

CONSTRUCTION CONTRACT

THIS CONTRACT (the "Contract") is by and between _____ (the "Contractor"), and the BOARD OF EDUCATION OF CHAMPAIGN COMMUNITY UNIT SCHOOL DISTRICT NO. 4 (the "School District").

1. The Work.

a. Contractor agrees to provide all necessary labor, materials, equipment, and services required to complete the work (the "Work") described in the documents attached and incorporated into this Contract as Exhibit A. The School District shall be entitled to supervise and instruct the Contractor on the Work. The School District shall also be entitled to make a final inspection of the Work and shall have the right of final approval of the Work before completion is deemed to have occurred. The Contractor shall perform the Work for the price set forth in Exhibit A (the "Contract Sum"). The Contractor shall perform the Work in a prompt, efficient, skillful, workmanlike, and otherwise competent manner.

b. The Work shall commence no later than _____, 202_ and substantial completion shall be achieved by _____, 202_ ("Contract Time"). Final completion shall be achieved by _____, 202_.

c. The Contractor's warranty is set forth in Exhibit A. The warranty shall not limit, or constitute a waiver of, any other remedy of the School District otherwise available at law or in equity upon the Contractor's failure to perform in accordance with the terms of this Contract.

d. The Contract Sum and the Contract Time may be increased or extended only by a written change order approved by the School District and the Contractor. The cost or credit to the School District from a change in the Work shall be determined by mutual agreement. The parties agree and understand that change orders more than \$10,000 may be subject to prior approval of the Board of Education subject to the requirements set forth in Article 33E of the Criminal Code of the State of Illinois.

2. Payment Terms. The School District shall pay the Contractor the Contract Sum. The Contractor shall provide written invoices to the School District. Payment is due within the time frame set forth in the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*). The Owner may withhold up to 10% as retainage from each payment otherwise due up to substantial completion of the entire work. Final payment shall be on final acceptance of the entire work by the School District.

3. Relationship between the Parties. Contractor is retained by the School District only for purposes and to the extent set forth in this Contract, and nothing in this Contract shall be considered to create the relationship of employer and employee between the parties. Contractor shall be always deemed to be an independent contractor and neither

party has the authority to bind the other to any third person or to otherwise act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The District representative for this Contract is _____.

4. Access and Site Condition. Contractor shall have access only to such portions of the School District's facilities as defined in the specifications and drawings and documents included in this Contract and only upon the permission of the School District or its designee. The Contractor shall keep the premises and surrounding areas free from accumulation of waste materials or rubbish caused by operations under the Contract and, at completion of the Work, remove the same and its tools, construction equipment, machinery, and surplus materials. Contractor shall repair, at its sole cost, any damage it causes to the School District's property to the original condition. If Contractor does not repair such damage within 14 days after the School District provides written notice to Contractor of such damage, the School District may make such repairs. Contractor shall reimburse the School District for all costs that the School District incurs for the repairs within 14 days after the School District sends a written invoice for such costs to the Contractor.

5. Indemnification. To the extent permitted by law, Contractor does hereby agree to indemnify, defend, and hold harmless the School District, the Board of Education, and the Board's members, employees, agents, architects, and School District hired consultants and successors, in their individual and official capacities (collectively, the "School District Parties"), from and against all claims and liability, including reasonable attorneys' fees and costs, arising out of or in any way connected with the Contractor's performance or non-performance of the Work hereunder. Contractor shall, at its own expense, appear, defend, and pay all charges of attorneys and costs and other expenses arising therefrom or incurred against the School District Parties, or any of them, in any such action.

Contractor expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the School District Parties, or any of them, as herein provided.

6. Insurance. During the term of this Contract, the Contractor, at its sole cost and expense, and for the benefit of the School District, shall carry and maintain the following insurance:

a. Comprehensive general liability and property damage insurance, insuring against all liability of the Contractor related to this Contract, with a minimum combined single limit of _____ Million Dollars (\$X,000,000.00) per occurrence and _____ Million Dollars (\$X,000,000) general aggregate;

- b. Professional Liability Insurance with limits in the per claim amount of not less than _____ Million Dollars (\$X,000,000.00) and the annual aggregate of not less than _____ Million Dollars (\$X,000,000);
- c. Automobile liability Insurance with a combined single limit of \$X,000,000;
- d. Workers' Compensation Insurance covering all costs, statutory benefits, and liabilities under State Workers' Compensation and similar laws for the Contractor's respective employees; and
- e. Umbrella liability insurance with a minimum combined single limit of _____ Million dollars (\$X,000,000.00) per occurrence and _____ Million Dollars (\$X,000,000) general aggregate.

