Addendum No. 1
Questions & Answers

RFP 25.03 Fencing Installation Services

1. **Q: The bid is asking for wood fence price per foot, but height is not indicated.**

   A: Please see updated RFP 25.03 package included with this addendum. The Proposal Form (Exhibit A) has been updated to include the height (8') for the pressure treated pine.

2. **Q: Were exhibits B and C (pages 21-22) intentionally left blank?**

   A: No. Please see updated RFP 25.03 package included with this addendum. Exhibits B and C have now been included.

Notice To Bidders: Please use the updated RFP 25.03 package included with this addendum for submissions.

Fencing Installation Services
RFP 25.03

SCHEDULE:

Pre-Proposal Conference: None
Questions Due: Tuesday, October 29, 2024 by 2:00 p.m.
Responses to Questions Posted: Tuesday, November 5, 2024 by 2:00 p.m.
Response to RFP Due: Wednesday, November 20, 2024 by 10:00 a.m.
Ranking - Board Action: Estimated December 17, 2024
Board Contract Approval: Estimated December 17, 2024

REQUEST FOR COMPETITIVE SEALED PROPOSALS
BEAUMONT INDEPENDENT SCHOOL DISTRICT
RFP 25.03 – FENCING INSTALLATION SERVICES

The Beaumont Independent School District ("BISD" or "the District") is requesting proposals from qualified offerors to provide fencing installation services for future BISD projects (also referred to as "the Project") as identified herein.

Sealed Proposals must be addressed to the Administration at the address listed below:

REQUEST FOR PROPOSALS FOR
RFP 25.03 FENCING INSTALLATION SERVICES
due no later than
WEDNESDAY, NOVEMBER 20, 2024 AT 10:00 A.M.

Beaumont ISD
Attn: Purchasing Department
3395 Harrison Avenue
Beaumont, TX 77706

ANY PROPOSAL RECEIVED AFTER THE TIME AND DATE STATED ABOVE WILL NOT BE CONSIDERED. UNSIGNED PROPOSALS AND/OR PROPOSALS RECEIVED VIA FACSIMILE OR EMAIL WILL NOT BE CONSIDERED. ALL RESPONSES MUST BE RECEIVED AT THE ADDRESS SHOWN ABOVE. RESPONSES SENT/ DELIVERED TO ANY OTHER DISTRICT ADDRESS WILL NOT BE CONSIDERED.

FAILURE TO COMPLY WITH SPECIFICATIONS MAY RESULT IN THE DISQUALIFICATION OF YOUR PROPOSAL.

Offerors must provide all requested information; failure to comply with any portion of this solicitation will be reflected in the evaluation process. The BISD reserves the right to accept or reject any Submission or any part thereof or any combination of Submissions and to waive any or all formalities. All responses in the Submission may be used by the BISD in the selection process. The BISD reserves the right to verify the accuracy and completeness of all responses by utilizing any information available to the BISD without regard to whether such information appears in the Submission.

REQUEST FOR COMPETITIVE SEALED PROPOSALS
BEAUMONT INDEPENDENT SCHOOL DISTRICT
RFP 25.03 – FENCING INSTALLATION SERVICES

SECTION 1: RFP OVERVIEW

Pursuant to the provisions of Texas Government Code Chapter 2269, Subchapter D, as amended, it is the intention of the Beaumont Independent School District ("BISD" or "the District") to select via the Request for Proposals process contractor(s) to provide fencing installation services generally described herein. Responses to this Request for Proposals ("RFP") are referred to herein as "proposals" or "submissions." Entities submitting proposals are referred to as "Offerors" or "Proposers."

The RFP may be obtained online at www.bmtisd.com/bids or at the Beaumont ISD Administration Building, 3395 Harrison Ave., Beaumont, Texas 77706.

PROPOSALS MUST BE RECEIVED NO LATER THAN
WEDNESDAY, NOVEMBER 20, 2024 AT 10:00 A.M.

Any Proposal received after such time will not be considered and will be returned unopened. Proposals will be received by:

BISD Purchasing Department
3395 Harrison Avenue
Beaumont, Texas 77706

Three (2) copies of the proposal must be submitted. Proposal envelopes must be plainly marked on the outside as follows:

SEALED PROPOSAL – DO NOT OPEN
BEAUMONT INDEPENDENT SCHOOL DISTRICT
RFP 25.03 FENCING INSTALLATION SERVICES

PROPOSALS MUST BE SUBMITTED ON THE PROPOSAL FORM ATTACHED AS EXHIBIT A. THIS REQUEST FOR RFP CONTAINS REQUIRED TERMS AND DESCRIPTIVE INFORMATION ABOUT THE SERVICES. RESPONSES NOT MADE AS SET FORTH IN THE REQUEST FOR RFP MAY BE DEEMED NON-RESPONSIVE AND MAY NOT BE CONSIDERED.

For questions regarding this Request for Proposals, please contact BISD Purchasing Department via email at bids@bmtisd.com.

Questions must be received no later than 2:00 p.m. Tuesday, October 29, 2024. Questions will be responded to no later than 2:00 p.m. Tuesday, November 5, 2024.

ACCEPTANCE OF EVALUATION METHODOLOGY: By submitting its Proposal in response to this package, the Offeror accepts the evaluation process and acknowledges and accepts that determination of the "best value" will require subjective judgments by the District, based upon the information responsive to the Evaluation Criteria and Weight/Points Value as published with this package.

Proposals are to include the information requested in Section V of this Request for RFP in the sequence and format prescribed. In addition to and separate from the requested information, Offerors submitting proposals may provide supplementary materials further describing their capabilities and experience.

PRE-PROPOSAL CONFERENCE:
The District will not be conducting a pre-proposal conference for this RFP. Please submit any questions to bids@bmtisd.com by 2:00 p.m., Tuesday, October 7, 2024.

SUBMISSION OF PROPOSALS
Following the deadline for receipt, the BISD's staff will receive, publicly open, and read aloud the names of the Offerors and, if any are required to be stated, all prices stated in the proposals. Within forty-five (45) days after the opening of the Proposals, the BISD shall evaluate and rank each Proposal submitted in relation to the selected criteria set forth below.

Proposals that have been opened may not be changed for the purpose of correcting an error in the price. Other than price, a proposer may have the right to change any other error or mistake in the proposal as may be permitted by applicable law and subject to the approval of BISD, unless such change would be in contravention of statutory or common law requirements or unless such change would give an unfair advantage to the proposer making such change.

The ranking shall be based on the data furnished by the Offerors in response to the Request for RFP. The following is a list of criteria and weight for each criterion. Unless modified by addendum prior to the opening of the Proposals, the following listing of criteria and weigh of criteria shall be utilized by the BISD, pursuant to TGC Chapter 2269, Subchapter D.

In accordance with Sections 2269.153, 2269.155, and 2269.055 of the Texas Government Code, BISD will evaluate proposals on the basis of the following selection criteria:

Selection Criteria Weight Table		
	Detailed Methodology for Scoring	**Criteria Weight**
	Price – Proposed Price Proposers will receive an assigned share of the total available points for this criterion based on the total monetary value of the Proposal. A formula will be used as follows to determine the award of points: A: Lowest Priced Proposal B: Current Proposal being scored C: Possible Points D: Total Points scored Formula: A / B = Percentage (%) % x C = D	**50**

	Proposer's Experience & Reputation The Owner will consider the proposer's experience and reputation and the proposer's answers to the Questionnaire, including, but not limited to, the record of past performance, general reputation of the proposer, and the proposer's knowledge, reliability, character, integrity, skill, and stability; the proposer's experience providing generators in commercial buildings in Jefferson County, and the proposer's reputation for handling warranty work. Proposer's references will be reviewed and evaluated.	**20**
	Quality of Proposer's services Proposer demonstrates consistent and average past and current workload to staff ratio, showing ability to adequately staff the work and company stability. Proposer shows no or limited past history of claims, suits, and failure to perform. Proposer shows ability to maintain cost with no cost increases. Proposer has a record of timely completion of work, compliance with laws, and warranty service. Owner will consider the answers to the Questionnaire which relate to the quality of the Proposer's services.	**15**
	Whether Proposer's financial capability is appropriate to the size and scope of the project Proposer's financial and technical resources will be evaluated. Proposer has a positive asset to liability ratio and adequate bonding capacity. Evaluation of Proposer's responses to Financial Information Questionnaire of this RFP.	**0**
	Proposer's Past Relationship with BISD Proposer's past relationship with Beaumont ISD, personnel & success of project(s) & timeline(s)	**10**
	Proposer's Proposed Personnel Proposer's individual personnel proposed for the work in the RFP demonstrate similar project experience by showing high proportion of Jefferson County/school district/governmental entity work, the proposer's experience with projects of comparable cost, complexity, and timeframe to the work in the RFP. Organizational approach to the project is clear. Owner will review and evaluate the answers to the Questionnaire and resumes.	**5**
	Total	**100**

All responses in the Proposal may be used to help the BISD select an Offeror based on these criteria. The BISD reserves the right to verify the accuracy and completeness of all responses by utilizing any information available to the BISD without regard to whether such information appears in the proposal.

