

**ARTICLES OF INCORPORATION  
OF  
BMS BUILDING CORPORATION  
(the "Corporation")**

These Articles of Incorporation are signed and acknowledged by the undersigned incorporator for the purpose of forming a nonprofit corporation under the Minnesota Nonprofit Corporations Act, Minnesota Statutes, Chapter 317A.

**ARTICLE 1  
NAME**

The name of the Corporation is BMS BUILDING CORPORATION.

**ARTICLE 2  
REGISTERED OFFICE**

The address of the registered office in the state of Minnesota is 354 Lafayette Street, Winona, MN 55987.

**ARTICLE 3  
SOLE MEMBER**

The sole member of the Corporation shall be Bluffview Montessori School ("BMS"), a Minnesota nonprofit corporation.

**ARTICLE 4  
PURPOSE**

The Corporation is organized and shall be operated exclusively for charitable, scientific and educational purposes, and in particular, to purchase, own, and construct a building on real estate for lease to BMS, its sole member, in order to facilitate BMS's operation of a public schoolhouse for a Minnesota public school authorized by charter issued pursuant to Minn. Stat. § 124D.10 by the Minnesota Board of Education to BMS. The Corporation is organized and shall be operated exclusively to carry out such purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter in effect (the "Code"), and which is other than a private foundation

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Briggs and Morgan, P.A.  
(JAC)

by reason of being described in Section 509(a)(1), (2) or (3) of the Code.

**ARTICLE 5  
INCORPORATOR**

The incorporator of the corporation is Michael Lindeman, 2400 IDS Center, Minneapolis, MN 55402.

**ARTICLE 6  
PERSONAL LIABILITY**

Neither the incorporator, directors, officers, employees, nor the representatives or agents of the corporation shall be personally liable for the payment of any debts or obligations of the corporation of any nature whatsoever, nor shall any of the property of the members or of any of the directors, officers, employees, representatives or agents be subject to the payment of the debts or obligations of the corporation to any extent.

**ARTICLE 7  
INITIAL DIRECTOR**

The initial, sole member of the Board of Directors who shall serve until a different Board of Directors is appointed in the manner provided for in the bylaws of the corporation is:

~~Eddie Rodriguez  
307 Valley Oaks Drive  
Winona, MN 55987~~

Mary Bambenek  
354 Lafayette Street  
Winona, MN 55987

**ARTICLE 8  
NO PECUNIARY GAIN**

The corporation shall not pay any pecuniary gain to its member. No part of the net income or net earnings of the corporation shall inure, directly or indirectly, to the benefit of any member, director or officer of the corporation or any private individual, except that reasonable compensation may be paid for services rendered to or for the corporation in the performance of its corporate purpose.

**ARTICLE 9  
DISSOLUTION**

The Corporation may be dissolved in accordance with the laws of the State of Minnesota. At the time of dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all debts, obligations, liabilities, costs and expenses of the Corporation, dispose of all assets of the Corporation; provided, however, that in no case shall a liquidation, transfer or disposition be made which would not qualify as a charitable contribution under Section 170(c)(1) or (2) of the Code, and all assets shall be turned over and transferred to one or more organizations qualified as exempt pursuant to Section 501(c)(3) of the Code, or to the State of Minnesota or any political subdivision thereof for exclusively public purposes.

**IN WITNESS WHEREOF**, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Michael Lindeman,  
Incorporator

**BYLAWS  
OF  
BMS BUILDING CORPORATION**

**SECTION 1  
MEMBERS**

1.1 **Single Member.** Bluffview Montessori School, a Minnesota nonprofit corporation (the "Member") shall be the sole member of BMS Building Corporation (the "Corporation").

1.2 **Voting Rights.** The Member shall have one-hundred percent (100%) of the voting power of the member voting power.

1.3 **Action in Writing.** Any action required or permitted to be taken at a meeting of members may be taken without a meeting by written action signed by the Member.

**SECTION 2  
DIRECTORS**

2.1 **General Powers.** The business and affairs of the Corporation shall be managed by or under the direction of its Board of Directors (the "Board"). The Board may exercise all such powers and do all such things as may be exercised or done by the Corporation, subject to the provisions of applicable law, the Articles of Incorporation, or these Bylaws.

2.2 **Number, Tenure, and Qualification.** The Member shall appoint three Directors. At all times, at least two Directors of the Corporation must also be on the Board of Directors of the Member.

2.3 **Term of office.** The first Director appointed by the Member shall serve for a term of one year (to be identified as Director A). The second Director appointed by the Member shall serve for a term of two years (to be identified as Director B). The third Director appointed by the Member shall serve for a term of three years (to be identified as Director C). Thereafter, any Director appointed by the Member shall serve for a term of three years.

2.4 **Meetings.** Meetings of the Board may be held at such times and places as shall from time to time be determined by the Board.

2.5 **Notice of Meetings.** If the date, time, and place of a meeting of the Board has been announced at a previous meeting, no notice is required. In all other cases five (5) business days' written notice of meetings of the Board, stating the date and time thereof and any other information required by law or desired by the person or persons calling such meeting, shall be given to each Director. If notice of meeting is required, and such notice does not state the place of the meeting, such meeting shall be held at the principal executive office of the Corporation.

Any Director may waive notice of any meeting. A waiver of notice by a Director is effective whether given before, at, or after the meeting, and whether given orally, in writing, or by attendance. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, unless such Director objects at the beginning of the meeting to the transaction of business on grounds that the meeting is not lawfully called or convened and does not participate thereafter in the meeting.