The insurance shall include sexual abuse and molestation coverage. All insurers shall be licensed by the State of Illinois and rated A+ VII or better by A.M. Best or comparable rating service. All the above policies except for the Workers' Compensation policy shall name the School District, its Board, Board members, employees, agents, and successors as an additional insured on a primary noncontributory basis with a waiver of subrogation in favor of the Champaign Community Unit School District No. 4. The Contractor shall provide the School District with certificates of insurance and/or copies of policies reasonably acceptable to the School District evidencing the existence of the coverage described above, including form and deductibles, during the duration of this Contract. The failure to provide acceptable insurance shall be deemed a breach of this Contract entitling the School District to terminate this Contract immediately. All policies of insurance shall provide by endorsement that no coverage may be canceled, terminated, or reduced by the insuring company without the insuring company having first given at least 30 days prior written notice to the School District by certified mail, return receipt requested.

No later than five days prior to commencement of the Work, Contractor shall submit to the School District performance and labor and materials payment bonds in the amount of the Contract sum, carried with a bonding company rated A by Best ratings and licensed to do business in the State of Illinois.

7. Criminal Background Investigations. Contractor shall screen all employees and subcontractors' employees with respect to criminal background and shall not permit any employee to be present at the job site who would otherwise be disqualified from employment involving direct daily contact with students by virtue of a conviction enumerated in Section 10-21.9(c) of the Illinois School Code, 105 ILCS 5/10-21.9. Further, Contractor shall not permit any individual to perform services under this Contract who is required to register under the Sex Offender Registration Act, 730 ILCS 150/1 *et seq.* In the event Contractor fails to comply with the provisions of this Section and 105 ILCS 5/10-21.9, and as a result a suit or claim is instituted by a student for harm caused by an employee or agent of Contractor, then Contractor agrees to fully

defend and indemnify, including the reimbursement of attorneys' fees and costs, the School District against any such claims. Fingerprinting for criminal background checks shall be scheduled with the School District's Human Resources Department. The School District will provide specific instructions after the parties execute the Contract.

8. Compliance with Applicable Laws. Contractor shall comply with all applicable laws, regulations, and rules promulgated by any federal, State, county, municipal, and/or other governmental unit or regulatory body now in effect or which may be in effect during the performance of the Work, including without limitation the following:

a. Nondiscrimination Requirements. Contractor shall comply with laws and regulations pertaining to Equal Opportunity Employment and Fair Employment Practices including but not necessarily limited to the Illinois Human Rights Act. The Contractor shall not unlawfully discriminate against any worker, employee, or applicant, or any member of the public because of race, religion, color, age, sex, handicap, disability, marital status, national origin, or unsatisfactory military discharge, nor otherwise commit an unfair employment practice. Contractor further agrees that this provision will be incorporated by Contractor in all contracts entered into with suppliers of materials or services, subcontractors, and all labor organizations, furnishing skilled, unskilled, or craft union skilled labor, who may perform any such labor or services regarding this Contract.

b. Sexual Harassment. The Contractor certifies that it has adopted and implemented a written sexual harassment policy in full compliance with Section 2105A(4) of the Illinois Human Rights Act, 775 ILCS 5/2105A(4), and in the case of a bidder having 25 or more employees, a drug free workplace policy and practice in full compliance with Section 3 of the Illinois DrugFree Workplace Act, 30 ILCS 580/3.

c. OSHA. The Contractor shall be responsible for conducting all activities on the project site in accordance with the provisions of the Occupational Safety and Health Act of 1970, as amended, and the standards and regulations issued thereunder. The Contractor specifically agrees to indemnify and hold harmless the School District, its Board of Education, and its members, employees, and agents, in their individual and official capacities, for all claims, liability and damages, including but not necessarily limited to reasonable attorneys' fees and costs, resulting from Contractor's failure to conduct its activities on the project site in accordance with said Act and the related standards.

d. Prevailing Wage. It shall be mandatory upon the Contractor and upon any subcontractor thereof to pay all laborers, workmen, and mechanics employed by them not less than the general prevailing rate of wages as found by the Department of Labor for each craft or type of worker or mechanic needed to execute the Contract and the general prevailing rate for legal holiday and overtime work as ascertained by the Illinois Department of Labor. The prevailing wage rates are revised by the Department of Labor periodically and are available on its website. The Contractor shall comply with all provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/0.01 *et seq.*, applicable to

the Work. Payment of any contractor shall not be processed without receipt of certified employee records required by 820 ILCS 130/5.

e. Not Prohibited from Contracting. Contractor certifies that it has not been suspended and it is not prohibited from contracting with a federal, state, or local governmental entity under any law, regulation, rule, or ordinance.

