

Region 12 Schools

Form of Contract DESIGN BUILD CONTRACT

DATE OF CONTRACT: _____

OWNER: Regional School District No. 12 (“District”)
11A School Street
Washington, CT 06793

DISTRICT’S
REPRESENTATIVE: For Project Oversight and Questions: Donald O’Leary, Director of Facilities
For Contract Oversight and Payments: Nicole Grant, Director of Finance & Operations
Regional School District No. 12
11A School Street
Washington, CT 06793
Tel. No. 860-868-6100
Email: olearyd@region-12.org or grantn@region-12.org

CONTRACTOR: _____

CONTRACTOR’S
REPRESENTATIVE: _____

Tel. No. _____
Email: _____

PROJECT: [Improvement(s)] at _____ (“Project”)

LOCATION(S):

(the “Project Site”).

I. The Project and the Work

The Project shall consist of all necessary permits, labor, material and required equipment to: [insert improvement(s)]. The Project is more particularly described on Schedule A hereto. The design for the Project will meet and comply with the specifications set forth in Schedule A.

The term “Work” means the design, construction, labor, materials and services required by, reasonably inferable from and as necessary to produce the results intended by the Contract Documents (as defined below), and includes all other labor, materials, equipment and services provided, or to be provided, by the Contractor to fulfill the Contractor’s obligations and to complete the Project.

II. Contract Documents

The Contract Documents shall include this Contract and all of the documents enumerated below:

- A. Scope of Work: See Schedule A hereto.
- B. Insurance Requirements: See Schedule B hereto.
- C. Modifications: Written orders for changes in the Work or modifications to this Contract issued after the execution of this Contract ("**Modifications**").
- D. Proposal Documents:
Request for Proposals issued by the District on _____.
Addendum #(s): _____.
Proposal for the Project submitted by Contractor dated _____ and attached hereto as Schedule C.

The terms and conditions of the Contract Documents shall include all of the terms and conditions agreed to by the Contractor and the District regarding the design and construction of the Project on the Project Site. If the Contractor discovers any inconsistency within or between parts of the Contract Documents, the Contractor shall give notice to the District of such inconsistency and shall, unless otherwise ordered in writing by the District, provide work or materials of the better quality, greater quantity, or that otherwise comply with applicable standards, codes and ordinances.

III. Standard of Care and Safety

The Contractor shall be responsible for the performance of the Work and the completion of the Project (i) in accordance with the Contract Documents and all applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities having jurisdiction; (ii) in a good and workmanlike manner; and (iii) consistent with the prevailing applicable professional or industry standards and sound practices (the standards of this Article III shall be referred to herein as the "**Contractor's Standard of Care**"). The Contractor shall exercise, and shall ensure that its consultants and Subcontractors shall exercise, the Contractor's Standard of Care in performing all aspects of the Work. The Contractor shall perform the Work as an independent contractor.

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law (including without limitation the requirements of the Occupational Safety and Health Act of 1970) in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury or loss to persons performing the Work, the Work itself (including materials and equipment to be incorporated therein), and other property at or adjacent to the Project site. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor or any other Responsible Party (as hereafter defined).

If school is in session when work is in progress, the Contractor shall comply with requirements set forth in Schedule D (Prohibited Activities and Background Check Requirements).

IV. Nondiscrimination

The Contractor shall not discriminate, and shall prohibit its subcontractors from discriminating, against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin or age or otherwise in any manner prohibited by applicable local or federal law. The Contractor shall take, and shall require its subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, sexual orientation, national origin or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including without limitation apprenticeship. The Contractor shall post, and shall require its subcontractors to post, in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination. The Contractor shall provide to the Connecticut Human Rights and Opportunities Commission with such information requested by the Commission concerning the employment practices and procedures of the Contractor.

V. Separate Contractors

The term "Separate Contractor(s)" shall mean other contractors retained by the District under separate agreements. The District reserves the right to perform construction or operations related to the Project with the District's own forces and with Separate Contractors. The District will coordinate the activities of its own forces and Separate Contractors with the Work of the Contractor and the Contractor shall cooperate with them.

VI. Site Security/Background Checks

The Contractor shall immediately remove any individual performing Work on the Project from the Project Site if it becomes known to the Contractor that such person may be a danger to the health or safety of the District, its students, or its community, or at the request of the District, in its sole discretion. The Contractor shall include, and shall require its Subcontractors to include, this Article VI in all subcontracts for the Project.

