

**AGREEMENT**  
**BETWEEN HEART OF AMERICA and SAINT PAUL PUBLIC LIBRARY**

This AGREEMENT, dates this 1<sup>st</sup> day of April 1, 2021 is entered into by and between the City of Saint Paul, a Minnesota municipal corporation (“City”), and the Heart of America Foundation, a registered 501(c)(3) non-profit corporation (“Heart of America”).

Whereas, the PNC Children’s Library Transformation is a Library improvement project focused on play-based design that improves Children’s Library space with new décor, paint, furniture, fixtures and equipment and an infusion of technology and books.

Whereas, the City was approached by Heart of America and wishes to participate in the PNC Children’s Library Transformation; and

Whereas, Heart of America has agreed to provide coordination and support to complete the PNC Children’s Library Transformation Project at the Saint Paul Public Library Rice Street location (“Library”).

Now, therefore, City and Heart of America agree to the following terms and conditions:

1. **Scope of Work.** The parties to this Agreement have agreed on an initial scope of work for transforming the Children’s Area of the Library (“Children’s Library”). This scope of work (SOW) is contained in Exhibit A of this Agreement, which is incorporated hereinfor all purposes. This SOW may be referred to as the “Project.” Responsibilities of the parties are described within this Agreement. The scope of the Project shall not exceed that described in Exhibit A unless agreed to in writing by both parties.
  
2. **Responsibilities of the City:**
  - a. City will provide storage for donated project furniture, supplies, and technology;
  - b. City will deliver donated stored furniture and materials;
  - c. City will remove old furniture in the Children’s Library prior to the construction start date. Furniture that won’t be utilized in the updated Children’s Library will be repurposed or recycled, or used in anyway as determined by City. Furniture that will return to the spaces will be stored and returned in coordination with the Project schedule.
  - d. City will remove existing instructional materials from the Children’s Library prior to the construction start date.
  - e. City will remove, box, and store existing library collection and technology. Items can also be recycled or repurposed, or used in anyway as determined by City.
  - f. City agrees to provide staff to accompany volunteers provided by Heart of America for the Project while they are on library property. All City staff will remain under the direction of City.
  - g. City agrees to cooperate with Heart of America for access to the Library for work on the

Project at reasonable times necessary to the work on the Project, including any maintenance of the project, when such access will not interrupt library activities. Heart of America will request access to the library at least 72 hours prior to needing access and shall only access the library after approval from City.

- h. City agrees to support the Children's Library and reasonably to cooperate with Heart of America to publicize the launch of the Children's Area when it opens in whatever way City determines is best in partnership with Heart of America. Heart of America agrees to collaborate with the City on all public relations and promotional efforts, seeking joint approval on all project messaging and communications activities.
- i. City will provide assurance that the Library is not considered for closure currently, and is not at high-risk for closure in the future. This assurance does not in any way limit City's property rights to make decisions related to Library in the future as to the building as a whole or the Children's Library.

### **3. Responsibilities of Heart of America:**

- a. Heart of America agrees to submit all final design and materials plans to Library for approval prior to any purchase or start of work.
- b. Heart of America is responsible for obtaining all goods and services needed for the Project, through donation or contracted services between Heart of America and those providing the services, including installation in accordance with the Scope of Work in Exhibit A. Heart of America may use its employees as volunteers to perform some or all the work. Heart of America may also pay for some or all the work on the Project to be performed by one or more contractors approved in advance by City. Heart of America agrees to require any such contractor or contractors to coordinate the work with City and Heart of America. Heart of America shall have the option to participate in ongoing maintenance of the Project at the agreeance of City.
- c. Heart of America agrees that in using volunteers to work on Project on the City's Library campus, these volunteers will be volunteering for a single event on the campus under supervision of City and Heart of America. All volunteers and employees of Heart of America shall be the liability and responsibility of Heart of America as outlined section 3(m) and City shall not have any responsibility or liability for the actions of said volunteers and employees. All other Heart of America team members and volunteers serving on Library campus more than one day will complete background checks through City as required. Heart of America will ensure its volunteers wear appropriate identification while on the Library campus.
- d. If Heart of America chooses to have some or all of the Project done by one or more contractors rather than by its own employee volunteers, Heart of America will require that any such contractors have insurance for property and personal injury losses in compliance with City insurance as outlined in section 3(n).
- e. Heart of America agrees to coordinate with City in advance regarding the scheduling of all work relating to the Project. Heart of America agrees to abide by any scheduling requirements for performance of the work required of City.
- f. City agrees to allow Heart of America to begin work on the Project as soon as

practicable after this Agreement is signed by both parties. Heart of America agrees to complete the work by September 1, 2021.

