

Memorandum of Agreement
between
Jefferson County Board of Education
And
Ulliman Schutte Construction, LLC

THIS MEMORANDUM OF AGREEMENT ("Agreement") is entered by and between the Jefferson County Board of Education, a political subdivision of the Commonwealth of Kentucky doing business as the Jefferson County Public Schools (hereinafter "JCPS"), with its principal place of business located at 3332 Newburg Road, Louisville, Kentucky 40218, and Ulliman Schutte Construction, LLC, an Ohio limited liability company whose address is 9111 Springboro Pike, Miamisburg, Ohio 45342 (hereinafter "USC"), (JCPS and USC are hereinafter referred to individually as a "Party" and collectively as the "Parties").

WHEREAS, USC is a leading company in the region wishing to provide support to Jefferson County schools through the Metropolitan Sewer District Community Benefits Program,

WHEREAS, USC has offered to donate to JCPS materials and provide for the construction and installation costs of new playground equipment, outdoor classroom, a walking path, gaga courts, volleyball net and soccer goals (the "Renovation") at Crums Lane Elementary School (hereinafter "Crums Lane");

WHEREAS Crums Lane teachers support every student in learning the standards at high levels and mastering the content at each grade level, USC will also donate \$30,682.84 to the school for adaptive furniture that enhances students' ability to remain focused and engaged. The funding will be used for standing desks to give students the option of standing at their workstation instead of sitting at tables, which will benefit 4th and 5th grade students. Differentiated seating in the form of stools, which are cushioned and have a rolled base will also be purchased with the funds for all classrooms and special areas. These stools allow students some movement while remaining engaged with their teachers and their lessons.

WHEREAS, JCPS desires to accept the donation of the materials and the construction and installation (listed in Attachment A, which is incorporated herein by reference) and the \$30,682.84.

NOW THEREFORE, the Parties agree that the terms and conditions herein shall control the donation and the use of Confidential Information (defined in Section 10):

1. USC and a contractor or contractors selected by USC ("USC's contractors") will begin no work until the plans and specifications for the renovation have been approved by JCPS Facilities, and the members of the Jefferson County Board of Education (hereinafter the "Board") have

authorized the project to begin after USC has demonstrated to the Board that USC has adequate resources (both monetary and donated materials) to accomplish the renovation without financial liability to the Board.

2. A Certified Playground Safety Inspector shall inspect the installation of the playground equipment at the start and end of the Renovation. JCPS agrees that the Certified Playground Safety Inspector may be provided by USC's contractor(s).

3. USC is contributing 240 hours of staff time (valued at \$80 per hour or \$19,200 total) to plan and manage the playground installation and grounds improvements at Crums Lane.

4. USC and USC's contractors will complete the renovation in conformance with the plans and specifications as approved by JCPS Facilities and the Board. USC and USC's contractors shall at all times during the term of this Agreement comply with all applicable federal, state and local statutes, regulations, ordinances, rules and policies, and shall obtain and keep in force all licenses, permits and certificates necessary for the performance of the renovation work.

5. The installation of the playground and grounds improvements will be completed no later than June 30, 2022.

6. USC and USC's contractors will maintain an all-risk property and casualty insurance policy with respect to the playground/grounds improvements at the Crums Lane facility and a policy of commercial general liability in amounts no less than \$1,000,000/\$2,000,000 per policy and provide JCPS with a certificate of insurance upon request naming the Board of Education as additional insured.

7. Upon completion of the renovation as contemplated herein, USC and USC's contractors will release all claims of ownership, and title to the playground and grounds improvements will vest in the Board. The Board shall thereafter have complete control of the playground and grounds improvements and the school will be responsible for all maintenance and repair.

8. To the extent permitted by Kentucky law, JCPS waives, releases and discharges USC and USC's contractors from any and all claims for liability, including but not limited to, liability arising from the alleged negligence or fault of USC for failure or defect of the donated renovation, in whole or part, as well as any claims arising therefrom for death, disability, personal injury, property damage, or actions of any kind which may hereafter occur due to the use of the donated renovation by JCPS, its personnel, students, agents, contractors, other users or other parties and/or any of their representatives.

9. To the extent permitted by Kentucky law, JCPS shall indemnify, defend and hold USC and USC's contractors harmless from any and all damages, costs, expenses, suits, liabilities or claims made by JCPS, its personnel, students, agents, contractors, representatives, other users or other parties arising in any manner related to the use of the donated renovation, playground and outdoor classroom whether brought in tort, contract, law or equity.