SECTION 2: COMMITMENTS OF THE BISD

This Request for Proposals does not obligate BISD to award a contract or pay any costs incurred by the proposer in the preparation and submittal of a proposal. BISD assumes no financial responsibility for any costs incurred by proposers in developing and submitting a proposal, participating in pre-bid meetings, or any other costs incurred by proposers in connection with this procurement solicitation.

1. **BISD, IN ITS SOLE DISCRETION, RESERVES THE RIGHT TO ACCEPT ANY PROPOSAL AND/OR REJECT ANY AND ALL PROPOSALS OR A PART OF A PROPOSAL, WITHOUT REASON OR CAUSE, SUBMITTED IN RESPONSE TO THIS SOLICITATION.**

2. **BISD RESERVES THE RIGHT TO REJECT ANY NON-RESPONSIVE OR CONDITIONAL PROPOSAL.**

3. **BISD RESERVES THE RIGHT TO WAIVE ANY FORMALITIES, IRREGULARITIES, AND/OR TECHNICALITIES IN THIS SOLICITATION, THE CONSTRUCTION AND/OR PROCUREMENT DOCUMENTS, AND/OR ANY PROPOSALS RECEIVED OR SUBMITTED.**

4. **BY SUBMITTING A PROPOSAL, PROPOSER AGREES TO WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST BEAUMONT INDEPENDENT SCHOOL DISTRICT, AND/OR BISD'S BOARD MEMBERS, ADMINISTRATORS, EMPLOYEES, AND/OR AGENTS ARISING OUT OF OR IN CONNECTION WITH (1) THE ADMINISTRATION, EVALUATION, OR RECOMMENDATION OF ANY PROPOSAL; (2) ANY REQUIREMENTS UNDER THE SOLICITATION, PROCUREMENT PACKAGE, OR RELATED DOCUMENTS; (3) THE REJECTION OF ANY PROPOSAL OR ANY PART OF ANY PROPOSAL; AND/OR (4) THE AWARD OF A CONTRACT, IF ANY.**

5. BISD reserves the right to withdraw/cancel this solicitation at any time for any reason, remove any scope component for any reason and to issue such clarifications, modifications and/or amendments as deemed appropriate by BISD, in its sole discretion.

6. A response to this procurement solicitation is an offer to contract with BISD based upon the terms, conditions, scope of work, and specifications contained in this procurement solicitation and the RFP documents. A contract is not formed unless and until a proposal is accepted and awarded by BISD after approval by the BISD Board of Trustees.

7. A proposal that has been submitted may be withdrawn prior to the deadline for submission of proposals.

8. Proposals received will become a part of BISD's official files without further obligation to the respondents.

9. Respondents shall not, under penalty of law, offer any gratuities, favors, or anything of monetary value to any officer or employee of BISD, or to any consultant, employee, or member of BISD for the purpose of or having the effect of influencing favorable disposition toward their own proposal or any other proposal submitted hereunder.

10. No employee, officer or member of BISD shall participate in the selection, development of a response to this procurement solicitation, award or administration of a contract resulting from this procurement solicitation if a conflict of interest, real or apparent, would be involved.

11. Proposers shall not engage in any activity that will restrict or eliminate competition. This does not preclude joint ventures or subcontracts.

SECTION 3: INSTRUCTIONS TO OFFERORS

A. PROPOSAL FORM: The Proposal Form attached as Exhibit A must be filled out and signed by the Offeror.

B. AGREEMENT: An Agreement between the Owner and Offeror shall commence prior to each fencing project and will consist of the following:

1. Contractor Agreement between Beaumont Independent School District and awarded Contractor. (example agreement is attached as Exhibit B)

C. TIME: Offeror agrees to hold the proposal open for acceptance for forty-five (45) calendar days from the proposal due date.

D. WITHDRAWAL OF PROPOSALS: Offerors may request permission to withdraw a proposal prior to the actual time for proposal opening. Such request must be made in person or in writing at the same location designated to receive the proposal. The BISD will return the proposal documents unopened at that time.

E. PROPOSAL BOND: Not Applicable for this RFP

F. WAIVER: By submitting a proposal, each Offeror agrees to waive any claim it has or may have against the BISD, its trustees, agents and employees, and any reference sources, arising out of or in connection with the administration, evaluation, or recommendation of any proposal; waiver of any requirements under the proposal documents; acceptance or rejection of any proposal; and award of the proposal. The BISD shall have no contractual obligation to any Offeror, nor will any Offeror have any property interest or other right in the proposal or contract being proposed unless and until the contract is unconditionally executed and delivered by all parties, and all conditions to be fulfilled by the Offeror have been fulfilled by the Offeror.

G. OTHER INFORMATION: The BISD believes the information included in this Request for RFP is materially accurate, however, the BISD does not warrant this information to be free from errors or omissions. Offerors are encouraged to inspect the premises prior to submitting a response.

Materials. Any reference in the Specifications (Section 4) to materials, products, equipment, fixtures, etc., shall not be construed as limiting competition in any manner; however, only the BISD Director of Maintenance and Operations shall have the authority to determine whether a material is equal. No substitution will be allowed unless authorized in writing by the BISD Director of Maintenance and Operations.

Substitutions. The materials, products and equipment described in the specifications establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

H. THE OFFEROR MUST ALSO SUBMIT THE FOLLOWING ITEMS:

1. PROPOSAL FORM: Exhibit A, signed by Offeror.
2. RESPONSES TO BUSINESS QUESTIONNAIRE & QUALIFICATION STATEMENT: Exhibit D; Attachment B, signed by Offeror.
3. PROOF OF INSURABILITY: Submit a letter from your insurance provider stating provider's commitment to insure the applicant for the types of coverage at the levels specified in the RFP, if awarded a contract in response to this RFP. Offeror shall also submit a copy of current insurance certificate.

NEW VENDOR PACKET: (ATTACHED AS EXHIBIT C) - INCLUDES

4. CONFLICTS OF INTEREST: Offeror acknowledges that it is informed that District Policy and Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the District, shall file a completed conflict of interest questionnaire with the appropriate district records administrator not later than the 7th business day after the date that the person: (1) begins contract discussions or negotiations with the District; or (2) submits to the District an application, response to a request for qualifications, submissions or proposals, correspondence, or another writing related to a potential agreement with the District. The conflict of interest questionnaire form is available from the Texas Ethics Commission at www.ethics.state.tx.us. Completed conflict of interest questionnaires must be included with responses to this RFP. Please consult your own legal counsel if you have questions regarding the statute or form.
5. COMPLETED FORM 1295. The form is available online with the Texas Ethics Commission at www.ethics.state.tx.us.
6. ALL FORMS included with this package.

I. <u>RESPONSIBLE PROPOSERS</u>, AT A MINIMUM, MUST MEET ALL OF THE FOLLOWING REQUIREMENTS:

- Be an experienced contractor who has served as a prime contractor on similar projects for schools/governmental entities and be knowledgeable about requirements for construction of and building elements for schools including, without limitation, applicable building code requirements;
- Provide a warranty and support for any equipment installed as part of the construction services;
- Possess or is able to obtain adequate financial resources as required to perform under any contract resulting from this procurement solicitation;
- Have a responsible safety record, as detailed in this procurement solicitation;
- **Be able to obtain all required permits.**
- All permit costs, inspection costs by governmental authorities having jurisdiction and associated fees, including but not necessarily limited to, building permits will be paid by the selected proposer.
- Proposers shall include the related permitting and inspection costs within their proposal amount.
- Submit all required proposal forms. If there are any missing proposal form pages, proposers may be disqualified.
- Be able to comply with schedules set forth by BISD's Maintenance Department, taking into consideration all existing business commitments;
- Have necessary management and technical capability to perform any resulting contract;
- Be qualified as an established firm regularly engaged in the type of business to provide the items/work required by this solicitation;
- Be registered to do business in the State of Texas;
- Be in good standing with the State of Texas;

- Be otherwise qualified and eligible to receive a contract award under applicable laws and regulations.

Proposals deviating or taking exceptions to the solicitation requirements may not be considered. A person is not eligible to be considered for award of this solicitation or any resulting contract or to be a subcontractor of the proposer or prime contractor if the person assisted in the development of this solicitation or any part of this solicitation or if the person participated in a project related to this solicitation when such participation would give the person special knowledge that would give that person or a prime contractor an unfair advantage over other proposers.

SECTION 4: SCOPE OF WORK; SCHEDULE

The approved contractor will provide for the delivery and installation of fencing, access control personnel gates (when requested), and access control vehicle gates (when requested) at designated District facilities. The district is seeking a turnkey solution to its security fencing needs.

Contractor will be responsible for all aspects of the project which may involve the repair, installation, or removal of fencing, required electrical, and the installation of access controls with a product which is compatible with or equivalent to the district's existing IP system. The district will assist with integration.

Please Note: Contractor will be notified of any access control equipment needed for fencing projects when the need arises (per project) and will not need to be quoted with fencing prices with this RFP.

Linear dimensions for fencing will be incumbent upon the contractor to conduct site authorized visits to verify measurements for each project.

Contractor will be required to back fill to grade any holes created due to post removal.

Proposed fencing must conform to 19 Texas Administrative Code (TAC) Chapter 61, School Districts, Chapter CC, Commissioner's Rules Concerning School Facilities, Sub-Section 61.1031, School Safety Requirements.

