. Navitas will make no changes in the work covered by this Agreement without written direction from Client. Navitas shall not be compensated for any change which is made without such written direction.

SECTION 5. CLIENT RESPONSIBILITIES. It is the Clients’ responsibility to provide access to online utility portals for ongoing collection/review of all electric, water, and natural gas utility bills from the associated utility or energy provider through the duration of the project. Client shall sign a release form allowing Navitas to request and obtain utility bills from each respective utility provider. Client is also responsible to maintain remote network connection for Navitas to and functionality of the Building Automation System for Navitas’ data analytic equipment.

SECTION 6. CONFIDENTIAL INFORMATION. At all times, each Party shall: (i) not copy, disclose to third parties, or use the other Party’s Confidential Information for any purpose other than for the performance of its obligations under this Agreement; and (ii) protect the other Party’s Confidential Information with the same degree of care it exercises to protect its own Confidential Information (but in

any event, with no less than a reasonable degree of care) to prevent the unauthorized, negligent, or inadvertent use, disclosure, or publication thereof. For purposes hereof, “Confidential Information” shall mean any proprietary or not publicly available information disclosed or provided by or on behalf of a Party that reasonably should be understood to be confidential or proprietary in light of the circumstances of such disclosure or provision. Confidential Information shall not include any information which: (A) was known to the receiving Party before such information was disclosed to, or obtained by, such receiving Party, as evidenced by such receiving Party’s prior written records; (B) is or later becomes publicly known through no wrongful act of either Party; or (C) is received without restriction with respect to use or disclosure by the receiving Party from a third party not known by such receiving Party to be the subject of a confidentiality obligation with the other Party and without violation of applicable law. If a Party is required by order or other requirement of a court, administrative agency, or other governmental body or applicable law, to disclose the other Party’s Confidential Information, it may comply with such requirement provided that, in such event, such Party provides the disclosing Party with prompt written notice of such required disclosure, to the extent permitted under applicable law, and reasonable assistance in obtaining an appropriate injunction or protective order. Upon the earlier to occur of a Party’s request or the expiration or termination of this Agreement, each Party shall return or destroy, as instructed by the other Party, all of such other Party’s Confidential Information.

SECTION 7. MUTUAL RESPONSIBILITY. Each party to this Agreement shall be solely responsible for any and all actions, suits, damages, liability, or other proceedings brought against it as a result of the alleged negligence, misconduct, error, or omission of any of its trustees, officers, agents, or employees. Neither party is obligated to indemnify the other party or to hold harmless the other party from costs or expenses incurred as a result of such claims. The foregoing provisions shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided or available to the parties under applicable state governmental immunities law and each party shall continue to enjoy all rights, claims, and defenses available to it under law.

SECTION 8. CLIENT NETWORK SECURITY. Navitas shall coordinate with Client’s information technology (“IT”) team in order to comply with Client’s IT network security protocols. It is the Client’s ultimate responsibility to define and maintain these protocols.

SECTION 9. INSURANCE. Navitas shall provide the following insurance:

9.1 Navitas Insurance. Before commencing and services, and as a condition of any payment due under this Agreement, Navitas shall, at its own expense, procure and maintain insurance on all of its operations under this Agreement, whether the operations are by Navitas or by anyone for whose acts Navitas may be liable. Insurance companies must be authorized to do business in the State of Missouri and be AM Best rated A-VII or better. Coverage under all policies shall include coverage as follows:

(a) Worker’s Compensation and Employer’s Liability Insurance as required by state law.

(b) Commercial General Liability Insurance. Navitas shall carry primary Commercial General Liability insurance (Insurance Services Office, Occurrence Form CG 00 01) covering all operations by or on behalf of Service Contractor providing insurance for bodily injury, personal injury, and property damage for the limits of liability indicated below, including but not limited to coverage for: (1) Premises and Operations, (2) Products and Completed Operations, (3) Contractual Liability, (4) Construction means, methods, techniques, sequences and procedures, including safety and field supervision. Such coverage shall not be subject to any of the following limiting or exclusionary endorsements: subsidence or earth movement, prior acts or prior work, action over-precluding indemnity for passive acts of Navitas contributing to injury of a Navitas employee, contractual limitation.

The limits of liability required of Service Contractor are: \$1,000,000 Each Occurrence (Combined Single Limit for Bodily Injury and Property Damage), \$1,000,000 for Personal Injury Liability, \$2,000,000 Aggregate for Products-Completed Operations, and \$1,000,000 General Aggregate. The general aggregate limit shall apply separately to the Work. Claims Made coverage is not acceptable. Deductibles or Self-Insured Retention amounts of \$10,000 are not acceptable.

(c) Automobile Liability Insurance, including coverage for owned, hired and non-owned automobiles. The limits of liability shall be not less than \$500,000 combined single limit each accident for bodily injury and property damage.

(d) Excess Liability Insurance. A \$1,000,000 Excess Liability Insurance policy may be maintained to supplement General Liability and Automobile Liability coverage. Such Excess coverage shall not be subject to any of the limiting or exclusionary policy provisions or endorsements specified in Paragraph (b).

9.2 Certificates of Insurance. Certificates of insurance, including required additional insured and other endorsements, shall be furnished to Client prior to the performance of any work.

9.3 Maintenance/Cancellation of Insurance. There will be no cancellation or reduction of coverage of any required insurance without an unqualified, thirty (30) day, prior written notice to Client. Such notice may be sent by Navitas' insurance carrier, insurance broker, or Navitas.

