

## CONTRACT

This Contract is made and entered into this 5<sup>th</sup> day of December, 2022 by and between the Village of Arlington Heights, a municipal corporation, ("Village") and Michael's Signs ("Contractor").

Whereas the Village wants to implement gateway signage at various locations in the Uptown area near Rand Road/Palatine Road and Arlington Heights Road in Arlington Heights;

Whereas, the Contractor is willing to construct and implement the gateway signage in accordance with the terms of this Contract,

Now therefore, in consideration of the mutual benefits that will result to the parties in carrying out the terms of this Contract, it is agreed as follows:

### **1. Statement of Services**

- a.** The Contractor will provide all permits, labor, tools, equipment, insurance, transportation, facilities and services necessary to provide complete construction for the Gateway Signage program including concrete footings, and all work as described in the Contract drawings, Bid Specifications and Contractor's response to those specifications.
- b.** The Contractor will get, from all required agencies, the necessary permits to perform the work. The Contractor will get building permits from the Village. The Village will waive the fees for those permits. The Contractor will obtain if necessary IDOT, and County permits.
- c.** The Contractor will keep, on the work site, a copy of the drawings, Project Manual, and specifications and all construction will conform to the contract drawings and specifications as may be revised from time to time by approved change orders.
- d.** The Contractor will conduct a preconstruction meeting and progress meetings with representatives from the Village as necessary.
- e.** The Contractor agrees that if he or she causes a redesign of the project, the Contractor will pay all costs associated with the redesign.
- f.** The Contractor will keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Project, the Contractor will remove from and about the project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials. If the Contractor fails to clean up as provided in the Contract, the Village may do so and the cost will be charged to the Contractor.

## **2. Warranty of Construction.**

**a.** The Contractor warrants that work performed under this Contract conforms to the Contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any Subcontractor or supplier at any tier. This warranty will continue for a period of one year from the date of final acceptance of the work by the Village and will include, but not be limited to, any and all defects present or not at the time of final acceptance.

**b.** The Contractor will remedy, at the Contractor's expense, any failure to conform or any defect. In addition, the Contractor will remedy, at the Contractor's expense, any damage to Village owned or controlled real or personal property when the damage is the result of the Contractor's failure to conform to Contract requirements, or any defects of equipment, material, workmanship or design furnished by the Contractor.

**c.** The Contractor will restore or replace, as determined by the Village's representative, any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for one year from the date of repair or replacement.

**d.** The Village will notify the Contractor in writing within a reasonable time after the discovery of any failure, defect or damage. If the Contractor fails to remedy any failure, defect, or damage within a mutually agreed upon time period after receipt of notice, the Village will have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor's expense.

**e.** Notwithstanding any provisions herein to the contrary, the establishment of time periods above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the Contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligation other than specifically to correct the work.

**f.** This warranty will not limit the Village's rights under this Contract with respect to latent defects, gross mistakes or fraud.

## **3. Compensation.**

**a.** As consideration for the work under this Contract, the Contractor will be paid \$154,979.00 which includes the base bid, alternate #1 and alternate #2. This Contract is entered into as a per unit basis except as noted on the bid form. All units will be paid for on an "installed and accepted" basis. The Village reserves the right to increase, decrease or delete any quantities or items of work through change orders.

**b.** Estimates shall be made during the progress of the work on or about the first of each month and payment shall be made by the Village upon the estimate and certification by the Contractor on or before 30 days from when certified estimates are submitted for the

amount and value of work done and material furnished. Ten percent will be retained from the cost of the work until such time as all work provided for in this Contract is completed and accepted. Retention will be reduced to 5% at the completion and acceptance of 80% of the work.

1. Invoices for progress payments must include supporting documentation such as packing slips or material invoices.

2. The Contractor will provide a spreadsheet format pay request that uses bid form line items and that indicates amounts requested this period, previously requested total amounts and percent complete. AIA G703 or mutually agreed upon variation is acceptable.