Contractor will be responsible for contacting the appropriate agency(s) to have all underground utilities and/or obstacles marked prior to repair, removal, or installation of fencing. If any utilities or district infrastructure are damaged, contractor will be financially responsible to repair/remedy damages within a manner timely and in accordance with instruction from the district's Director of Maintenance and Operations.

Proposals must include pricing for three (3) difference fencing types and one (1) gate opening type:

a. Black vinyl fencing (heavy gauge; 8' tall)
b. Wrought iron fencing (6' tall)
c. Pressure treated yellow pine fence pickets
d. Panic bar gate openings (with header bar to tie in gate post)

SCHEDULE:

Pre-Proposal Conference: None
Questions Due: Tuesday, October 29, 2024 by 2:00 p.m.
Responses to Questions Posted: Tuesday, November 5, 2024 by 2:00 p.m.
Response to RFP Due: Wednesday, November 20, 2024 by 10:00 a.m.
Ranking - Board Action: Estimated December 17, 2024
Board Contract Approval: Estimated December 17, 2024

SECTION 5: TERMS & CONDITIONS

This procurement solicitation shall be in accordance with applicable law, including Subchapter D of Chapter 2269 of the Texas Government Code (Request for Proposal Method of Procurement), BISD policy, and the following terms and conditions of this procurement solicitation:

a. Contract Award. Award of a contract, if any, will be made to the proposer(s) who submit the proposal that offers the best value for BISD, based on (a) the selection criteria in this request for proposals and the weighted value for those criteria listed in this procurement solicitation; and (b) BISD's ranking evaluation. Tex. Gov't Code § 2269.155(a). BISD must first attempt to negotiate a contract with the selected proposer. BISD and its architect and/or engineer may discuss with the selected proposer options for a scope or time modification and any price change associated with the modification. Tex. Gov't Code § 2269.155(b). If BISD is unable to negotiate a satisfactory contract with the selected proposer, BISD must, formally and in writing, end negotiations with that proposer and proceed to the next proposer in the order of the selection ranking until a contract is reached or all proposals are rejected. Tex. Gov't Code § 2269.155(c).

b. The term of this contract award shall be for one (1) year, with four (4) possible, one-year extensions based upon mutual agreement of both parties (BISD and awarded contractor(s)).

c. Taxes. BISD is exempt from taxation, and no proposal shall include any costs for taxes to be assessed against BISD.

d. Appropriated Funds. The purchase of services and/or products that arises from this solicitation is contingent upon the availability of appropriated funds. In addition to other termination rights contained in the resulting contract, if any, BISD shall have the right to terminate the resulting contract at the end of the current or each succeeding BISD fiscal year if funds are not appropriated by BISD's Board of Trustees for the next fiscal year that would permit continuation of the resulting contract. If funds are withdrawn or do not become available, BISD reserves the right to terminate the contract by giving the contractor a thirty (30) day written notice of its intention to terminate without penalty or any further obligations on the part of BISD or the contractor. Upon termination of the contract, BISD shall not be responsible for any payment of any service or product received that occurs after the end of the current contract period or the effective date of termination, whichever is the earlier to occur.

e. Insurance. Contractor must obtain and keep in effect during the term of the contract, insurance coverage in the below listed types and minimum amounts. As evidence of insurance coverage, **Contractor must furnish to BISD certificate(s) of insurance.**

INSURANCE REQUIREMENTS: Contractor shall comply with all of the District's insurance requirements. Contractor shall carry, for the duration of this Project, the following insurance coverages: Workers' Compensation (statutory) and Employer's Liability ($1,000,000 per accident); Automobile Liability: Bodily Injury & Property Damage for all owned, non-owned vehicles and hired vehicles ($1,000,000 combined single limit); Commercial General Liability ($1,000,000 each occurrence) and with insurer(s) acceptable to the District. Contractor shall maintain insurance coverage in the amounts specified by
the District (below).

The District shall be named as an additional insured on such insurance policies.
Certificates of Insurance on the current ACORD form shall be issued to the District showing all required insurance coverage prior to the start of work. Contractor shall assure that the District will receive written notice of at least thirty (30) days in advance of the effective dates of any reduction, modification, cancellation, or termination of such insurance policies.

Workmen's Compensation: (including waiver of subrogation endorsement)	All liability arising out of Contractor's employment of workers and anyone for whom Contractor shall be liable for Worker's Compensation claims. Worker's Compensation is required and no "alternative" form of insurance shall be permitted.
Employer's Liability:	$1,000,000.00
Commercial General Liability: Each Occurrence General Aggregate Personal & Advertising Injury Products and Completed Operations	 $1,000,000.00 $2,000,000.00 (A Designated Construction Project General Aggregate Limit shall be provided) $1,000,000.00 each person $1,000,000.00 (for one (1) year, commencing with issuance of final Certificate for Payment)
Property Damage Independent Contractors Contractual Liability	$1,000,000.00 each occurance $2,000,000.00 aggregate (same limits as above) (same limited as above)
Automobile Liability: Bodily Injury/Property Damage	$1,000,000.00 combined single limit $1,000,000.00 each occurrence

Contractor shall provide BISD with a certificate of coverage for each person providing services on the project, prior to that person's beginning work on the project. This provision includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracts directly with the contractor and regardless of whether that person has employees. This includes, but is not limited to, independent

contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the contract. Services include, but are not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

Contractor shall provide BISD with a new certificate of coverage showing extension of coverage:

(1) Before the end of the coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and
(2) No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.

f. Materials. Whenever an article or material is defined by Owner in this solicitation by describing a proprietary product or by using the name of a manufacturer or brand name, the term "or equal" if not inserted shall be implied (as applicable). The specified article or material shall be understood as indicating type, function, minimum standard of design, efficiency and quality desired and shall not be construed as to exclude other manufactured products or comparable quality, design and efficiency (as applicable). Any reference in the RFP Documents to materials, products, equipment, fixtures, etc., shall not be construed as limiting competition in any manner; however, only the BISD Director of Maintenance and Operations shall have the authority to determine whether a material is equal. No substitution will be allowed unless authorized in writing BISD Director of Maintenance and Operations.

Where a definite material is specified, it is to set a standard, unless so noted that NO substitution allowed. Manufacturers of products not named in the RFP Documents will be required to show evidence satisfactory to the BISD Director of Maintenance and Operations, that their product is equal in construction, similar in design, and will serve the intended purpose as the item specifically named.

g. Appeal/Protest Process. In accordance with applicable law, Owner is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. Any Proposer who submitted a proposal may appeal BISD's award, if the appeal is based on deviations from laws, rules, regulations, or BISD Board policies. BISD Board Policy GF (Local) applies to any Proposer wishing to appeal a proposal and/or award of a contract. In accordance with Policy GF (Local), a Proposer shall submit a complaint/appeal form by hand-delivery, fax, or U.S. mail, to BISD's Director of Purchasing. Complaints/appeals must be received by the close of business on or before the 15th BISD business day after award of the contract. In the event Proposer is unsure about the award of the contract, it is the Proposer's responsibility to contact BISD on the next business day after the award is announced and verify details concerning the award.

SECTION 6: EXECUTION

The foregoing is true and correct. The BISD, or any authorized representative of the BISD, is authorized by the undersigned to contact any firm, institution, or person listed above to obtain information about our firm's services, financial condition, and any other information which the BISD might determine as being desirable.

Offeror: _____

By: _____
(Signature)

_____
(Printed Name)

_____
(Title)

SECTION 7: REPRESENTATIONS AND CERTIFICATIONS

By submitting this Proposal, the Offeror:

1. Represents that to the best of its knowledge it is not indebted to the BISD. Indebtedness to the BISD shall be basis for non-award and/or cancellation of any award.
2. Certifies that no suspension or debarment is in place that would preclude receiving a federally funded or state funded contract.
3. Certifies it's understanding that, should Offeror be selected for the Project: "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Offeror or vendor agrees that the contract can be terminated if the Offeror or vendor knowingly or intentionally fails to comply with a requirement of that subchapter." Specifically: The requirements of Subchapter J, Chapter 552, Government Code, may apply to this procurement and resulting contract and the Offeror agrees that any resulting contract can be terminated if the Offeror knowingly or intentionally fails to comply with a requirement of that subchapter. Therefore, if the value of the Project is One Million Dollars ($1,000,000.00) or more, the Offeror agrees to : (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the BISD for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the BISD; and (3) on completion of the contract, either: (a) provide at no cost to the BISD all contracting information related to the contract that is in the custody or possession of the entity; or (b) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the BISD.
4. Certifies its understanding that, pursuant to Texas Government Code Chapter 2271, as amended, if the resulting contract is valued at $100,000 or more and if the Offeror has at least ten (10) full time employees, then the Offeror, by its execution of any resulting agreement with BISD, represents and warrants to the BISD that the Offeror does not boycott Israel and will not boycott Israel during the term of any resulting agreement. This section does not apply to a sole proprietorship.
5. By signing, the undersigned certifies as follows: Under Section 231.006 of the Texas Family Code, the Offeror certifies that the individual or business entity named is not ineligible to receive the specified payments and acknowledges that any resulting agreement may be terminated and payment withheld in this certification is inaccurate.
6. Offeror verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Offeror has misrepresented its inclusion on the Comptroller's list such omission or misrepresentation will void any contract with BISD.
7. Pursuant to Texas Government Code Chapters 2274 and 809, if the contract is valued at $100,000 or more and if Offeror has at least ten (10) full-time employees, then Offeror represents and warrants to the BISD that the Offeror does not boycott energy companies and will not boycott energy companies during the term of the contract. This provision does not apply to sole proprietorships.
8. Pursuant to Texas Government Code Chapter 2274, if the contract is valued at $100,000 or more and if Offeror has at least ten (10) full-time employees, then Offeror represents and warrants to the BISD that the Offeror does not discriminate against firearm entities or firearm trade associations and will not discriminate against firearm entities or firearm trade associations during

the term of the contract. This provision does not apply to sole proprietorships.