VII. Contract Time

The Work shall be commenced and completed in accordance with this Article VII.

A. Commencement Date: (select one):

_____ The Work shall commence upon the execution of this Contract.

_____ The Work shall commence on _____, 20__.

_____ The Work shall commence upon the date set forth in a notice to proceed issued by the District.

B. Completion of the Work: The Contractor shall achieve "Substantial Completion" of the Work in accordance with the Contract Documents no later than the time reflected below (the "Contract Time") (select one):

_____ within sixty (60) days after the date required for commencement of the Work.

_____ [insert date per RFP]

Promptly after the execution of this Contract, the Contractor shall prepare and submit to the District a schedule for the completion of the Project in compliance with the requirements set forth on Schedule A.

C. Substantial Completion of the Work: **Substantial Completion of the Work shall be deemed achieved upon: (i) the District's determination that the Work is complete in accordance with the Contract Documents (with the exception of minor "Punchlist Items") such that the District can take occupancy of and use the Project for its intended purpose, and (ii) the District's receipt of a final and unconditional Certificate of Occupancy or other approval from the governmental authorities having jurisdiction over the Project that the Work has been completed in accordance with all applicable legal requirements. "Punchlist Items" shall mean and include incomplete, noncompliant or defective items of Work, the completion or correction of which can be accomplished within ten (10) days. For the purposes of this Contract, the term "day" shall mean and refer to calendar day.**

Upon the Contractor's determination that Substantial Completion of the Work has been achieved, the Contractor shall notify the District and the District shall inspect the Work along with the Contractor. The District and the Contractor will prepare, date and sign a list (the "Punchlist") that identifies all Punchlist Items. The Contractor shall complete/correct all Punchlist Items on the Punchlist to the satisfaction of the District within ten (10) days after the inspection.

D. Final Completion of the Work: Final Completion of the Work shall be deemed achieved upon the District's determination that the Work is finally complete in accordance with the Contract Documents including all Punchlist Items.

E. Excusable Delay: If the Contractor is delayed at any time in the progress of the Work by changes ordered in the Work by the District which are not necessitated due to the fault of the Contractor, a subcontractor, sub-

subcontractor, supplier, or any person or entity directly or indirectly employed by any of them or for whose acts any of them may be liable or responsible (individually, a "Responsible Party" and collectively, "Responsible Parties"), or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

A claim by the Contractor for an extension of the Contract Time shall be made within five (5) days after the Contractor first recognizes the condition giving rise to the claim.

F. Liquidated Damages: It is acknowledged that the Contractor's failure to achieve Substantial Completion of the Work within the Contract Time provided by the Contract Documents will cause the District to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the District of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the District as against the Contractor in the event of delayed completion and without the District being required to present any evidence of the amount or character of actual damages sustained by reason thereof. Therefore, Contractor shall be liable to the District for payment of liquidated damages in the amount of One Thousand Dollars (\$1,000.00) for each day that Substantial Completion is delayed beyond the Contract Time, as adjusted for time extensions as may have been granted pursuant to the terms and conditions of the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay them to the District without limiting the District's right to terminate this Agreement as provided elsewhere herein.

VIII. Contract Sum

The District shall pay the Contractor the Contract Sum in accordance with this Contract for the Contractor's performance of the Work in compliance with the Contract Documents. The Contract Sum shall be the stipulated amount of _____ and 00/100 Dollars (\$_____.00.00), subject to additions and deductions as provided in the Contract.

The District is a tax-exempt entity. The Contractor shall be familiar with the current regulations of the Connecticut Department of Revenue Services and the sales or use tax on materials or supplies exempted by such regulations shall not be included as part of the Contract Sum.

IX. Alternates

The following alternates have been accepted by the District and are included in the Contract Sum.

Add/Deduct Alternate No. 1 (\$)

Add/Deduct Alternate No. 2 (\$)

X. Unit Prices

The following unit prices shall be applicable as regards to changes in the Work:

Item _____ Unit _____ Price per Unit _____

Item _____ Unit _____ Price per Unit _____

(attach additional sheets as necessary)

The foregoing unit prices (the "Unit Prices") shall be valid for the life of the Project. Unit Prices are inclusive of all costs associated with the complete performance and installation of the portion of the Work subject to the applicable Unit Price including without limitation labor, materials, engineering, transportation, taxes and insurance as well as overhead and profit. Unit Prices shall be applicable for both additions and deductions from the Work.