10. Each Party may, as part of this donation, share certain information that is proprietary to that Party and/or maintained by that Party as confidential (hereinafter "Confidential Information") with the other Party. Each Party shall protect Confidential Information using the same degree of care, but no less than a reasonable degree of care, to prevent unauthorized use, dissemination or publication thereof as it uses to protect its own proprietary and confidential information. Neither Party shall use the Confidential Information except to further the purposes of this Agreement or as otherwise specifically authorized in writing by the Disclosing Party. Each Party may disclose the Confidential Information of the other Party only to those of its employees and employees of its affiliates who (a) need to know such information to perform its obligations, exercise its rights hereunder, or make necessary disclosures in its financial filings and (b) are bound by the obligations of confidentiality set forth herein (collectively, "Representatives"). An affiliate is an entity that controls, is controlled by, or is under common control with a Party. Under no circumstances, except as expressly set forth below, shall either Party reproduce, distribute or otherwise provide, directly or indirectly, any Confidential Information to any person or entity who is not a Representative, or make necessary disclosures in its financial filings without the consent of the Disclosing Party, provided:

a. JCPS can disclose Confidential Information to the extent that such disclosure is required under the Kentucky Open Records Law; and

b. No obligation is imposed with respect to information of the Disclosing Party which: (i) was rightly in the non-Disclosing Party's unrestricted possession prior to disclosure by the Disclosing Party; (ii) is or becomes a matter of public knowledge through no fault of the non-Disclosing Party; (iii) is rightly received by the non-Disclosing Party from a third party that has no duty of confidentiality to the Disclosing Party; or (iv) is independently developed by the non-Disclosing party without relying on the Confidential Information of the Disclosing Party; and

c. Each Party's duty under this Agreement to protect any Confidential Information of the other Party shall survive after the end of the term of this Agreement.

11. All employees, volunteers and contractors (including employees of contractors) of USC performing services on JCPS school premises during JCPS school hours under this Agreement are required to submit per KRS 160.380 to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

12. JCPS shall not sell, transfer and/or assign the donated renovation to any other party or otherwise place the same into the stream of commerce. Upon the end-of-use of the donated renovation, in whole or in part, JCPS shall disassemble and decommission the non-used donated renovation.

13. This Agreement shall be in effect for the period beginning November 10, 2021 and ending June 30, 2022.

14. This Agreement may be terminated by either Party with or without cause upon no less than thirty (30) days written notice to either Party. This Agreement may be terminated immediately by JCPS upon ten (10) business days written notice to USC for its failure to cure a material breach of this Agreement, after USC's receipt of written notice of the breach.

15. No waiver, alteration or modification of the provisions of this Agreement shall be binding unless in writing and mutually agreed upon by both JCPS and USC.

16. During the performance of this Agreement, USC shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Kentucky Equal Employment Act of 1978, KRS 45.550-45.640, and the American Disabilities Act, and shall not discriminate against any JCPS employee, student or beneficiary of the project on the basis of race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions.

17. In the performance of the duties and obligations imposed on each Party by this Agreement, it is mutually understood and agreed that USC and USC's contractors are at all times acting as an independent contractor with respect to JCPS, and neither Party shall be construed to be an agent or representative of the other Party. Except as provided herein, JCPS shall not have any control or direction over the manner, methods or means by which USC and USC's contractors perform their work and functions.

18. This Agreement contains the entire agreement between JCPS and USC and supersedes any and all prior agreements, representations and negotiations, either oral or written, between the Parties before the execution of this Agreement, but any other agreement executed contemporaneously with the execution of the Agreement and incorporated herein by reference shall remain in full force and effect.

19. If any part of this Agreement is held to be void, against public policy or illegal, the balance of this Agreement shall continue to be valid and binding. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky. Any action or claim arising from, under or pursuant to this Agreement shall be brought in the Jefferson County, Kentucky, Circuit Court, and the Parties expressly waive the right to bring any legal action or claims in any other courts.

THE UNDERSIGNED ARE AUTHORIZED AGENTS OF THE PARTIES WITH
AUTHORITY TO BIND THE SAME AND EACH OF THEM HEREBY CERTIFIES TO
HAVE READ THIS AGREEMENT AND FULLY UNDERSTANDS AND AGREES TO ITS
CONTENTS.

JEFFERSON COUNTY BOARD OF EDUCATION:

Dr. Martin A. Pollio

Superintendent

Date

Ulliman Schutte Construction, LLC



Eric Meister

Vice President

10/26/2021

Date

**Crums Lane Elementary School
Scope Map - 9/24/21**

NOTE: Mulch for the Walking Path, Gaga Courts, and Accelerator Swing will be provided by JCPS.