3. "Chicago Title & Trust type" waivers of lien (pink and blue forms) will be included for the previous monthly draw. The Village may exercise its right for photocopies of canceled checks from the Contractor to his or her subcontractors, manufacturers, suppliers, etc., to accompany each pay request.

4. Payment terms will be net 30 days after receipt of a complete and correct invoice by the Village or completion of work. Contractor will submit its invoices to:

Village of Arlington Heights  
Department of Planning and Community Development  
33 S. Arlington Heights Road  
Arlington Heights, IL 60005

**4. Changes in the Scope of Work.**

a. Changes in the Project may be accomplished only after execution of the Contract by Change Order as required by law. The Contractor will submit the Change Order request in writing, and will include the following:

1. A clear description of the change in the work;
2. The proposed amount of the adjustment to the Contract Sum; and
3. Explanation for the change and its impact on the Contract schedule.

b. All change orders must be approved by the Village prior to execution.

**5. Term of Agreement.**

The Contractor will commence work on this Project upon receipt of "Notice to Proceed" from the Village. The Contractor shall complete the signage construction/installation

work by July 15, 2023 after all the necessary permits are received. If the Contractor is delayed by weather or other circumstances beyond the Contractor's control, it will be the responsibility of the Contractor to provide written notice to the Village's representative within one week of the delay to receive an extension of time. If the delay is greater than 30 days, a written determination of the circumstances will be attached to the Change Order as required by law.

## **6. Construction Schedule.**

The Contractor will prepare a construction schedule to be submitted within 10 days after the Notice to Proceed.

- a.** Indicate each significant construction activity clearly.
- b.** Indicate estimated completion percentage in 10% increments.
- c.** Coordinate each element on the schedule with other construction activities. Show each activity in proper sequence and indicate graphically the sequences necessary for completion of related portions of the Work.
- d.** Indicate completion in advance of the date established for Substantial Completion.

## **7. Submittals**

- a.** Coordinate preparation and processing of submittals with performance of construction activities. Transmit each submittal sufficiently in advance of performance of related construction activities to avoid delay. The Village reserves the right to withhold action on a submittal requiring coordination with other submittals until all related submittals are received. To avoid the need to delay installation as a result of the time required to process submittals, allow two weeks for submittal review, including two weeks time for resubmittals.
- b.** Prior to construction of the signage, shop drawings must be submitted and color samples for approval as well as stamped structural from an Illinois registered structural engineer.
- c.** No extension of time for the Contract will be authorized because of failure to transmit submittals to the Village sufficiently in advance of the Work to permit processing.
- d.** Place a permanent label or title block on each submittal for identification. Indicate:
  - 1.** Project name.
  - 2.** Date.
  - 3.** Name and address of the Contractor/Subcontractor.
  - 4.** Name and address of the supplier.
  - 5.** Name of the manufacturer.
  - 6.** Number and title of appropriate Specification Section.
  - 7.** Drawing number and detail references, as appropriate.

e. The Contractor will provide a schedule indicating the anticipated timing of submittal submissions within 10 days of the date of the notice to proceed.

#### **8. Liquidated Damages**

Failure to complete the signage construction/installation work by July 15, 2022 or within such extended time as may have been allowed by the Village, will result in deductions for each day of overrun in accordance with Section 108 of Illinois Department of Transportation's Standard Specifications.

#### **9. Compliance with all Laws.**

The Contractor agrees to provide all reports necessary to demonstrate compliance with Federal and State laws and regulations and local ordinances. All work under this Project must be executed in accordance with all applicable Federal, State and Local laws, ordinances, rules and regulations. It shall be the responsibility of the contractor to comply with the Illinois Prevailing Wage Act 820 ILCS 130/0.01 et seq. It shall be the responsibility of the Contractor to monitor the prevailing wage rates as established by the Department for any increase in rates during the project and adjust wage rates accordingly.

#### **10. Bonding Requirements.**

**a. Surety Bond.** The Contractor will furnish and deliver a surety bond to the Village in a form approved by the Village and such bond will be security for the payment of all materials used and labor performed in this public work. This bond will have a minimum "A" rating as defined in Best's Key Rating Guide and will be in an amount of the full value of this construction Contract.