XI. Payments and Applications for Payment

A. Schedule of Values

Prior to commencing the Work, the Contractor shall submit a schedule of values to the District allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, as is required by the District. Upon the District's approval of the Contractor's Schedule of Values, it shall be used as a basis for reviewing the Contractor's Applications for Payment.

B. Applications for Payment and Progress Payments

The Contractor shall prepare and submit an application for payment to the District by the 15th day of each month in the form approved by the District ("**Application for Payment**") reflecting the percentage of completion of the Work consistent with the schedule of values approved by the District. Each Application for Payment shall be submitted along with all required Supporting Documents (as defined in Section XI.E.). Unless otherwise required by the District, Applications for Payment shall be on AIA documents G702 and G703.

The District will withhold retainage equal to five percent (5%) of each progress payment made hereunder. Retainage will be released along with final payment by the District under this Contract.

Unless otherwise provided in the Contract Documents, Applications for Payment may include materials and equipment delivered and suitably stored at the Project Site for subsequent incorporation in the Work.

Pursuant to the District's review of each Application for Payment, the District will approve the amount determined by the District to be due to the Contractor under such Application for Payment (the "**Approved Amount**"). To the extent that the District rejects any portion of an Application for Payment, the District shall provide the Contractor with a written explanation for such rejection.

The District will make payment to the Contractor of the Approved Amount within Forty-Five (45) days after the District's receipt of the subject Application for Payment and all required Supporting Documents.

C. Payments to Subcontractors

The Contractor shall pay each subcontractor, no later than seven (7) days after receipt of payment from the District, the amount to which the subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the subcontractor's portion of the Work. The Contractor shall include in all of its subcontract agreements with its subcontractors a requirement that the subcontractors pay any amounts due any sub-subcontractors or suppliers no later than seven (7) days after the subcontractor receives a payment from the Contractor which encompasses labor performed or materials furnished by such sub-subcontractor or supplier. Retainage withheld by the Contractor shall not exceed five percent (5%).

D. Final Payment

Final payment, constituting the entire unpaid balance of the Contract Sum (including retainage), shall be made by the District to the Contractor when (i) the District agrees that final completion of the entirety of the Work (including without limitation, all Punchlist Items) has been achieved in accordance with the Contract Documents except for the Contractor's responsibility to correct Work as provided in Article XXI of this Contract, and to satisfy other requirements, which extend beyond final payment; and (ii) all equipment manuals, documentation, guarantees and warranties applicable to the Work have been delivered to the District. The foregoing agreement by the District that final completion of the Work has been achieved shall not constitute acceptance by the District of any part of the Work that does not comply with the Contract Documents.

At the District's request, the Contractor shall also furnish to the District prior to final payment such additional information and documentation as required by the District to substantiate Contractor's entitlement to payment and proper performance of the Work.

The District will make final payment under this Contract, including unpaid retainage, within forty-five (45) days after the District's receipt of the final Application for Payment and all required Supporting Documents for the Project.

Acceptance of final payment by the Contractor, a subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

E. Supporting Documents

The Supporting Documents shall include all data, information, and documentation substantiating the Contractor's right to payment as required under the Contract Documents and as may otherwise be reasonably requested by the District (the "Supporting Documents"). Supporting Documents shall include certified payrolls in accordance with the requirements of applicable law, and may also include, without limitation, payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, releases and waivers of liens from subcontractors and suppliers, and other evidence required by the District to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor.

Commencing with the first Application for Payment as to the Contractor, and commencing with the second Application for Payment as to subcontractors, and continuing in each case with each Application for Payment submitted thereafter, a properly executed release of claims and waiver of mechanics liens from the Contractor and from each subcontractor and supplier whose Work was included on the previous Application for Payment for which payment by the District was made to the Contractor. The Contractor expressly undertakes to indemnify, defend and hold the District harmless, at the Contractor's sole cost and expense, against any actions, lawsuits, or proceedings brought against the District as a result of claims made against the District or liens filed against the Work, the Project Site and/or any improvements thereon (referred to collectively as "**Claims and Liens**"), by the Contractor, any other Responsible Party or anyone claiming by, through or under any of them. The Contractor's obligations under this paragraph are conditioned upon the District having fulfilled its payment obligations to the Contractor with respect to the Work that is the subject of the Lien or claim and for which indemnification is sought.

XII. Retainage

The District shall withhold from each monthly progress payment retainage in the amount of five percent (5.0%) of such monthly payment.