- New Outdoor Learning Area (under tree), (4) New Benches, (2) New Tables. Remove (4) Planters & Vegetation
- New 0.25 Mile Mulch Walking Path Loop
- (4) New Gaga Courts, Mulch Base
- (2) New Soccer Goals
- New Volleyball Net System w/ Painted Boarder
- New Inclusive Whirl on Rubber Surfacing
- New Accelerator Swing on Mulch
- Remove Fence

New Outdoor Learning Area (under tree). (4)
New Benches, (2) New Tables. Remove (4) Planters & Vegetation

NOTE: Mulch for the Walking Path, Gaga Courts, and Accelerator Swing will be provided by JCPS.

1320 ft = 0.25 mile
New 0.25 Mile Mulch
Walking Path Loop

**New Volleyball
Net System w/
Painted
Boarder**

(4) New Gaga Courts, Mulch Base

(2) New Soccer Goals

**New
Inclusive
Whirl on
Rubber
Surfacing**

Remove Fence

**New
Accelerator
Swing on
Mulch**



Crums Lane Elementary Grounds Improvements Cost Summary

SUMMARY		
Walking Path	\$ 18,984.00	Joash Proposal
Volleyball & Soccer	\$ 11,155.00	Joash Proposal
Demolition Items	\$ 5,385.00	Joash Proposal
Playground Equipment	\$ 49,593.16	Miracle Proposal
USC Management Hours	\$ 19,200.00	240 hr @ \$80/hr
Total Construction Costs =	\$ 104,317.16	

Total Donation	\$ 135,000.00
Construction Costs	\$(104,317.16)
Amount Direct to School =	\$ 30,682.84

Grand Slam Sport Surfaces

A Division of  **JOASH CONSTRUCTION, INC.** A Minority Owned Business

Preliminary Playground Improvements Proposal

Project # 2021-07-29A-REV. 4

09/16/2021

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Project Description: Walking Trail, Soccer Goals, Fence, Planters, Volleyball Net, Balls, and Seed and Straw

Project Location: Crums Lane Elementary School, 3212 S Crums Ln, Louisville, KY 40216

Owner: JCPS, VanHoose Education Center, 3332 Newburg Rd, Louisville, KY 40218

General Contractor: Ulliman Schutte Construction, LLC

Address: 9111 Springboro Pike, Miamisburg, OH 45342

Contact: Samantha Palko Cell: 502-377-1937 Email: spalko@ullimanschutte.com

Sub-Contractor: Grand Slam Sports Surfaces, a division of Joash Construction, Inc.

PO Box 11381, Louisville, Kentucky 40251

Bruce Mullins, Director Cell: 502-386-7378 Email: BMullins@JoashConstruction.com

Thank you for this opportunity to assist you with your construction needs. In this proposal we have included pricing for the construction a volleyball net system, a walking trail, 2 soccer goals, and for removal of a fence. Thank you once again for your interest in Grand Slam Sports Surfaces and Joash Construction. We look forward to serving your needs. This proposal is valid for 30 days.

Project Details, Joash, Inc Proposes Performing the Following Work

-Construct Mulch Walking Trail: \$18,159

Overall dimensions will be approximately 1,514'x4'x6" and constructed with approximately 3" of DGA stone bedding, overlayed with geotextile fabric, overlayed with approximately 3" of mulch. Mulch to be provided by others and overlayed by Joash, Inc. Spoils to be used, by Joash, Inc., to fill low areas within 100 yards of work area(s).

-Assemble and Deliver 2 Soccer Goals with Nets and Wheels: \$4,746

Goals and Nets: 2ea 7'x21' Classic Soccer Goals, 7'H x 21'W x 3'B x 8'D, portable, white powder coated goal face, natural finish base and backstays, 2" OD galvanized steel rear ground crossbar, 3" OD extruded aluminum front frame, 2" OD galvanized steel backstays, 4" sq mesh white nets, Easy Track net attachment system, in-ground anchors or appropriate amount of counterweight required per goal - includes 4 auger anchors, meets all ASTM F2056 and ASTM F2673 safety requirements, Easy Track net attachment system uses durable plastic clips that fit securely into the net track to prevent the net from slipping, the clips fit securely and flush into the Easy Track so there are no protruding clips to hit or dislodge aluminum uprights

Wheels: 8ea pneumatic wheels, equips 2 goals (4 wheels per goal), quick and easy wheel engagement, large 10" no-flat tires, brackets are powder-coated white, 4 wheels per goal means no lifting!

-Remove Fence: \$5,385

Joash will remove the fence of approximately 340LF, 4 planters with associated vegetation, backfill where needed, and haul off the debris.

Grand Slam Sport Surfaces

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Preliminary Playground Improvements Proposal

Project # 2021-07-29A-REV. 4

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-Install Adjustable Volleyball Net System: \$6,109

Poles: 2ea 3-1/2" Heavy wall aluminum poles cast in concrete, stainless steel slider tracks, powder coated white finish, 8'11" tracks adjust net up or down while under full tension, allows quick and easy set up for volleyball or badminton, slider tracks constructed entirely of stainless steel including the ball bearings, white powder coated anodized aluminum poles allow easy net set up, stainless steel winch, 10 Year Limited Warranty.