9. In compliance with Chapter 2252 of the Texas Government Code, Offeror certifies that it does not engage in business with Iran, Sudan, or any foreign terrorist organization. Offeror also certifies that for the length of any resulting contract with BISD, Offeror will not engage in any business with Iran, Sudan, or any foreign terrorist organization.
10. Offeror certifies that it understands that Texas Education Code Chapter 22 requires that criminal history records be obtained regarding covered employees of entities that contract with school districts ("Contractors") and entities that contract with school district contractors ("Subcontractors"). Texas Education Code §22.08341 requires that the Contractor obtain criminal history record information ("CHRI") on **Covered Employees** with **Disqualifying Criminal Histories** (each defined below). These persons are prohibited from serving at a school district. Because of restrictions on what entities may access such information, prior to commencement of work under this Agreement, using the process established by the Owner, Contractor will be required to arrange with the Owner to obtain the national criminal history record information ("CHRI") on all of Contractor's employees, independent contractors, agents, or Subcontractors, Contractor's Subcontractors of every tier ("Subcontractors"), if any of these persons is a "Covered Employee" as defined by the Statute, i.e. the person has or will have continuing duties related to the contracted for services, and said person has or will have the opportunity for direct contact with students in connection with those continuing duties. Contractor will also be required to reimburse the Owner for the costs and expenses associated with obtaining the criminal history information by entering into the proposed Contract Documents will be required to agree to accept the Owner's interpretation of the report as to whether any Covered Employee has been determined to have a Disqualifying Criminal History and will be required to be excluded from assignment to the Project. The selected Contractor will not assign or permit Covered Employees (of either Contractor or any of its subcontractors, independent contractors, or consultants) with a Disqualifying Criminal History to performing any work on BISD's Project or on BISD's property.

Offeror: _____

By: _____
(Signature)

_____
(Printed Name)

_____
(Title)

REPRESENTATIONS AND CERTIFICATIONS

Section 44.034 of the Texas Education Code, Notification of Criminal History, Subsection (a.), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity of services performed before the termination of the contract." Note: **This Is Not Required of a Publicly Held Corporation.**

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and following information furnished is true to the best of my knowledge.

SELECT ONE:

❒ My firm is a publicly-held corporation; therefore, this reporting requirement is not applicable.
❒ My firm is not owned nor operated by anyone who has been convicted of a felony.
❒ My firm is owned or operated by the following individual(s) who has/have been convicted of a felony.

Name of Felon(s): _____
Details of Conviction(s): _____

The undersigned affirms that they are duly authorized to execute this Proposal, that this company, corporation, firm, partnership or individual has not prepared this response in collusion with any other consultant, and that the contents of this response as to terms or conditions of said response have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this response.

Company Name: _____

Address: _____

Phone:_____ Fax:_____

_____ _____
Printed Name & Title Signature

REQUEST FOR COMPETITIVE SEALED PROPOSALS
BEAUMONT INDEPENDENT SCHOOL DISTRICT
RFP 25.03 – FENCING INSTALLATION SERVICES

EXHIBIT A: PROPOSAL FORM

IDENTIFICATION OF OFFEROR AND ACCEPTANCE OF TERMS

IMPORTANT: A proposal, to be valid, must be manually signed in ink by an authorized person in the space provided. By such signature, Offeror agrees to strictly abide by the terms, conditions, and specifications set out in the Request for Proposals.

1.1 TO: Beaumont Independent School District
Attn: Purchasing Department
3395 Harrison Ave, Beaumont, TX 77706

1.2 SUBMITTED BY: _____

Address: _____

Phone No.: _____ Email: _____ Date: _____

Signature: _____

1.3 PROPOSAL: (amount in figures)
Proposal Price shall include ALL (labor & materials) work

A. Black vinyl fencing (heavy gauge; 8' tall)

Price per foot (including labor): $_____

B. Wrought iron fencing (6' tall)

Price per foot (including labor): $ _____

C. Pressure treated yellow pine (8' tall)

Price per foot including labor): $ _____

D. Panic bar gate openings (with header bar to tie in gate posts)

Price per gate opening (including labor): $ _____

1.5 ADDENDA: Undersigned acknowledges receipt of Addenda:

Nos. & Dates) _____

1.6 REVIEW OF CONTRACT DOCUMENTS

The Proposer certifies that it has reviewed the Contractor Agreement Between Beaumont ISD and Contractor, attached as Exhibit B.

_____Yes _____No

Proposer agrees that if any revisions are requested to the terms and conditions in the Agreement attached as Exhibit B, they are listed below or attached on a separate sheet and submitted with the Proposal response:

_____Yes _____No

Requested Revisions:

_____

_____

_____

_____

The undersigned hereby proposes to furnish all labor, materials, supervision and any other services necessary to complete the above-referenced project for the proposal amount(s) listed.

Proposal prices are firm for acceptance by BISD for 60 days from the date opening of proposals has occurred.

Signed By: _____

Name: _____
(Type or Print)

Title: _____
(Type or Print)

ATTEST: _____
(Secretary, if Proposer is a Corporation)
SEAL:
(If Corporation)

EXHIBIT B

CONTRACTOR AGREEMENT
BETWEEN
BEAUMONT INDEPENDENT SCHOOL DISTRICT AND
[INSERT CONTRACTOR NAME]

This Contractor Agreement ("Agreement") is made and entered into as of the _____ day of _____, 20____ ("Effective Date"), by and between Beaumont Independent School District, an independent school district with its main office located at 3395 Harrison Avenue, Beaumont Texas 77706 ("BISD") and **[INSERT CONTRACTOR'S LEGAL NAME]**, located at **[INSERT CONTRACTOR'S ADDRESS]** ("Contractor"). Throughout this Agreement, BISD and Contractor are sometimes referred to as "Parties," and either may singularly be referred to as a "Party."

WHEREAS, Contractor was selected by BISD to perform Fencing Installation services;

WHEREAS, BISD desires to contract with Contractor for Fencing Installation Services, in the total amount of the Contract Sum (as hereinafter defined), subject to subsequent amendments by written agreement of the parties or Change Order (in accordance with Article 33 herein); and

WHEREAS, the Parties desire to set forth the terms and conditions of their Agreement herein.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and obligations of the Parties set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties intending to be legally bound do hereby agree as follows:

1. **Agreement Documents:** This Agreement shall include the following Agreement Documents: (1) the body of this Agreement and any documents incorporated by reference herein; (2) Exhibits or other attachments attached to this Agreement; (3) BISD Job/RFP No. 24.03, if any; (4) Contractor's completed BISD Vendor Packet; (5) the Construction Documents, if any, as defined herein; and (6) Valid Amendments made in accordance with Article 33.

2. **Definitions:** As used in this Agreement, the following terms shall have the meanings set forth below:

a) The word "furnish" shall mean "to supply and deliver to the Project Site, ready for installation."
b) The word "install" shall mean "to place in position and make ready (including without limitation establishing connections to electricity, water, and the like, as applicable) for service or use."
c) The word "provide" shall mean "to furnish and install, complete and ready for intended use."
d) The term "Architect" shall mean the architect, if any, retained by BISD in connection with the Project. If an Architect is retained by BISD, the Architect will have the authority to act on behalf of BISD only to the extent provided in this Agreement.
e) The term "Construction Documents" means any drawings, plans, specifications, or other construction documents prepared by, or approved in writing by, BISD relating to the Project, and any Valid Amendments (made in accordance with Article 33) thereto. Construction Documents do not include proposals, bids, quotes, drawings, samples, plans, and/or specifications drafted by or for Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor, unless approved in writing by BISD.
f) The term "Contract Time" means the period of time allotted in this Agreement, including adjustments authorized by BISD in accordance with Article 33 of this Agreement, for Substantial Completion of the Work.

g) The term "day" means a calendar day, including Saturday, Sunday, and holidays, unless otherwise specifically defined.

h) The term "Project" means Fencing Installation Services (RFP 24.03).

i) The term "Project Site" means any physical location or locations where the Work is to be performed, including BISD premises and any Work storage, parking, mobilization, and staging areas used to support the Work or perform any part of the Work.

j) The term "Subcontractor" means a person or entity that has a direct contract with Contractor to perform a portion of the Work. The term "Subcontractor" is referred to throughout this Agreement as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include any contractor who has a direct contract with BISD (a "Separate Contractor") or any subcontractors of a Separate Contractor.

k) The term "Sub-subcontractor" means a person or entity that has a direct or indirect contract with a Subcontractor to perform a portion of the Work. The term "Sub-subcontractor" is referred to throughout this Agreement as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

l) The term "Substantial Completion" means the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with this Agreement such that BISD can occupy or utilize the Work for its intended use.

m) The term "Final Completion" means the stage in the progress of the Work when all Work has been completed in accordance with this Agreement, including without limitation those items listed by Contractor to be completed or corrected after Substantial Completion. Completion of the Work shall be considered final only upon written approval of Final Completion and acceptance of the Work by BISD's designated representative.

n) The term "Valid Amendment" means those supplements, amendments, changes, or modifications to the Agreement Documents that are made in accordance with Article 33.

o) The term "Work" means the doing of all things described in, and all tasks reasonably related to or necessary, proper, or incidental to the construction, work, and services required by, this Agreement, whether completed or partially completed, and includes all other labor, materials, tools, resources, supplies, equipment, permits, insurance, transportation, supervision, management, operations, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations under Article 3, including any specific Project requirements defined or described in the Agreement Documents or the Construction Documents. The Work may constitute the whole or a part of the Project and includes all supplies, skill, supervision, transportation services, and other facilities and things necessary, proper, or incidental to the carrying out and completion of the terms of this Agreement and all other items of cost or value needed to produce, construct, and fully complete the Scope of Work.