Contractor shall secure and pay for all building permits, and other permits, governmental fees, licenses, and inspections necessary for the proper execution and completion of the Work.

9. Subcontracting or Assignment. Except for those subcontractors otherwise identified to the School District prior to the execution of the Contract, the Contract and the Work shall not be assigned or any part of the same subcontracted without the prior written consent of the School District, but in no case will such consent relieve the Contractor from its obligations, or change the terms of the Contract. Except for permitted payments to subcontractors, the Contractor shall not transfer or assign any contract funds or claims due or to become due without the prior written approval of the School District having first been obtained. Any other transfer or assignment of any contract funds either in whole or in part, or any interest therein, which shall be due or to become due the Contractor, shall cause the annulment of said transfer or assignment.

10. Default. The School District may, subject to the provisions specified herein, by written notice of default to the Contractor, terminate the whole or any part of the Contract in any one of the following circumstances:

a. If the Contractor fails to make delivery or to perform the Work within the time specified herein or any extension thereof; or

b. If the Contractor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of the Contract in accordance with its terms, and in either of these two circumstances, does not correct such failure within a period of ten calendar days (or such other period as the School District may authorize in writing) after receipt of notice from the School District specifying such failure.

In the event the School District terminates the Contract in whole or in part as provided above, the School District may procure, upon such terms and in such manner as the School District may deem appropriate, supplies or services similar to those terminated. In such case the Contractor shall be liable to the School District for any excess costs for such similar supplies for services, and for such additional damages and expenses as result from the Contractor's default, including without limitation reasonable attorneys' fees. The Contractor shall continue the performance of the Contract to the extent not terminated under the provisions of this clause.

In addition to any other remedies available upon the Contractor's default, the School District shall have the right to stop the Work until the Contractor has corrected its default

and, in such case, the Contractor shall remain liable for any additional loss or expense of the School District resulting from such suspension of performance.

11. Termination. The School District may terminate this Contract for any reason after providing 30 days written notice to Contractor.

12. Certification. Contractor represents that it is certified in accordance with all applicable laws, regulations, and rules to perform the Work.

13. Notices. Any notice or communication permitted or required under this Contract shall be in writing and shall become effective on the day of mailing thereof by first class mail, registered or certified mail, postage prepaid, addressed:

If to the School District, to:

Champaign Community Unit School District No. 4
502 W Windsor Rd.
Champaign, IL 61820
Attention: Superintendent

If to the Contractor, to:

14. Entire Understanding. This Contract and Exhibit A contain all the terms agreed upon by the parties with respect to the subject matter of this Contract and supersede all prior agreements, arrangements, and communications between the parties concerning such subject matter, whether oral or written. Except as otherwise provided, no subsequent alteration, amendment, change, or addition to this Contract shall be binding upon the parties hereto unless reduced to writing and duly authorized and signed by each of them.

15. Governing Law. This Contract shall be governed by, construed, and enforced in accordance with the laws of the State of Illinois without regard to conflict of law principles. Jurisdiction and venue for all disputes hereunder shall be the Circuit Court located in Champaign County, Illinois, or the federal district court for the Central District of Illinois.

16. Effective Date. This Contract shall become effective, and be deemed dated, as of the date the last of the parties signs this Contract, as set forth below.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed as of the day and year set forth below.

CONTRACTOR

BOARD OF EDUCATION OF
CHAMPAIGN COMMUNITY UNIT
SCHOOL DISTRICT NO. 4

By: _____

Its: _____

Dated: _____

By: _____

Its: _____

Dated: _____

EXHIBIT A
SPECIFICATIONS FOR THE WORK

Add warranty

Add drawings

Add Front Ends (General Conditions)

Add specifications

Add tax exempt certificate

Add sample insurance certificate

Add MBE/WBE requirements

Add bid form to validate the contract sum