Net: 4" Tape Volleyball Net, 32 feet x 39 inches, #27 high-strength knotted nylon outdoor netting, 1/4" 2,000 lb breakpoint Kevlar Cord top, 1/4" 1,000 lb break point braided rope bottom, 3/4" ash wooden end dowels, 4 Additional tension ropes included for additional net tension, 13-oz. 4" UV and mildew resistant vinyl tapes at top and bottom and sides, UV and mildew resistant stitching for prolonged outdoor use, available in red, yellow, blue, white, and green.

Pads: Straight-cut pads, filled with 2" fire retardant foam, 18 oz. UV / mildew resistant, lead-free vinyl, single-stitched together with UV / mildew resistant stitching, horizontal "C" shaped box design wraps easily around the pole with pre-made folds in the corners, 6' tall, 6ea 2" nylon Velcro straps stitched to vinyl for attaching around the volleyball pole, available in red, maroon, royal blue, light blue, navy blue, dark green, Kelly green, yellow, black, gray, orange, brown, and light brown.

Volleyball Net Artwork: Volleyball net to have school name printed on it at top and bottom.

Safety Pads Artwork: Safety Pads to have school name printed on left side and right side limits for standard wrap around pads, printing area 16" wide by 4' tall (screen limitation), Lettering (8" x 72" tall), in between Velcro straps (14" x 18" tall).

ALL ABOVE MADE IN THE USA

Note: All colors TBD. Volleyball court lines to be rough-painted onto grass. Staking, marking, and layout by others with Joash assisting. All designs assume proper drainage exists without need to elevate above existing ground level. If additional drainage is required, additional charges will be applied using change order(s).

-Provide 10 Volleyball Balls and 10 Soccer Balls: \$300 Total

-Apply Seed and Straw Protection Over 150SY Area: \$825 Plus \$5.50/SY Over the First 150SY

Seed and straw protection will be installed over an area of up to 150 Square Yards as directed by the General Contractor and at an additional rate of \$5.50 per Square Yard for additional areas.

-Total for all above work: \$35,524.00*

All Sales taxes are imputed, *Does not include the possible additional Seed and Straw Protection

We await your agreement or any questions. Thank you!

-Bruce Mullins

B.W. Mullins



Miracle of KY & TN
 Josh Wagner
 931 Commerce Drive
 Leitchfield, Ky. 42754
 Phone: 1-800-251-5578
 Cell: 270-570-1239
 josh@miraclekytn.com

Quotation

Quote #	21/0924-11
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To

Ulliman Schutte Construction	Date	9/24/2021
	Contact	Samantha Palko
	Project	Crums Lane Elementary
	Email	spalko@ullimanschutte.com

We propose to furnish the following described materials.

Qty	Model #	Description	Price Total
1&1	MIR	Inclusive Whirl and Accelerator Swing	\$23,269.00
2&4	MYT	Inground Picnic Table & 6' Bench w/ Back Delivered	\$4,157.00
4	AP	20' Gaga Pit Delivered	\$6,400.00
52 lf	WHSE	6" Rubber Curbing for PIP	\$900.00
700sqft	MKT	PIP Rubber Surfacing	\$8,750.00
		Freight	\$800.00
		Installation	\$6,000.00
		Discount	-\$3,490.00
		6% KY Sales Tax	\$2,807.16
		Total	\$49,593.16

Tax Exemption Certificate must be provided before order can be processed. Thank you.

Quote good for 15 days, due to freight cost. Installation prices will assume normal soil conditions and does not include rock excavation \$75 per foot for rock break minimum. Installation charges are not included in quote unless stated. Unless otherwise noted quote does not include prevailing wages, taxes, freight, permits, state or local approvals, performance bond, engineering seals, testing, site preparation, borders, safety surfacing, unloading, storage, security, fencing, landscaping, trash removal or soils. (We are not responsible for the seed and straw of disturbed areas.) Must be given clear path 10' to playground area. Not responsible for damage to existing concrete or asphalt. Not responsible for underground utilities or drain pipes. Initial Any product that is coming from a vendor, other than Miracle, needs to be inspected when shipment is received. Please note any damage on the freight bill before signing for the shipment.

This quotation, after acceptance by the buyer and when thereafter approved by an authorized official of the seller, in writing, will become a contract. Until so approved, is not a contract and is not binding on the seller in any way. If buyer does not give acceptance within 30 days, this quotation is subject to possible price revision.

Accepted

Name of Buyer

By

Authorized Signature

Date

Miracle Recreation of KY & TN

Approved by

Authorized Signature

Title Manufactures Rep.

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