Technical terms not defined in this Agreement shall have the meanings given in the American Institute of Architects (AIA) "Glossary of Construction Industry Terms" 1991 Edition. Technical terms not defined in the Glossary and used to describe items of Work which so applied have a well known technical or trade meaning shall be held to have such recognized meaning.

3. **Scope of Work:** Contractor agrees to perform the following Scope of Work for BISD:
Scope of Services/Work Defined in RFP 24.03 – Fencing Installation Services.

3.1 Contractor stipulates and agrees that BISD has no duty to discover any design errors or omissions in any drawings, plans, specifications, or other Construction Documents and has no duty to notify Contractor of same. By entering into any agreement with an Architect, BISD does not warrant the adequacy or accuracy of any drawings, plans, specifications, or other Construction Documents.

Should Contractor or its Subcontractor or Sub-subcontractor discover any discrepancy between the Construction Documents, Contractor shall promptly submit the matter to BISD, which shall promptly make a determination in writing regarding such discrepancy. Any adjustment by Contractor without such prior written determination by BISD shall be at Contractor's own risk and expense, and BISD shall not be liable for any such adjustment made by Contractor.

4. **Contractor's Representations and Warranties:** In addition to other representations and warranties contained in this Agreement, Contractor represents and warrants the following to BISD:

a) that Contractor shall perform all of the Work in a good and workmanlike manner and in accordance with the requirements of the Agreement Documents, standard industry practices, standards of the profession, and all Construction Documents;

b) that Contractor is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and to perform its obligations under this Agreement;

c) that Contractor is able to and will furnish all necessary and available resources, including the tools, materials, supplies, services (including without limitation installation services), equipment, labor, and warranties required to timely complete the Work and to perform its obligations hereunder;

d) that Contractor has, and acknowledges that BISD is relying on Contractor's representation that it has, sufficient experience and competence to perform the Work;

e) that Contractor is authorized to do business in the State of Texas and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over Contractor, the Work, or the Project Site;

f) that the execution of this Agreement and Contractor's performance hereunder are within Contractor's duly authorized powers;

g) that the execution of this Agreement by Contractor is a representation that Contractor has visited the Project Site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with the requirements of the Construction Documents. Contractor shall not be entitled to additional compensation for any additional work caused by its failure to carefully study or compare the Construction Documents prior to execution of the Work;

h) that materials and equipment furnished under this Agreement will be of good quality and new unless the Construction Documents require or permit otherwise. Contractor further warrants, for the maximum period allowed by law, that the Work will conform to the requirements of this Agreement and will be free from defects in equipment, material or design furnished, or workmanship performed by Contractor or any of its Subcontractors or suppliers at any tier, except for those defects inherent in the quality of the Work as required or permitted by the Construction Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by BISD or BISD's consultants, including any Architect BISD may retain for the Project, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment;

i) that materials and labor furnished under this Agreement are warranted in accordance with the warranty provisions contained in the Agreement Documents, or longer as provided by law or the manufacturer/supplier of materials, during which time the Contractor will repair or replace any defective or non-conforming, materials, labor, or Work at its sole expense. Further, Contractor shall remedy, at Contractor's sole expense, any damage to BISD's real or personal property when that damage is the result of Contractor's failure to conform to the requirements of this Agreement or any defect of equipment, material, workmanship, or design furnished by

Contractor or any of its Subcontractors or suppliers at any tier. Nothing in the Agreement Documents shall be interpreted as limiting any express or implied warranties. Any conditions or limitations of warranty or liability contained in any proposal provided by Contractor to BISD are not included in, and are hereby expressly excluded from, this Agreement, unless such conditions or limitations are restated in the main body of this Agreement.

j) that the services of any Subcontractors or any Sub-subcontractors will conform to the representations and warranties set forth above;

k) that with respect to all warranties, expressed or implied, from Subcontractors, Sub-subcontractors, manufacturers, or suppliers for Work performed and materials furnished for the Scope of Work of this Agreement, Contractor shall obtain all such warranties, require all such warranties to be executed, in writing, for the benefit of BISD, and enforce all such warranties for the benefit of BISD; and

l) that Contractor will replace, repair, or re-perform Work at its sole expense until the Work meets the warranties set out above.

This warranty shall not limit BISD's rights under this Agreement and/or applicable law with respect to latent defects, gross mistakes, breach of contract or fraud.

5. **Supervision and Construction Procedures:**

5.1 Contractor shall supervise and direct the Work, using Contractor's best skill and attention. Contractor shall be solely responsible for, and shall have control over, all construction means, methods, techniques, sequences, and procedures for the Work under this Agreement, as well as the coordination of all portions of the Work under this Agreement, unless otherwise stated in this Agreement. Contractor agrees to use commercially reasonable best efforts, skill, judgment, and abilities to perform the Work detailed in the Scope of Work in an expeditious and timely manner. Contractor shall at all times provide a sufficient number of qualified, skilled personnel, who shall be supervised by Contractor, to accomplish the Work within the time limits set forth in the Agreement Documents.

5.2 Contractor shall fully document its Project activities, in drawings, reports or other methods as appropriate to the Scope of Work and as identified in this Agreement. Pursuant to applicable laws, Contractor shall retain, and shall contractually require each Subcontractor at every tier to retain, all data, books, documents and other records ("records") relating to this Agreement for a period of five (5) years after the end of the Term of this Agreement. This includes all books and other evidence bearing on Contractor's costs and expenses under this Agreement. All records shall be subject to inspection and audit by BISD at reasonable times, without cost to BISD. Upon request, Contractor shall produce the original of any or all such records. If approved by BISD, photographs, microphotographs, or any authentic reproductions may be maintained instead of original records and documents. If an audit or a compliance review has been announced, Contractor shall retain its records and accounts until such audit or compliance review has been completed.

5.3 Contractor shall be responsible to BISD for acts and omissions of Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, Contractor or any of its Subcontractors. Contractor shall also be responsible for all damages to persons or property that occur as a result of Contractor's fault or negligence, and shall take proper safety and health precautions to protect the Work, the workers, the public, and the property of others.

5.4 In accordance with Texas Business and Commerce Code § 116.0001, as soon as practicable after beginning construction of the Project, Contractor shall visibly post the following information at the entrance to the construction site: (1) the name and contact information of the Contractor; and (2) a brief description of the Project.

6. **Labor and Materials:**

6.1 Unless otherwise provided in this Agreement, Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. All equipment, material, and articles incorporated in the Work covered by this Agreement shall be new and of the most suitable grade for the purpose intended. Contractor shall be responsible for any required testing of materials prior to incorporation into the Work.

6.2 Contractor may make substitutions in the Work only with the written consent of BISD, after evaluation by BISD and its consultant(s) and in accordance with a Change Order pursuant to Article 33.

7. **Contractor's Employees and Subcontractors:**

7.1 Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Work. Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

7.2 Contractor shall comply with, and shall ensure each Subcontractor and Sub-subcontractor complies with, all applicable laws regarding prevailing wage rates, including, but not limited to, Chapter 2258 of the Texas Government Code and any applicable related federal requirements. Contractor and all Subcontractors and Sub-subcontractors shall pay all workers not less than the general prevailing rate of the per diem wages for work of a similar character where the Project is located, plus any applicable fringe benefits. Contractor shall pay not less than the wage scale of the various classes of labor as detailed in the prevailing wage schedule detailed in Exhibit A ("Prevailing Wage Rates"), which is attached hereto and incorporated herein. The Project does not involve federal funds. Wages listed are minimum rates only. Contractor and Contractor's Subcontractors and Sub-subcontractors shall comply with all state and federal laws including, but not limited to, workers' compensation laws, laws of labor, minimum and maximum salary and wage statutes and regulations, safety, prompt payment and licensing laws and regulations, and equal employment opportunity.

7.3 If applicable, Contractor shall comply with, and shall require its Subcontractors to comply with, the criminal history provisions of Chapter 22 of the Texas Education Code and Title 19, Texas Administrative Code Chapter 153. The form of certification that Contractor has complied with the statutory requirements shall be supplied by BISD upon request and must be supplemented by Contractor and any Subcontractors as required by law or as requested by BISD. If Contractor does not qualify for access to fingerprint criminal history under applicable law, Contractor shall ensure that all necessary information and documentation is submitted to BISD or other entities, as directed by BISD, so that BISD may obtain covered employees' criminal history record information.