XIII. Late Payments/Interest

Payments not made by the District to the Contractor when due shall only incur interest to the extent required by Connecticut law and if so required at the minimum required rate. Any claim by the Contractor for nonpayment shall be submitted in writing and delivered to the District by certified or registered mail.

XIV. Permits and Surveys

The District shall obtain and furnish all necessary surveys describing the physical characteristics of the Property, the location of all utilities, and the location of all easements on the Property that are necessary for the Contractor to perform its obligations under the Contract Documents. If additional easements are necessary to complete the construction of the Project, the District shall obtain those easements. The Contractor shall be responsible for obtaining all permits, licenses, building inspections and approvals required by law for the performance and completion of the Project.

XV. Change Orders

The Contractor shall not make any changes in the Work required under this Contract except as ordered by the District in writing (a "Construction Change Directive") or pursuant to a written agreement signed by both the Contractor and the District that states with specificity (i) the changes in the Work; (ii) any associated adjustment in the Contract Sum; and (iii) as applicable, the number of days that the Contract Time is extended to accommodate the changes in the Work (a "Change Order"). If the District issues a Construction Change Directive and the Contractor does not agree to the terms set forth therein, or, if the parties cannot agree on the terms of a Change Order, the Contractor shall in either case perform the changes in the Work as requested by the District and shall have the right to submit a claim in accordance with Article XXIII of this Contract. Contractor's markup for overhead and profit for any change in the Work shall not exceed 15% of the actual net increase in the direct costs of the Contractor arising from the change in the Work. To the extent Unit Prices are applicable to any change in the Work, no markup will be permitted over and above the Unit Prices.

XVI. Subcontractors

The Contractor shall enter into an appropriate written subcontract agreement with each subcontractor performing any component of the Work. By such written subcontract agreement, the Contractor shall require each subcontractor, to the extent of the Work to be performed by the subcontractor, to be bound to the Contractor by

terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the District. Each subcontract agreement shall preserve and protect the rights of the District under the Contract Documents with respect to the Work to be performed by the subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the District. The Contractor shall be fully responsible for the coordination and timely completion of the Work in accordance with the Contract Documents, whether performed by or for the Contractor or subcontractors of any tier. The Contractor shall also have sole responsibility for the means, methods, techniques, sequences and procedures for all portions of the Work.

Subject to the rights of the surety and provided the District accepts such assignment, all subcontracts are assigned to the District effective upon the termination of the Contract by the District for cause under Section XXII.B. If the District accepts such assignment, the District assumes the Contractor's rights and obligations under such subcontracts to the extent such rights and obligations arise subsequent to such acceptance by the District.

XVII. Prevailing Wage and OSHA Training

To the extent required under Section 31-53 of the Connecticut General Statutes, the wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of Section 31-53 of the Connecticut General Statutes, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

To the extent required under Section 31-53b of the Connecticut General Statutes, the Contractor shall furnish proof, and shall cause its Subcontractors to furnish proof, with the weekly certified payroll form for the first week each employee begins work on the Project that any person performing the work of a mechanic, laborer or worker pursuant to the classifications of labor under section 31-53 on the Project, pursuant to the Contract, has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, has completed a new miner training program approved by the Federal Mine Safety and Health Administration in accordance with 30 CFR 46 or, in the case of telecommunications employees, has completed at least ten hours of training in accordance with 29 CFR 1910.268, and that any plumber or electrician subject to the continuing education requirements of section 20-334d, who has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration five or more years prior to the date such electrician or plumber begins work on the Project, has completed a supplemental refresher training course of at least four hours in duration in construction safety and health taught by a federal Occupational Safety and Health Administration authorized trainer.

The Contractor shall not be entitled to any increase in the Contract Sum in connection with any increase (annual or otherwise) by the State of Connecticut in the wage rates applicable to the Work under this Contract.

XVIII. Insurance, Bonds and Indemnity

A. Insurance

The Contractor shall maintain insurance as required under Schedule B attached hereto and made a part hereof.

B. Bonds

If the Contract Sum exceeds **One Hundred Thousand and 00/100 Dollars (\$100,000.00)**, the Contractor shall furnish to the District (i) a labor and material payment bond equal to one hundred percent (100%) of the Contract Sum and otherwise in accordance with the requirements of Connecticut law; and (ii) a bond covering the Contractor's faithful performance of all of its obligations under the Contract Documents, in each case such bonds will be issued by a surety satisfactory to the District and shall reflect the District as the obligee. The Contractor shall deliver the executed, approved bonds to the District on or before the date of execution of this Contract unless otherwise required by the District.

