



**ADDENDUM TO CONSTRUCTION AGREEMENT
BETWEEN CONSULTANT OR CONTRACTOR AND COMMUNITY COLLEGE DISTRICT
NO. 509, ELGIN COMMUNITY COLLEGE**

1. Legal Entity: The term "Owner" is legally described as "The Board of Trustees of Community College District 509, counties of Kane, Cook, DuPage, McHenry and DeKalb, and State of Illinois, commonly known as Elgin Community College." Litigation of any dispute between the parties for any reason shall take place in the Circuit Court for the Sixteenth Judicial Circuit, Kane County, Illinois, regardless of the residency or location of the principal office of Consultant, Contractor or sub-contractor and such litigation shall take place before a judge sitting without a jury. The parties waive any right to trial by jury or to change venue or to file or remove any lawsuit to any other venue than as stated herein.

2. Consultant or Contractor shall maintain, for a minimum of five (5) years after the completion of the Agreement, adequate books, records and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with said agreement; said Agreement and all books, records and supporting documents related to said Agreement shall be available for review and audit by the Illinois Auditor General or the Illinois Community College Board; and Consultant/Contractor shall cooperate fully with any audit conducted by the either of them and shall provide full access to all relevant materials. Failure to maintain the books, records and supporting documents required by this paragraph shall establish a presumption in favor of ECC for the recovery of any funds paid by ECC hereunder for which adequate books, records and supporting documentation are not available to support the purported disbursement.

3. The parties hereto shall abide by the requirements of Executive Order 11246 and the Rules and Regulations of the Illinois Department of Human Rights, and there shall be no discrimination because of gender, race, color, religion, sex, national origin, ancestry, age, sexual orientation, marital status, physical or mental handicap unrelated to ability or an unfavorable discharge from military service in the employment, training or promotion of personnel engaged in the performance of the Construction Agreement.

4. Consultant/Contractor certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, nor has Consultant/Contractor made an admission of guilt of such conduct which is a matter of record, nor has an official, agent or employee of Consultant/Contractor been so convicted or made such admission of bribery on its behalf and pursuant to the direction or authorization of a responsible official thereof.

5. Under penalties of perjury, Consultant/Contractor certifies that the federal Taxpayer Identification Number noted below is correct. Consultant/Contractor further certifies that it is doing business as a (please check one):

- | | |
|---|--|
| <input type="checkbox"/> Sole proprietorship | <input type="checkbox"/> Governmental Entity |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Tax Exempt Organization |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> (IRC 501 (a) only) |
| <input type="checkbox"/> Not-for-profit Corporation | <input type="checkbox"/> Trust or Estate |
| <input type="checkbox"/> Medical and Health Care Services
Provider Corporation | <input type="checkbox"/> Limited Liability Company (LLC) |

Taxpayer Identification Number _____

6. Consultant/Contractor certifies that it is familiar with the Drug Free Workplace Act, 30 ILCS 580/1 (1996) et seq., and will provide a drug free workplace in compliance with said act.



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7. Consultant/Contractor certifies that no member of the governing board of Elgin Community College nor the spouse of any member of such governing Board is directly or indirectly interested in any contract between Consultant/Contractor and Elgin Community College, and it is not a firm, partnership, association or corporation, the owner or principal owners or major officers or primary employees of which are officers or employees of Elgin Community College or members of the immediate family of an officer or employee of Elgin Community College.

8. Prevailing Wages: Consultant/Contractor agrees to comply with the provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/1, et. seq. with regard to wages paid by it and by contractors and subcontractors used by it under this Agreement.

9. Governing Law: This Agreement shall be governed and construed in accordance with the Constitution and laws of the State of Illinois. It is the intent of the parties that arbitration and mediation shall not be a remedy or prerequisite required by this contract, and any reference to "arbitration" or "mediation" contained in any contract or agreement resulting from the execution of this Agreement is void and of no legal effect. The parties waive any right to demand a trial by Jury and agree that litigation arising from this Contract or Agreement shall be heard only by a Judge sitting without a jury in Kane County, Illinois regardless of the place of business or residence of Consultant or Contractor. The parties agree that this venue is convenient for all of them. In the event of any litigation Owner shall have the right to recover its reasonable attorney's fees and costs.

10. OSHA: All equipment and material shall be in accordance with OSHA Rules and Regulations in effect at the time of order. Consultant/Contractor shall forward or have its sub-contractors, if applicable, furnish to Owner a material safety data sheet (MSDS) on all products used or incorporated into Owner's property on this Agreement.

11. FOIA Requests: Contractor/Consultant agrees to comply in a timely manner with all requests by Owner for information required to be produced pursuant to the Illinois Freedom of Information Act ("FOIA") and shall require all of its sub-contractors to comply with the provisions of FOIA and production of documents as required thereunder.. If the Contractor or its sub-contractors do not timely comply and the Owner is assessed any penalty or attorneys fees or court costs by a court of competent jurisdiction, the Contractor agrees to indemnify Owner including Owner's attorneys' fees and court costs as awarded and as incurred by Owner.

12. Bonds: If required by Buyer, the Seller, before commencing work, shall furnish a Performance Bond and a Labor and Material Bond. The Performance Bond shall be in an amount equal to 100% of the full amount of the Combined Contract Sums as security for the faithful performance of the obligation of the Contract documents, and the Labor and Material Payment Bond shall be in an amount equal to 100% of the full amount of the Combined Contract Sums as security for the payment of all persons performing labor and furnishing materials in connection with the Contract Documents. Such bonds shall be on standard AIA Documents, issued by the American Institute of Architects, shall be issued by a surety company satisfactory to the Buyer, and shall name Buyer as a primary co-obligee.

13. Bid Security: If required by Buyer, the Seller shall furnish a Bid security in the amount of 10%.

14. No Liability Limitations: Elgin Community College will not accept any limitation on liability clauses or clauses that limit damages with the exception of limiting punitive damages. Any reference in any contract that Elgin Community College has to limitation of liability or damages (with the exception of punitive damages) is expressly deleted.



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15. Nonwaiver: Nothing herein shall be construed as an express or implied waiver, relinquishment or release of any common law or statutory privileges and/or immunities of Elgin Community College or any of its Trustees, officers, employees, attorneys, volunteers or agents, including without limitation those privileges and immunities existing under the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101, et. seq.

Revision Date: 04/04/16