8. **Construction by BISD or by Separate Contractors:**

8.1 BISD reserves the right to perform construction or operations related to the Project with BISD's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project Site. BISD may award or enter into other contracts in its sole discretion; nothing in this Agreement may be construed to imply that Contractor has the exclusive right to provide services to BISD.

8.2 BISD shall provide for coordination of the activities of BISD's own forces and of each Separate Contractor with the Work of Contractor, and Contractor shall cooperate with them. Contractor shall not commit or permit any act that interferes with the performance of work by any other contractor or by BISD's employees. Contractor shall participate with other Separate Contractors and BISD in reviewing

all construction schedules, and Contractor shall make any revisions to its Construction Schedule (as hereinafter defined) deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by Contractor, Separate Contractors, and BISD until subsequently revised. Contractor shall reimburse BISD for costs BISD incurs that are payable to a Separate Contractor because of Contractor's (or its Subcontractor's or Sub-subcontractor's) delays, improperly timed activities, failure to adjust its Construction Schedule as required above, or defective work.

9. **Clean-up:** Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under this Agreement. At completion of the Work, Contractor shall remove waste materials, rubbish, Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. Upon completion of the Work, Contractor shall provide final clean-up of all surfaces, including, without limitation, cleaning all surfaces, removing any adhesives and stickers, removing all trash and debris, and the like. If Contractor fails to clean up as provided in this Agreement, BISD may clean up, and BISD shall be entitled to reimbursement from Contractor for all expenses associated with such clean up.

10. **Access to the Work:** BISD is not required to make any inspections to check the quality or quantity of the Work. However, Contractor shall provide BISD and BISD's consultants, including but not limited to any Architect retained by BISD, access to the Work in preparation and progress wherever located. Neither the exercise of such access rights by BISD or its consultants, nor the failure on the part of BISD or its consultants to discover or reject non-conforming Work, shall be deemed an acceptance of such non-conforming Work or a waiver of any rights under this Agreement by BISD.

11. **Contract Sum:** In exchange for Contractor's complete performance of its obligations under this Agreement, BISD shall pay to Contractor the total sum of **[INSERT DOLLAR AMOUNT IN WRITTEN-OUT FORM]** dollars and **[INSERT]** cents **($[INSERT AMOUNT IN NUMERALS])** (the "Contract Sum"), subject to subsequent amendments by written agreement of the parties or Change Order (in accordance with Article 33 herein). The Contract Sum is the total amount payable by BISD to Contractor for performance of the Work under this Agreement. The Contract Sum represents the maximum aggregate contract expenditure by BISD for this Agreement; in no event shall payments by BISD under this Agreement exceed the Contract Sum. BISD is Texas sales and use tax exempt and will not reimburse Contractor for any Texas sales taxes incurred by Contractor.

The Term of this Agreement is a commitment of BISD current revenue only. Every payment obligation of BISD under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. Notwithstanding anything to the contrary in this Agreement, BISD is obligated to make payments only as approved each year by BISD's Board of Trustees. BISD's Board of Trustees retains the right to terminate the Agreement at the expiration of each budget period of BISD. Contractor acknowledges that performance by BISD under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by BISD's Board of Trustees. As such, if the Legislature fails to appropriate or allot the necessary funds, or if the Board fails to allocate the necessary funds, then BISD shall issue written notice to Contractor and BISD may, in its sole discretion, terminate or reduce the Scope of Work to be provided under this Agreement without penalty or further duty or obligation to Contractor, at any time upon written notice to Contractor. In the event of termination of this Agreement under this provision, BISD shall pay Contractor for goods and/or services accepted by BISD prior to the effective date of termination. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of BISD. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by BISD at the end of the period for which funds are available.

In addition, renewal of this Agreement or continuation beyond the current BISD fiscal year, if any, will be

in accordance with Texas Local Government Code § 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Agreement or obligation imposed on BISD by this Agreement, BISD shall have the right to terminate this Agreement without default or liability to Contractor resulting from such termination, effective as of the expiration of each budget period of BISD or the end of any fiscal year of BISD, if it is determined by BISD, in BISD's sole discretion, that there are insufficient funds to extend this Agreement.

12. **Progress Payments and Contractor's Statements:**

12.1 Contractor will furnish BISD an itemized, detailed, written statement of completed portions of the Work and request payment therefore ("Statement"). Such Statement shall be accompanied by a schedule of values showing progress of the Work and shall be supported by data substantiating Contractor's right to payment as BISD may require, including, without limitation, copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in this Agreement.

12.2 BISD's payment to Contractor of the unpaid and undisputed portion of the Contract Sum due to Contractor shall be made no later than forty-five (45) days after Final Completion of the Work, upon Contractor's presentation of Contractor's Statement in an amount not to exceed the Contract Sum, unless subsequently amended by written agreement of the parties or Change Order, in accordance with Article 33. Undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025.

BISD shall notify Contractor of an error or disputed amount in an invoice submitted for payment by Contractor no later than the 21st day after the date BISD receives the invoice and shall include in such notice a detailed statement of the amount of the invoice that is disputed, in accordance with Texas Government Code Section 2251.042(a). If Work or any portion thereof has not met the satisfactory approval of BISD's designated representative, current and future payments shall not be made until both Parties agree that the Work or the portion thereof has been completed in a satisfactory manner or the Work is acceptable; notwithstanding the foregoing, BISD may withhold from payments required no more than 110% of the disputed amount. Notwithstanding any provision herein to the contrary, no payment of amounts owed hereunder shall be considered past due or not paid when due except in accordance with Section 2251.021 of the Texas Government Code.

Final payment shall be conditioned upon Contractor's completion of all punchlist work, Contractor's submission of all required close-out documents, and BISD's receipt of final lien releases from Contractor, its Subcontractors, Sub-subcontractors, and suppliers (conditioned only upon receipt of final payment) in the form required by Texas Property Code Chapter 53.

12.3 At BISD's sole election, BISD may make monthly progress payments to Contractor of unpaid and undisputed amounts due to Contractor within forty-five (45) days of BISD's receipt of Contractor's Statement.

12.4 Contractor warrants that title to all Work covered by a Statement will pass to BISD no later than the time of payment. Contractor further warrants that, upon submittal of a Statement, all Work submitted on a previous Statement and payments received from BISD shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of any liens, claims, security interests, or encumbrances in favor of Contractor, Subcontractors, Sub-subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, or equipment relating to the Work.

12.5 Neither a progress payment nor partial or entire use or occupancy of the Project by BISD shall constitute acceptance of Work not in accordance with this Agreement.

13. **Retainage:** BISD shall withhold from payment(s) to Contractor a retainage as follows: if the Agreement is valued at less than $5 million, BISD shall retain ten percent (10%); if the Agreement is valued at $5 million or more, BISD shall retain five percent (5%). The retainage shall be paid to Contractor upon Final Completion of the Work. Completion of the Work shall be considered final upon written approval by BISD's designated representative, as further detailed in Article 23.

Per Tex. Gov't Code Section 2252.032(f), on application to BISD for final payment and release of retainage, BISD may withhold retainage if there is a bona fide dispute between BISD and Contractor and the reason for the dispute is that labor, services, or materials provided by the Contractor, or by a person under the direction or control of the Contractor, failed to comply with the express terms of the Agreement, or if the surety on any outstanding surety bond executed for the Agreement does not agree to the release of retainage. BISD shall provide to Contractor written notice of the basis on which BISD is withholding retainage under this Article.

14. **Taxes:** BISD is tax exempt, and Contractor shall avail itself of all tax exemptions applicable to Contractor's Work or expenses. BISD shall provide a tax exemption certificate to Contractor upon Contractor's request. BISD shall not be liable for any taxes resulting from this Agreement, except where otherwise required by law.

A corporate or limited liability company Contractor certifies that it is not currently delinquent in the payment of any franchise taxes due under Chapter 171 of the Texas Tax Code, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

15. **Permits, Fees, Notices, and Compliance with Laws**

15.1 Unless otherwise provided in Agreement, after execution of this Agreement, Contractor shall secure and pay for any building permits as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured and legally required at the time this Agreement is executed.

15.2 Contractor shall comply with, and takes full responsibility for complying with, safety rules, guidelines, standards, regulations, and requirements promulgated by the Occupational Safety and Health Administration (OSHA) applicable to the Project. Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury, or loss. Contractor shall indemnify BISD for fines, penalties, and corrective measures that result from the acts of commission or omission of Contractor, its Subcontractors or Sub-subcontractors, agents, employees, or assigns, or from any of their failure to comply with such safety rules and regulations.

15.3 Contractor acknowledges that BISD is subject to the Texas Public Information Act, and Contractor waives any claim against and releases from liability BISD, its trustees, officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Agreement or otherwise created, assembled, maintained, or held by Contractor or BISD and determined by BISD, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

In addition, the requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement, and the Contractor agrees that this Agreement can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter. The requirements of that

subchapter include, without limitation, the preservation of all contracting information (including, but not limited to, records, communications, and other documents related to the bid process, contract, payments, receipts, scope of work/services, and performance); the provision to BISD, upon its request, of all contracting information; and, upon completion of this Agreement, the provision to BISD of all contracting information in Contractor's possession, or preservation of the contracting information as provided by the records retention requirements applicable to BISD.