9.4 Navitas' purchase and maintenance of insurance under this agreement shall not be construed in such a way as to waive or terminate the statutory or common law immunities enjoyed by Client. Client shall retain all immunities, including those immunities contained within Missouri Revised Statute § 537.600 et.seq.

SECTION 10. MISCELLANEOUS. Neither this Agreement nor any term or provision hereof may be changed, waived, discharged or terminated except by a writing signed by a duly authorized officer of the party against whom enforcement of such change, waiver, discharge or termination is sought to be enforced. This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute but one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement in Portable Document Format ("PDF") or by facsimile transmission shall be as effective as delivery of a manually executed original counterpart of this Agreement. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, and no other person will have any right or obligation hereunder.

SECTION 11. SEVERABILITY. If any term, provision, covenant or restriction contained in this Agreement is held by any court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants or restrictions contained in this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and if a covenant or provision is determined to be unenforceable by reason of its extent, duration, scope or otherwise, then the Parties intend and hereby request that the court or other authority making that determination shall only modify such extent, duration, scope or other provision to the extent necessary to make it enforceable and enforce it in its modified form for all purposes of this Agreement.

SECTION 12. ENTIRE AGREEMENT. This Agreement represents the entire agreement between Navitas and Client and supersedes any prior written or oral representations.

SECTION 13. EMPLOYMENT VERIFICATION. Navitas hereby affirms to Client that it is enrolled and participates in a federal work authorization program such as E-Verify with respect to its employees working in connection with this Agreement and that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. If requested by Client, Navitas will provide Client a sworn affidavit and other sufficient documentation to affirm this.

SECTION 14. BACKGROUND CHECKS. To the extent Navitas employees will be working in school buildings while children are present, those employees shall pass background checks acceptable to Client. Navitas shall perform background checks on all employees who are anticipated to work on the premises where services are being prior to the employee's presence on the premises. Such background checks shall include a Federal Bureau of Investigation public criminal record check. Navitas shall direct its subcontractors, suppliers, or lower level trades performing work for Navitas under this Contract, to perform similar background checks on all employees and, upon request, provide Client with an affidavit verifying that background checks have been completed. Any such individual who does not pass such background check as determined by the Client in its sole discretion shall not be permitted to enter the premises where the services are being performed or any other school district property or to work on the services under this Agreement.

SECTION 15. Force Majeure. If either party is prevented from performing any of its obligations due to any cause which is beyond the non-performing party's reasonable control, including fire, explosion, flood, epidemic/pandemic or other acts of God; acts, regulations, or laws of any government; strike, lock-out or labor disturbances; or failure of public utilities or common carriers (a "Force Majeure Event"), such non-performing party shall not be liable for breach of this Agreement with respect to such non-performance to the extent any such non-performance is due to a Force Majeure Event. Such non-performance will be excused for three months or as long as such event shall be continuing (whichever occurs sooner), provided that the non-performing party gives immediate written notice to the other party of the Force Majeure Event. The non-performing party shall take reasonable efforts to cure or overcome the circumstance causing the Force Majeure Event

SECTION 16. Disputes. To the extent allowed by applicable law, any controversy or claim arising out of or relating to this Agreement or any breach thereof, shall be settled by informal mediation with the parties subject to this Agreement. If any controversy cannot be resolved through informal mediation, any legal action in connection with this Agreement shall be filed in the Circuit Court of Platte County, Missouri, or the United States District Court for the Western District of Missouri, as appropriate, to which jurisdiction and venue Navitas expressly agrees.

SECTION 17. Termination for Cause. Either party may terminate the Agreement for cause if the other party:

- (1) repeatedly refuses or fails perform the act(s) described in the Agreement;
- (2) repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- (3) engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Client's ethics or conflict of interest policies or Client's Board of Education's policies; or
- (4) Otherwise is guilty of a substantial breach of a provision of this Agreement.

SECTION 18. Termination for Convenience. Either Party may terminate the Agreement at any time by giving at least thirty (30) days' notice in writing to non-terminating Party. If the contract is terminated by the Client as provided herein, the Client will pay Navitas for any proven unrecoverable loss with respect to materials, equipment, or purchases made or utilized pursuant to this Agreement, to the extent of actual loss thereon, by the date of termination.

SECTION 19. No Boycott of Israel. All parties to this Agreement certify by the signing of this Agreement that they are not currently engaged in and shall not, for the duration of the contract, engage in a

boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

SECTION 20. Compliance with Laws and District Board Policy. Navitas, at Navitas' sole cost, shall comply with all present and future laws, ordinances, rules, regulations and Client Board Policy.

SECTION 21. Drugs and Alcohol. Navitas shall be responsible to the Client for acts and omissions of Navitas' employees, subcontractors and their agents and employees, and other persons or entities performing portions any work contemplated under this Agreement for, or on behalf of, the Navitas or any of its subcontractors. As part of that responsibility, Navitas shall enforce Client's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Navitas' employees, subcontractors, and all other persons carrying out the Agreement.

SECTION 21. Governing Law. This Agreement will be construed and enforced in accordance with Missouri law.

SECTION 23. Assignment. This Agreement cannot be assigned by either party without the prior written consent of the other party.

Dated: _____

Dated: _____

NAVITAS:

CLIENT: Platte County R-III School District

By: _____

By: _____

(SIGNATURE)

(SIGNATURE)

Printed Name: Zack Flageolle

Printed Name: _____

Director, Optimization Services

(TITLE)

(TITLE)