- g. Heart of America agrees to submit all warranties for materials provided by Manufacturers to City in the project close out documents.
- h. Heart of America or its General Contractor will provide barriers and safety separations to protect existing facilities, staff and students from injury, such as securing doors to space or installing temporary barriers, if existing doors and separations are deemed to be inadequate. Heart of America team, General Contractor and trades will only use adult restrooms as designated by City personnel. Work shall be conducted in such a manner as to minimize disruption, as much as possible. The safety of Library patrons and staff must take precedence at all times. City reserves the right to instruct Heart of America and all contractors to adjust work on the Project in order minimize disruption and to protect the safety of patrons and staff.
- i. Heart of America agrees to limit construction operations and equipment to areas of work, while maintaining emergency building exits during transformation at all times.
- j. Heart of America will not allow anyone to smoke on City property at any time.
- k. Heart of America must acquire or require its contractors to acquire any required permits for the work performed under this Agreement.
- l. Heart of America will be responsible for restoring any City property disturbed or damaged as a result of the work performed under this Agreement.
- m. Hold Harmless. Heart of America will defend and indemnify the City of Saint Paul, its officers, agents, and employees from all claims, actions or suits of any character brought because of injuries or damages received or sustained by any person, persons or property resulting from Heart of America or its agents' actions under this Agreement.
- n. Insurance. Heart of America shall carry, or shall cause its agents or contractors to carry, the following insurance coverage:

**Commercial General Liability Insurance** including blanket commercial liability coverage, personal injury liability coverage and broad form property damage liability endorsement with a combined single limit of not less than \$1,500,000 per occurrence and \$2,000,000 aggregate shall be purchased by Heart of America or its contractors. Such insurance shall (i) name the City of Saint Paul as additional insured; (ii) be primary with respect to City or its contractor's insurance or self-insurance; (iii) not exclude explosion, collapse and underground property damage; (iv) be written on an "Occurrence Form" policy basis;

**Worker's Compensation Insurance** with not less than statutory minimum limits; and Employer's Liability Insurance with minimum limits of at least \$100,000 per accident and with an all states endorsement.

Heart of America must provide current insurance certificates prior to the commencement of the date of the Agreement. The certificates must certify whether the insurance agent has errors and omissions insurance coverage.

4. City shall have no obligation to pay for the Project other than as provided herein. Heart of America shall pay all costs in accordance with the terms of this Agreement. All materials, furnishings, fixtures, supplies and other elements included in the Project shall become the property of City.
5. This agreement shall remain in effect during the course of the transformation from its effective date, which shall be April 1, 2021 through the anticipated turnover date of September 1, 2021. The Agreement may be renewed or extended by mutual agreement between the City and Heart of America as needed.
6. The parties may amend or modify this Agreement, including Exhibit A, by written amendment signed by each party.
7. Schedule. Partner will begin work on the project after any required permits are received, materials are on-site and City has been notified 72 hours in advance. All areas will be complete and turned over to City by no later than September 1, 2021
8. Notices. Any notice, statements, bills, or other communications required to be given under this Agreement will be deemed to be duly delivered if in writing and delivered to the other Party personally, sent by facsimile with confirmed delivery sheet, sent by electronic mail with confirmation of receipt, or sent by certified mail address tied to the other return receipt postage prepaid as follows:

CITY:

HEART OF AMERICA:

9. Entire Agreement. It is understood and agreed that this entire Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matters herein.
10. Jurisdiction. This Agreement shall be construed under the laws of the State of Minnesota and any dispute regarding the interpretation or enforcement shall be venued in the courts located in Ramsey County.
11. Termination. The City reserves the right to terminate this Agreement with 30 days' notice to Heart of America for any reason.
12. Counterparts. The parties may sign this Agreement in counterparts, each of which constitutes an original, but all of which together constitute one instrument.

13. Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties further agree that any document (including this Agreement and any attachments or exhibits to this Agreement) containing or to which there is affixed, an electronic signature shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, “electronic signature” also means a manually signed original signature that is then transmitted by an electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g. via PDF) of an original signature. Any party’s failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this Agreement.

IN WITNESS WHEREOF, the parties have set their hands the date first written above.

[SIGNATURE PAGE TO FOLLOW]

**HEART OF AMERICA**

By: \_\_\_\_\_  
Jill Heath, President  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**CITY OF SAINT PAUL**

By: \_\_\_\_\_  
Library Director  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor's Office  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Office of Financial Services  
Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Assistant City Attorney

Agreement Between Heart of America and Saint Paul Public Library

EXHIBIT A

**Initial Scope of Work and Budget for Rice Street Project**

|   |                |
|---|----------------|
| Program Materials                       | \$32,000       |
| Technology                              | \$16,000       |
| Books*                                  | \$~10 – 20,000 |
| Purchased Services                      | \$15,000       |
| Supplies                                | \$1,500        |
| Shipping/Printing                       | \$2,000        |
| Event/Celebration                       | \$2,500        |
| AmeriCorps/Serve MN<br>Program Support* | \$~25,000      |
| <b>TOTAL: \$104,000 – 114,000**</b>     |                |

\* Books + Serve MN will be donated through a separate grant and represent estimates.

\*\*Budget estimates may adjust as design plan evolves, not to exceed total listed above. This total represents deep discounts from our vendors as well as donated products and services. FMV of complete HOA project = 2-3x total.