16. **Intellectual Property:** Contractor shall pay all royalties and license fees. Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold BISD harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by Construction Documents, or where the copyright violations are contained in Construction Documents or other documents prepared by BISD. However, if Contractor (1) has reason to believe that any required design, process, or product is an infringement of a copyright or a patent and fails to promptly furnish such information to BISD, or (2) should reasonably have known that any required design, process, or product is an infringement of a copyright or a patent, then Contractor shall be responsible for all resulting defenses and losses.

16.1 Contractor shall treat any information supplied by BISD or information pertaining to BISD as confidential and shall not disclose any such information to others except as necessary for the performance of this Agreement, as authorized by BISD in writing, or when required by law.

17. **Construction Schedule:** Contractor has prepared and submitted a Contractor's construction schedule for the Work, which is attached hereto and incorporated herein as Exhibit B ("Construction Schedule"). Contractor shall perform the Work in general accordance with the Construction Schedule. The Construction Schedule shall be related to the entire Project, to the extent required by the Construction Documents, and shall provide for expeditious and practicable execution of the Work. The Construction Schedule shall be revised in accordance with Article 33 at appropriate intervals, as required by the conditions of the Work and Project. Contractor shall submit to BISD updated Construction Schedule(s) as necessary to reflect appropriate schedule revisions and shall take whatever action is necessary and within Contractor's control to assure that the Project completion schedule is met.

18. **Professional Services:** Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Construction Documents for a portion of the Work or unless Contractor needs to provide such services in order to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Construction Documents, BISD and BISD's Architect, if any, will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other documents prepared by such professional. BISD shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by such design professionals, provided BISD has specified to Contractor all performance and design criteria that such services must satisfy.

19. **Priority of Documents:** In the event of a conflict between or among the Agreement Documents, the following hierarchy ("Agreement Hierarchy") shall prevail: (1) the body of this Agreement (including Valid Amendments thereto, if any, made in accordance with Article 33 of this Agreement); (2) any documents incorporated by reference within this Agreement; (3) Exhibits or other attachments attached to this Agreement (including Valid Amendments thereto, if any, made in accordance with Article 33 of this

Agreement); (4) Contractor's completed BISD Vendor Packet; (5) the Construction Documents, if any (including Valid Amendments thereto, if any, made in accordance with Article 33 of this Agreement); and (6) BISD Job/RFP No. 24.03, if any. Contractor's completed BISD certifications are fully incorporated herein for any and all purposes.

The following documents are not included within the Agreement Documents or the Construction Documents: proposals, bids, quotes, drawings, samples, plans, specifications, and/or other document or record drafted by or for Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor; any Change Order not in accordance with Article 33 of this Agreement; any Contractor's work ticket, invoice, statement, purchase order, or published rate schedule; any purchase or work orders, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Contractor after the Effective Date of this Agreement; and any other type of memoranda between BISD and Contractor pertaining to the subject matter in this Agreement (collectively, "Non-BISD Documents"). In no event shall the terms of Non-BISD Documents take priority over the terms of the documents listed in the Agreement Hierarchy. In the case of an inconsistency between the terms of any document listed in the Agreement Hierarchy and the terms of the Non-BISD Documents, which inconsistency is not clarified by a Valid Amendment, Contractor is deemed to have included the better quality and/or greater quantity of Work in the Contract Sum.

Nothing in this Article prohibits Valid Amendments to be made in accordance with Article 33.

20. **BISD's Right to Stop the Work and Right to Carry Out the Work:**

20.1 BISD may temporarily stop the Work, at any time, for BISD's convenience and without cause, for a period not to exceed two (2) weeks, upon three (3) days' written notice to Contractor. The Work may be temporarily stopped for a period longer than two (2) weeks by a Valid Amendment in accordance with Article 33. If the Work is temporarily stopped at BISD's request, the Contract Time shall be adjusted accordingly in accordance with Article 33.

20.2 If Contractor fails to correct Work that is not in accordance with the requirements of this Agreement or repeatedly fails to carry out Work in accordance with this Agreement, BISD may issue a written order to Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of BISD to stop the Work shall not give rise to a duty on the part of BISD to exercise this right for the benefit of Contractor or any other person or entity, except as may otherwise be provided in this Agreement.

20.3 If Contractor defaults or neglects to carry out the Work in accordance with this Agreement and fails, within a ten-day period after receipt of written notice from BISD, to commence and continue correction of such default or neglect with diligence and promptness, BISD may, without prejudice to other remedies BISD may have (including, but not limited to, termination of this Agreement), correct such deficiencies. In such case, an appropriate Change Order shall be issued, in accordance with Article 33, deducting from payments then or thereafter due Contractor the reasonable cost of correcting such deficiencies, including BISD's expenses and compensation for additional services, if any, by BISD's consultants, including but not limited to the services of an Architect retained by BISD, made necessary by such Contractor default, neglect, or failure. If payments then or thereafter due Contractor are not sufficient to cover such amounts, Contractor shall pay the difference to BISD.

21. **BISD's Right to Occupy**: BISD and Contractor agree that BISD may occupy and/or use, without prejudice to the right of either Party, any completed or largely completed portions of the Project, notwithstanding the time for completing the entire Work or such portions may not have expired. Such beneficial occupancy and use shall not constitute Substantial Completion or BISD's acceptance of any Work not in accordance with this Agreement.

22. **Date of Commencement:** The date of commencement of the Work is **[INSERT]**. Contractor shall not knowingly, except by agreement or instruction of BISD in writing in accordance with Article 33, prematurely commence operations on the Project Site or elsewhere prior to either of the following: (1) the date of commencement of the Work, or (2) the effective date of insurance required to be furnished by Contractor pursuant to Article 26 of this Agreement. The date of commencement of the Work shall not be changed by the effective date of such insurance.

23. **Date of Substantial Completion: [INSERT]. The Date of Final Completion is thirty (30) days after Substantial Completion.**

23.1 Time limits stated in this Agreement are of the essence of this Agreement. By executing this Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work. Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time and Final Completion within thirty (30) days thereafter. If Contractor falls behind the schedule detailed in this Agreement, Contractor shall take steps necessary to improve its progress, including those that may be reasonably required by BISD. Without additional cost to BISD, BISD may require Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction equipment, and to submit for approval any supplementary schedule or schedules as BISD deems necessary to demonstrate how the approved rate of progress will be regained.

23.2 BISD and Contractor agree that Contractor's failure to meet the deadlines established in this Agreement will cause damage to BISD, but such damage is difficult to establish. It is therefore expressly agreed, as a part of the consideration inducing BISD to execute this Agreement, that Contractor's failure to achieve Substantial Completion and Final Completion by the agreed dates shall result in liquidated damages in the amount of $**[INSERT]** per day for each and every day after the date on which Substantial Completion or Final Completion was set to occur until Substantial Completion and Final Completion are achieved. Contractor agrees that BISD may deduct liquidated damages from the final payment made to Contractor or from any compensation otherwise owed to Contractor. It is expressly understood that payment of liquidated damages in the amount of $**[INSERT]** per day is agreed upon by the Parties as a fair estimate of the pecuniary damages which will be sustained by BISD in the event that the Work is not substantially completed or finally completed within the agreed times, or within the legally extended times, if any, otherwise provided herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damage being caused by additional compensation to personnel, for loss of interest on money and other miscellaneous increased costs, all of which are difficult of exact ascertainment. Liquidated damages shall be in addition to, and not in lieu of, any other rights or remedies BISD may have against Contractor for failure to timely achieve Substantial Completion and Final Completion of the Work.

23.2.1 In addition to all other rights and remedies that BISD may have, BISD shall have the right to setoff, against any and all amounts due to Contractor by BISD, whether due under this Agreement or any other agreement between BISD (including any division of BISD) and Contractor, any sums to which BISD is entitled under this Agreement, as determined by BISD in its sole discretion, including, without limitation, sums due by Contractor to BISD as a result of indemnification obligations and/or warranty claims.

23.3 When Contractor considers that the Work, or a portion thereof which BISD agrees to accept separately, is substantially complete, Contractor shall prepare and submit to BISD a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of Contractor to complete all Work in accordance with this Agreement.

23.4 When Contractor considers that the Work is finally complete, Contractor shall prepare and submit to BISD written notice that the Contractor finds the Work to be finally complete. Completion of

the Work shall be considered final only upon written approval of Final Completion and acceptance of the Work by BISD's designated representative. Contractor shall, without charge, replace or correct Work found by BISD not to conform to the requirements of this Agreement, unless BISD consents, in writing, to accept the Work with an appropriate adjustment in the Contract Sum. Contractor shall promptly segregate and remove rejected material from the Project Site, if required by BISD. BISD's approval or acceptance of Contractor's Work shall not release Contractor from any liability for any defects in the Work. Final payment of the Contract Sum, constituting the unpaid balance of the Contract Sum, shall not be paid until the Work has been finally completed and accepted by BISD's designated representative, in writing. Final payment shall be paid by BISD to Contractor within forty-five (45) days of BISD's approval of Final Completion and acceptance of the Work.