C. Indemnity

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the District and its agents, officials, board members, committee members, representatives and employees (each, an "Indemnatee") from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor or any other Responsible Party. The foregoing indemnity shall include, without limitation, claims, damages, losses and expenses associated with the failure of the Contractor or any other Responsible Party to properly handle, remove or dispose of toxic materials, chemicals, hazardous materials or hazardous substances. The foregoing indemnity obligations shall not include liability for damage arising out of bodily injury to person or damage to property caused by or resulting from the negligence of the Indemnatee seeking indemnity, or such Indemnatee's agents or employees.

XIX. Access to the Property Site

The District shall have access to the Project Site and the right to inspect the Work at any time with or without the presence of the Contractor.

XX. Warranties

The Contractor warrants to the District that: (1) materials and equipment furnished by the Contractor will be new and of good and workmanlike quality unless otherwise required or permitted by the Contract Documents; (2) the Work performed under the Contract Documents will be free from defects; and (3) the Work performed under the Contract Documents will conform to the requirements of the Contract Documents. In addition to the foregoing warranty, Contractor shall provide the warranties set forth in Schedule A. The warranties under this Article XX and such warranties as may be set forth on Schedule A shall be in addition to, and not a substitute for, any other rights of the District under the Contract Documents or existing in law or equity.

XXI. Correction of Work

In addition to all other obligations of the Contractor under the Contract Documents, the Contractor shall, upon request of the District, prior to Substantial Completion of the Work and for a period of 2 years after Substantial Completion of the Work is achieved, correct Work not conforming to the requirements of the Contract Documents.

XXII. District's Right to Stop the Work, Carry Out the Work and Termination

District's Right to Stop the Work and Carry Out the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the District may direct the Contractor in writing to stop the Work until the correction is made. This right of the District to stop the Work shall not give rise to a duty on the part of the District to exercise this right for the benefit of the Contractor or any other person or entity.

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a five (5) day period after receipt of written notice from the District to commence and continue correction of such default or neglect and deficiencies in the Work arising therefrom with diligence and promptness, the District may, without prejudice to other remedies, address such default or neglect and correct such deficiencies. In such case, the Contract Sum shall be adjusted to deduct the associated costs incurred by the District from payments due the Contractor. Any dispute regarding defective work shall be resolved as provided in Article XXIII of this Contract.

B. Termination by the District

The District may terminate this Contract if the Contractor:

- (a) Refuses or fails to supply enough properly skilled workers or proper materials;
- (b) Fails to make payment to subcontractors for materials or labor in accordance with the respective agreement between the Contractor and the subcontractor and as required by this Contract;
- (c) Disregards laws, ordinances, rules, or regulation or orders of a public authority having jurisdiction; or
- (d) Otherwise materially breaches the terms of this Contract.

If one of the above reasons for termination exists, the District may, upon seven (7) days prior written notice to the Contractor, terminate this Contract and may thereafter take possession of the Project and all materials thereon and finish the Work of the Contractor on the Project by whatever method the District deems expedient. If the cost to the District of completing the Work of the Contractor exceeds the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the District. If the unpaid balance of the Contract Sum exceeds the cost to the District of completing such Work, the excess shall be retained by the District. The Contractor's obligation for payment under this subsection B shall survive the termination of the Contract.

The District may also, at any time, and without prejudice and without waiving any other rights or remedies the District may have, terminate this Contract for convenience upon seven (7) days' notice to the Contractor, in which case, the Contractor shall be entitled to receive payment for all Work executed in accordance with the Contract Documents.

C. Termination by the Contractor

If the District repeatedly fails to make payment of amounts due and payable to the Contractor under this Contract for a period of thirty (30) days beyond the due date for such payment, or if the Work is stopped by public authority for ninety (90) consecutive days or by deliberate act of the District not due to the fault of the Contractor or any Responsible Party for sixty (60) consecutive days, the Contractor may, upon seven (7) additional days' written notice to the District, terminate the Contract and recover from the District payment for Work executed in accordance with the Contract Documents and direct costs incurred by reason of such termination. The District's obligation for payment under this subsection C shall survive termination of the Contract. The Contractor's notice of termination must state with specificity the means by which the District may cure its nonperformance, and the Contractor shall not terminate this Contract if, within the applicable seven (7) day notice period, the District substantially takes such curative measures.