**2.6 Quorum and Voting.** A majority of the Directors currently holding office shall constitute a quorum for the transaction of business at any meeting of the Board. In the absence of a quorum, a majority of the Directors present may adjourn the meeting from time to time until a quorum is present. If a quorum is present when a duly called or held meeting is convened, the Directors present may continue to transact business until adjournment, even though the withdrawal of a number of Directors originally present leaves less than the number otherwise required for a quorum. The Board shall take action by the affirmative vote of a majority of the Directors present at any duly held meeting, except as to any question upon which any different vote is required by law, the Articles of Incorporation, or these Bylaws.

**2.7 Vacancies and Newly Created Directorships.** The Member may fill any vacancy occurring in the Board by appointment. A Director appointed to fill a vacancy shall serve until such date as the vacating Director's term would have ended.

**2.8 Removal of Directors.** The Member may remove any Director from office with or without cause; the member shall then appoint a new Director to replace the Director being removed.

**2.9 Committees.** The Board, by a resolution approved by the affirmative vote of a majority of the Directors then holding office, may establish one or more committees of one or more natural persons having the authority of the Board in the management of the business of the Corporation to the extent provided in such resolution. Such committees, however, shall at all times be subject to the direction and control of the Board. Committee members need not be Directors and shall be appointed by the affirmative vote of a majority of the Directors present. A majority of the members of any committee shall constitute a quorum for the transaction of business at a meeting of any such committee. In other matters of procedure the provisions of these bylaws shall apply to committees and the members thereof to the same extent they apply to the Board and Directors, including, without limitation, the provisions with respect to meetings and notice thereof, absent members, written actions and valid acts. Each committee shall keep regular minutes of its proceedings and report the same to the Board.

**2.10 Action in Writing.** Any action required or permitted to be taken at a meeting of the Board may be taken by written action signed by all of the Directors then in office. If permitted under the Articles of Incorporation and the action does not require member approval, such action shall be effective if signed by the number of Directors that would be required to take the same action at a meeting at which all Directors were present. If any written action is taken by less than all Directors, all Directors shall be notified immediately of its text and effective date. The failure to provide such notice, however, shall not invalidate such written action.

**2.11 Meeting by Means of Electronic Communication.** Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means

of conference telephone or similar means of communication by which all persons participating in the meeting can simultaneously hear each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

### **SECTION 3 OFFICERS**

**3.1 Number and Qualification.** The officers of the Corporation shall consist of one or more natural persons elected by the Board exercising the functions of the offices, however designated, of President, Treasurer, and Secretary. The Board may also appoint such other officers as it may deem necessary or advisable. Except as provided in these bylaws, the Board shall fix the powers, duties, and compensation of all officers. Officers may be, but need not be, Directors of the Corporation. Any number of officer positions may be held by the same person.

**3.2 Term of Office.** An officer shall hold office until a successor shall have been duly elected, unless prior thereto such officer shall have resigned or been removed from office as hereinafter provided.

**3.3 Removal and Vacancies.** Any officer or agent elected or appointed by the Board shall hold office at the pleasure of the Board and may be removed, with or without cause, at any time by the vote of a majority of the Board present. Any vacancy in an office of the Corporation shall be filled by action of the Board.

**3.4 President.** The president shall:

- (1) have general active management of the business of the corporation;
- (2) when present, preside at meetings of the Board;
- (3) see that orders and resolutions of the Board are carried into effect;
- (4) sign and deliver in the name of the corporation deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the corporation, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the articles or bylaws or by the Board to another officer or agent of the corporation;
- (5) maintain records of and, when necessary, certify proceedings of the Board and the member; and
- (6) perform other duties prescribed by the Board.

3.5 **Treasurer.** The treasurer shall:

- (1) keep accurate financial records for the corporation;
- (2) deposit money, drafts, and checks, in the name of and to the credit of the corporation in the banks and depositories designated by the board;
- (3) endorse for deposit notes, checks, and drafts received by the corporation as ordered by the board, making proper vouchers for the deposit;
- (4) disburse corporate funds and issue checks and drafts in the name of the corporation, as ordered by the Board;
- (5) upon request, provide the president and the Board an account of transactions by the treasurer and of the financial condition of the corporation; and
- (6) perform other duties prescribed by the Board or by the president.

3.6 **Secretary.** The Secretary shall attend all meetings of the Board and of the Member and shall maintain records of, and whenever necessary, certify all proceedings of the Board and of the Member. The Secretary shall keep the records of the Corporation and when so directed by the Board or other person or persons authorized to call such meetings, shall give or cause to be given notice of meetings of the Board, and shall also perform such other duties and have such other powers as the President or the Board may prescribe from time to time.

#### SECTION 4 INDEMNIFICATION; INSURANCE

4.1 **Indemnification.** The Corporation shall indemnify its officers and directors for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as required or permitted under Minnesota or other applicable law.

4.2 **Insurance.** The Corporation may purchase and maintain insurance on behalf of any person in such person's official capacity against any liability asserted against and incurred by such person in or arising from that capacity, whether or not the Corporation would otherwise be required to indemnify the person against the liability or whether the insurance would exceed allowed indemnification under Minnesota law.

#### SECTION 5 MISCELLANEOUS

5.1 **Amendments.** Except as limited by the Articles of Incorporation, these bylaws may be altered or amended by the Board at any meeting of the Board to the full extent permitted by law, subject, however, to the power of the Member of the Corporation to alter or repeal these bylaws.



5.2 Seal. The Corporation shall have no seal.

\* \* \* \* \*

The undersigned initial member of the Board of Directors of BMS BUILDING CORPORATION, a Minnesota nonprofit Corporation, does hereby certify that the foregoing bylaws are the bylaws adopted for the Corporation.

11-1-99  
Date

Mary M Bambenek  
Mary Bambenek, Director