**b. Performance and Payment Bond.** The Contractor will provide both a Performance Bond (or equivalent as permitted by state law) and Payment Bond each for 100% of the contract price with a minimum "A" rating as defined in Best's Key Rating Guide and be conditioned on the faithful performance of the requirements of the Contract, and will have as surety a corporate surety authorized to act as such in Illinois and that the Contractor will be responsible for all claims for injuries to persons or damages to property or premises arising out of or in connection with his or her operations prior to the acceptance of the finished work or supplies, and that he or she will promptly make payments to all persons supplying them with labor or materials in the prosecution of the work provided for in the Contract; and will guarantee to indemnify and hold harmless the Village and its officers and employees from all costs, damages and expenses arising out of or by reason of the Contractor's failure to comply and perform the work and to complete the Contract in accordance with the specifications.

#### **11. Insurance**

The Contractor will furnish evidence of acceptable insurance coverage as identified below. The policy(s) will provide, in the event the insurance should be changed or canceled, this change or cancellation will not become effective until thirty (30) days after the Village has received written notice from the insurance company(s). This notice will be mailed to the Village in care of the Finance Director, 33 South Arlington Heights

Road, Arlington Heights, IL 60005. All other notices will be sent to the Village Manager as provided in Paragraph 15(j). Insurance required by this Article shall be written with a company having at least an "A" Property-Casualty Rating, and financial size of at least Class 7 as listed in the most recent published "Alfred M. Best and Company Insurance Guide."

Types and Amount of Insurance

1. Workers' Compensation and Workers' Occupation Disease – Statutory Limits
2. Employer's Liability – In the amount of \$1,000,000.
3. Commercial General Liability for damages for bodily injury, including accidental death, as well as from claims for property damage including loss of use resulting therefrom, which may arise from activities under or incidental to the Contract, both on or off the site, whether such activities are conducted by Contractor, Subcontractor, or Sub-subcontractor or anyone directly or indirectly employed by them.

The Commercial General Liability Insurance shall include coverage for premises operations, broad form property damage, independent contractors, products and completed operations, contractual liability, personal injury, explosion, collapse and underground hazards and shall name the Village of Arlington Heights as additional insured.

Amount of Coverage:

Bodily Injury:	\$1,000,000	\$1,000,000
	Each Occurrence	Aggregate
Property Damage:	\$1,000,000	\$1,000,000
	Each Occurrence	Aggregate
Personal Injury:	\$1,000,000	\$1,000,000
	Each Occurrence	Aggregate

This coverage will remain in effect for 3 years. The limit will be provided on a per project basis.

4. Comprehensive Automobile Liability for bodily injury and property damage arising out of owned, non-owned, and hired vehicles in the amount of \$1,000,000.
5. Excess Umbrella Liability – In the amount of \$2,000,000.00

The Contractor and Subcontractors will retain the responsibility for loss or damage of their own or rented property or property of their employees of whatever kind or nature, including but not limited to tools, equipment, forms, scaffolding, canvasses, tarpaulins, mixer and temporary structures including their contents.

The Contractor shall cause to have an endorsement contained naming the Village as an additional insured.

The Contractor shall not commence Work under this Contract until he or she has obtained all insurance required under this Article and such insurance has been accepted by the Owner, nor shall Contractor allow any subcontractor to commence work on a subcontract until insurance coverages as outlined have been obtained by the subcontractor.

The Contractor agrees to name the Village as an "Additional Insured" on Owner's and Contractor's Protective Liability Policy and/or to the Comprehensive General Liability Policy of the general Contractor and all Subcontractors of any tier. Certificates of Insurance shall be submitted to the Village prior to the start of construction. The insurance afforded to the Additional Insured is primary insurance. If the additional Insured has other insurance which is applicable to the loss it will be on an excess or contingent basis. The amount of the Company's liability under this policy shall not be reduced by the existence of such other insurance.