XXIII. Disputes

Claims, disputes and other matters in question arising out of or relating to this Contract, shall be submitted to mediation to be conducted in accordance with the Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA Rules") then in effect as a condition precedent to binding dispute resolution. Pending final resolution of a claim, the Contractor shall proceed diligently with the performance of its obligations under the Contract Documents and the District shall continue to make payments in accordance with the Contract Documents.

For any claim, subject to, but not resolved by, mediation, the method of binding dispute resolution shall be:

 X Litigation in a court of competent jurisdiction.

 Arbitration which, unless the parties mutually agree otherwise, shall be administered in accordance with the AAA Rules. Demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

XXIV. Notice

Where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the receiving party's designated representative identified on page 1 of this Contract. Such notice shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic mail except in the case of a notice of a claim or notice of termination which shall be delivered by certified or registered mail, or by courier providing proof of delivery.

XXV. Amendments and Modifications

This Contract may only be amended or modified by a written amendment or Change Order signed by both the District and the Contractor.

XXVI. The Governing Law, Assignment and Miscellaneous Provisions

This Contract will be construed, interpreted, and applied according to the laws of the State of Connecticut. This Contract shall not be assigned without the prior written consent of the District and the Contractor. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns. The Contract Documents contain the entire agreement between the parties hereto with respect to the subject matter contemplated herein.

XXVII. Effective Date and Signature

This Contract shall become effective on the date it is signed by both parties.

The undersigned, have read, understood, and agree to be bound by each of the provisions of this Contract and hereby acknowledge receipt of a copy of this Contract.

Signed and agreed by:

DISTRICT:

CONTRACTOR:

REGIONAL SCHOOL DISTRICT NO. 12

By: _____

By: _____

Title: Superintendent

Name: _____

Date: _____

Title: _____

Date: _____

Schedule A - Scope of Work

Schedule B - Insurance Requirements

Schedule C - Contractor's Proposal

Schedule D - Background Check Requirements

SCHEDULE A
REGIONAL SCHOOL DISTRICT NO. 12
SCOPE OF WORK

SCHEDULE B

INSURANCE REQUIREMENTS

Contractor shall purchase from and maintain in a company or companies with an A.M. Best rating of A- (VII) or better, the insurance described below:

1. Workers' Compensation. Contractor shall provide workers' compensation insurance required by law with employer's liability limits for at least the amounts of liability for bodily injury by accident of **\$1,000,000** each accident and bodily injury by disease of **\$1,000,000**, including a waiver of subrogation in favor of the BOE.

2. Commercial General Liability Insurance. Contractor shall provide commercial general liability insurance policy including products and completed operations. Limits shall be at least: Bodily injury & property damage with an occurrence limit of **\$1,000,000**; Personal & advertising injury limit of **\$1,000,000** per occurrence; General aggregate limit of **\$2,000,000** (other than products and completed operations); Products and completed operations aggregate limit of **\$2,000,000** per project. Coverage will continue for three years after the substantial completion of the work.

- The policy shall name the BOE and the Regional School District No. 12 as an additional insured and include ISO Form CG 20 10 04 13 and CG 20 37 04 13.
- The coverage will be provided on an occurrence basis and will be primary and shall not contribute in any way to any insurance or self-insured retention carried by the BOE.
- The policy shall contain a waiver of subrogation in favor of the BOE.
- The coverage shall contain a broad form contractual liability endorsement or wording within the policy form to comply with the hold harmless and indemnity provision of the Contract.
- Deductible and self-insured retentions shall be declared and are subject to the approval of the BOE.

3. Commercial Automobile Insurance. Contractor shall maintain commercial automobile insurance for any owned autos (Symbol 1 or equivalent) in the amount of at least **\$1,000,000** each accident covering bodily injury and property damage on a combined single limit basis. Such coverage shall also include hired and non-owned automobile coverage. Policy shall name the BOE as an additional insured.

4. Contractor's Pollution Liability Insurance. Contractor shall maintain commercial pollution liability insurance in the amount of at least **\$1,000,000** each claim or each occurrence. Policy shall name BOE as an additional insured.

5. Umbrella Liability Insurance. Contractor shall provide umbrella or excess liability policy in excess (following form and without restriction or limitation) of those limits and coverages for commercial general liability and automobile insurance described above. The policy shall

contain limits of liability in the amount of **\$5,000,000** each occurrence and **\$5,000,000** in the aggregate.

Unless otherwise provided above, the foregoing insurance shall be in effect no later than the date of execution of the Contract and shall continue in effect until three years after substantial completion of the Project. The insurer(s) and/or their authorized agents shall provide the BOE certificates of insurance prior to execution of the Contract.

SCHEDULE C

Proposal of _____

SCHEDULE D

PROHIBITED ACTIVITIES AND BACKGROUND CHECK REQUIREMENTS

Prohibited Activities and Background Check Requirements

Contractor shall comply with all applicable law including, without limitation, Connecticut General Statutes Section 10-222c, as applicable, and with the requirements set forth in this Schedule.

Interaction with School Community.

The scope of the Work does not, and will not under any circumstances, require any contact with students or any other minors physically present in the facilities of, or the grounds surrounding, the school where the Project is located (the "School Grounds"). None of the Contractor, Subcontractors, Sub-subcontractor, or any of their respective employees, agents or representatives shall, under any circumstances, converse or interact in any manner, with students or any minors physically present on the School Grounds. None of the Contractor, Subcontractors, Sub-subcontractor, or any of their respective employees, agents or representatives shall interact with any adult members of the school community (including, without limitation, employees, officials, or visitors, including parents of students enrolled in the District's schools) with respect to the Project with the exception of the District's Designated Representative as provided in the Contract. All of the Contractor, Subcontractors, Sub-subcontractors, and their respective employees, agents or representatives shall, while on the School Grounds, refrain from use of vulgar language, obscene gestures, or any other behavior inappropriate for a school environment and/or property on which minor children are or may be present.

Background and Employment History Checks.

To the extent permitted by law, the Contractor shall perform (or cause to be performed) as regards all of its employees, agents, and representatives (each, a "Contractor Employee"), and all of the employees, agents, and representatives of Subcontractors and Sub-subcontractors (each, a "Subcontractor Employee"), who will be physically present on the School Grounds in connection with the Project, appropriate background checks on all such Contractor Employees and Subcontractor Employees. Such background checks shall include, at a minimum and without limitation, a search of both the Connecticut Department of Emergency Services and Public Protection's sexual offender registry and the Abuse and Neglect Registry of the Connecticut Department of Children and Families. For those Contractor Employees and Subcontractor Employees who are to be physically present on the School Grounds in connection with the Project and whose current or most recent employment occurred out of state, the out-of-state equivalent of the Connecticut Department of Emergency Services and Public Protection's sexual offender registry and the Abuse and Neglect Registry of the Connecticut Department of Children and Families registry shall be checked. The Contractor shall complete (or cause to be completed) background checks as to each Contractor Employee and Subcontractor Employee prior to such Contractor Employee or Subcontractor Employee being permitted to be physically present on the School Grounds. If the Contractor receives any information indicating that any Contractor Employee or Subcontractor Employee may be registered as a sexual offender, may have a record of abuse or neglect, or is, in any other manner, unfit to perform services which could involve direct contact with minor children, or which may involve working in or near property on which minor children may be present, the Contractor shall immediately forward such information to the District, to the extent permitted by law, and shall immediately remove the individual from the School Grounds and from participation in the Project.

Contractor represents and warrants that, in its best professional judgment, each Contractor Employee and each Subcontractor Employee maintains the appropriate qualifications and is fit to perform services which

could involve direct contact with minor children, or which may involve working in or near property on which minor children may be present. The Contractor shall immediately remove any Contractor Employee or Subcontractor Employee from the School Grounds and from the Project if requested to do so by the District (which request shall be made in the District's sole discretion) or if it becomes known to the Contractor that such Contractor Employee or Subcontractor Employee may be a danger to the health, safety or well-being of the school community, its students, or any minor children. A request by the District to remove any Contractor Employee or Subcontractor Employee from the School Grounds and from the Project shall not constitute a breach of the Contract.

The Contractor shall include and shall require all Subcontractors to include this Schedule in all subcontracts for the Project.

By execution of the Contract, the Contractor represents and warrants that it has fully complied with the requirements of this Schedule. To the extent permitted by law, the Contractor agrees that upon the District's request, Contractor shall promptly provide the District with any documentation related to such compliance, including, without limitation, the results of the background and employment history checks required by this Schedule. Failure by the Contractor to comply with its obligations under this Schedule shall constitute a material breach of the Contract.