**12. Records.**

a. The Contractor agrees to provide the Village or its duly authorized representatives with access to any books, documents, papers, drawings, sketches and any other records that are directly pertinent to this Contract.

b. The Contractor agrees to retain all required records for three years after final payment and all other pending matters are closed.

c. The periods of access and examination for records relating to appeals, litigation or settlement of claims arising from the performance of this Contract, or costs and expenses of this Contract to which the Village, federal agencies or the Comptroller General or any of their duly authorized representatives has taken exception will continue until disposition of such appeals, litigation, claims, or exceptions.

**13. Benefits**

The Contractor is an independent contractor and not an employee of the Village. The Village will not provide any benefits not provided for in this Contract.

**14. Prevailing Wage Rates**

All laborers and workers employed in performance of this Contract will be paid no less than the general prevailing rate of hourly wages for work of a similar character on public works in Cook County. Upon completion of the Contract, the Contractor will submit a certificate of compliance with this requirement. The Contractor may use BC Form 749, from the Illinois Department of Transportation, or any similar form, for submission of this statement. If the Department of Labor revises the prevailing rate of hourly wages to

be paid by the Village, the revised rate, to be provided by the Village, shall apply to this Contract.

## **15. General Terms and Conditions**

**a. Personnel.** Services will be performed by the Contractor. Neither party will assign this Contract in whole or in part without the prior written approval of the other.

**b. Conflict of Interest.** The Contractor certifies that to the best of his or her knowledge, no person associated with the Contractor has any interest that would conflict in any manner or degree with the performance of this Contract.

**c. Default.** In the event of the Contractor's nonperformance or breach of the Contract terms, the Village may cancel the contract, in whole or in part, after providing written notice of default and the Contractor's failure to cure the default within ten days of the notice. The Contractor will be liable to the Village for all costs incurred in completion of the Contract.

**d. Termination.** The Village can terminate this contract with or without cause by giving the Contractor a "Notice of Termination" in writing. The notice will be made by certified mail and will be effective upon receipt by the Contractor. The Village will pay all sums due for services performed and costs incurred.

**e. Amendment.** This Contract may only be amended in writing signed by both parties.

**f. Proposal.** This Contract includes by reference the terms of the Bid Specifications, General Conditions, Technical Specifications, Construction Drawings, and submittals by the Contractor in response. In the event of a direct conflict between those documents and this Contract, this Contract will supersede those other documents after that the order of contract document precedence to resolve inconsistencies will be as follows; written amendments, change orders, addenda, supplemental conditions, general conditions, specifications, drawings. Figure dimensions will take precedence over scaled dimension. Detail drawings will take precedence over general drawings

**g. Indemnification.** The Contractor agrees to indemnify and hold harmless the Village, its officers, agents and employees, from any and all liability, losses or damages, including attorney's fees and costs of defense, the Village may suffer as a result of claims, demands, suits, actions or proceedings of any kind or nature, including workers' compensation claims in any way resulting from or arising out of the operations of the Contractor under this Contract, including operations of Subcontractors; and the Contractor will, at his or her own expense, appear defend and pay all fees of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgments will be rendered against the Village in any such action, the Contractor will, at his or her own expense, satisfy and discharge same. The Contractor expressly understands and agrees that any performance bond or insurance protection required by the Contract, or otherwise provided by Contractor, will in no way limit the



responsibility to indemnify, keep and save harmless, and defend the Village as herein provided.

This indemnification does not apply to any liability caused by the Village's own or Engineer's own negligence.

**h. Severability.** If any provisions of this Contract are held to be invalid under the laws of any state, this invalidity will not invalidate the entire Contract. Instead, the Contract will be construed as if not containing the particular provision held to be invalid.

**i. Governing Law.** This Contract will be governed by and construed in accordance with the laws of the State of Illinois.

**j. Notices.** All notices required under this Contract will be in writing and sent by United States certified or registered mail, postage prepaid to the following:

Mr. Charles Witherington-Perkins  
Village of Arlington Heights  
33 South Arlington Heights Road  
Arlington Heights, IL 60005

The parties have executed this Agreement on the date written above.

\_\_\_\_\_  
Contractor

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Village of Arlington Heights

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