23.5 If BISD disputes a portion of any payment due to Contractor under this Agreement, BISD may withhold any such disputed amounts, without interest, for a period of thirty (30) days after such payment would otherwise have been due to Contractor, as long as BISD makes a reasonable attempt to resolve the dispute with Contractor. If, after such thirty (30) day withholding period, BISD continues to dispute any portion of the payment, BISD may continue to withhold any such disputed amount until the dispute is resolved, except that, if BISD is found to have wrongfully withheld such disputed amount, Contractor shall be entitled to interest on the wrongfully withheld amount from the original date that payment of such amount was due to Contractor until the date BISD pays such amount to Contractor in full. The interest rate under this section may not exceed the Judgment Rate published by the Texas Office of Consumer Credit Commissioner, effective as of the original date that payment of such amount was due to Contractor.

23.6 If, within one (1) year after the date of Final Completion of the Work, any of the Work is found to be not in accordance with the requirements of this Agreement, Contractor shall correct it, at Contractor's sole cost and expense, promptly upon receipt of written notice from BISD to do so. BISD shall give such notice promptly after discovery of the nonconformance. If Contractor fails to correct nonconforming Work within a reasonable time after receipt of notice from BISD, BISD may correct it in accordance with Article 20. Nothing contained in this Article 23.6 shall be construed to establish a period of limitation with respect to other obligations Contractor has under this Agreement. Establishment of the one-year period for correction of Work as described herein relates only to the specific obligation of Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to correct the Work.

24. **BISD's Right to Terminate:** This Agreement may be terminated by BISD, with or without cause, upon written notice to Contractor. On the effective date of termination, as stated by BISD in its notice, Contractor shall immediately: (1) cease Work after taking all actions necessary, or as directed by BISD, for protection and preservation of the Work already performed and of the property related to this Agreement that is in the possession of Contractor and in which BISD has or may acquire an interest; (2) place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete any Work not terminated by BISD; (3) assign to BISD, as directed by BISD, all right, title, and interest of Contractor under the subcontracts to the extent they relate to the Work terminated, in which case BISD shall have the right to settle or to pay any termination settlement proposal arising out of those terminations, or with approval or ratification to the extent required by BISD, Contractor shall settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the approval or ratification of which will be final for purposes of this Article; (4) as directed by BISD, transfer title and deliver to BISD the fabricated or un-fabricated parts, Work in process, completed Work, supplies, and other material produced or acquired for the Work terminated, as well as the other property that, if the Work had been completed, would be required to be furnished to BISD; and (5) complete performance of the Work not

terminated by BISD, if any. Contractor shall be entitled to payment for all Work performed and accepted by BISD up to the effective date of termination and shall provide BISD with a pro-rata refund for any goods or services paid for but not yet provided or accepted as of the effective date of termination. Termination of this Agreement under any circumstances whatsoever shall not affect or relieve Contractor from any obligation or liability that may have been incurred or will be incurred, and such termination by BISD shall not limit any other right or remedy available to BISD at law or in equity.

25. **Payment and Performance Bonds:** If required under applicable law, Contractor, at its own expense, shall furnish BISD: (1) a Performance Bond for contract amounts over $100,000.00 in an amount equal to One Hundred Percent (100%) of the Contract Sum as security for the faithful performance of this Agreement and (2) a Labor and Material Payment Bond for contract amounts over $25,000.00 in an amount not less than One Hundred Percent (100%) of the Contract Sum as security for the payment of all persons performing labor on the project under this Agreement and furnishing materials in connection with this Agreement. The Performance Bond and the Labor and Material Payment Bond shall be delivered to BISD not later than the date of execution of this Agreement, and the Work shall not be started until the bonds and issuing companies have been accepted as satisfactory in writing by BISD.

The Performance Bond must satisfy the requirements of Chapter 2253 of the Texas Government Code. The Labor and Material Payment Bond must satisfy the requirements of Subchapter I, Chapter 53 of the Texas Property Code. The bonds must be executed by a corporate surety authorized to do business in Texas and licensed in Texas to issue surety bonds, and must be executed by a surety company that is authorized and admitted to write surety bonds in Texas. Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney. The bonds shall be in accordance with Texas Insurance Code Chapter 3503. If the amount of the bond exceeds $100,000.00, the surety must: (a) Hold a certificate of authority from the U.S. Secretary of the Treasury to qualify as a surety on obligations permitted or required under federal law; or (b) Have obtained reinsurance for any liability in excess of $100,000.00 from a reinsurer that is authorized and admitted as a reinsurer in Texas and is the holder of a certificate of authority from the U.S. Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law.

Contractor shall also file copies of each bond and this Agreement with the county clerk of the county in which all or part of the Work is being performed; Contractor shall furnish BISD with a file receipt. The bonds must be made payable to BISD and shall remain in full force throughout the warranty period of this Agreement.

26. **Insurance:**

26.1 At its sole cost and expense, Contractor shall purchase and maintain the following insurance coverage in at least the following limits, on an Occurrence basis:

a) Automobile Liability covering Any Auto - $1,000,000 Combined Single Limit
b) Workers' Compensation (with limits to comply with the requirements of the Texas Workers' Compensation Act) and Employer's Liability ($1,000,000 Limit), including all states, U.S. Longshoremen, Harbor Workers, and other endorsements, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, as required by statute and which meets the statutory requirements of Texas Labor Code Section 401.011(44) for all employees of Contractor providing services on the Project, for the duration of the Project. Contractor shall comply with the requirements of Title 28, Texas Administrative Code Rule Section 110.110, Reporting Requirements for Building or Construction Projects for Governmental Entities.
c) Comprehensive (Commercial) General Liability Occurrence Form including, but not limited to, Premises, Completed Operations, Independent Contractors, Products Liability, Broad Form Property Damage, Blanket Contractual Liability, Pollution, Personal and Advertising Injury

Liability, and, where the exposure exists, coverage for watercraft, blasting collapse, explosions, blowout, catering, and underground damage. (Any XCU exclusions must be removed when underground work is performed.) Property/Builder's Risk coverage will also be provided by Contractor, unless otherwise agreed in writing by an authorized representative of BISD.

- $1,000,000 Occurrence
- $2,000,000 Aggregate
- $1,000,000 Personal Injury
- $500,000 Fire Damage
- $5,000 Medical Payments
- Per Project Aggregate (CG 70 49)

26.2 All insurance required under this Agreement shall protect Contractor from claims which may arise out of or result from Contractor's operations, whether such operations are performed by Contractor or by any Subcontractor, Sub-subcontractor, or by anyone for whose acts any of them may be liable. In addition, insurance as is required herein shall be primary and non-contributing with any other valid and collectible insurance available to BISD.

26.3 All policies of insurance required hereunder shall be purchased from a company or companies acceptable to BISD, with an AM Best rating of at least "A-X," lawfully licensed by the Texas Department of Insurance, and authorized to do business in the jurisdiction in which the Project is located.

26.4 All policies of insurance required of Contractor hereunder, including any renewals thereof, shall: (i) waive all rights of subrogation against BISD, its officers, employees, and agents; (ii) include the location and/or description of the Project and the bid number, CSP number, or Purchase Order number; and (iii) not be canceled, materially changed, or allowed to expire or lapse (non-renewed) without a minimum of thirty (30) days' prior written notice to BISD. A "Waiver of Subrogation" clause in favor of BISD must be attached to the Workers' Compensation, General Liability, and Automobile Liability insurance policies. In addition, the General Liability and Automobile Liability policies, including any renewals thereof, shall name BISD as an "Additional Insured."

26.5 Contractor shall not commence Work until all required insurance coverage has been obtained and such insurance has been reviewed and accepted by BISD. Certificates of Insurances on the current ACORD form shall be issued to BISD showing all required insurance coverage. In addition to certificates of insurance, copies of policy endorsements must be provided (a) listing BISD as Additional Insured, (b) showing waivers of subrogation in favor of BISD, and (c) including CG 02 05, TE 02 02A, and WC 42 06 01 (or their equivalents) specifically naming BISD.

26.6 All insurance required hereunder must be maintained for three (3) years following Substantial Completion, with Certificates of Insurance provided. Contractor shall be responsible for payment of all deductibles; BISD shall approve in writing the deductibles selected. If any policy has aggregate limits, a statement of claims against the aggregate limits is required. If Contractor fails to maintain the required amounts of insurance or allows the policies to lapse or expire during the time when they are required to be in effect pursuant to this Agreement, BISD may purchase said insurance and deduct the cost of obtaining the insurance from amounts owed to the Contractor; if the insurance costs exceed amounts owed to the Contractor, Contractor shall pay BISD the difference promptly upon receipt of notice from BISD to do so.

26.7 BISD reserves the right to review these insurance requirements during the Term of the Agreement and to make reasonable adjustments to insurance coverage and limits requirements when deemed reasonably prudent by BISD in its sole discretion, based upon changes in statutory laws, court

decisions, or other potential increase in exposure to loss.

26.8 The insurance requirements stated herein do not establish limits of Contractor's liability and are separate from and independent of any indemnification obligation of Contractor.

26.9 Contractor shall also require that its Subcontractors and Sub-subcontractors provide evidence of insurance of the same types and in the same amounts as are required of Contractor herein, prior to conducting any Work on the Project. Contractor shall obtain and make available for inspection by BISD upon request current certificates of insurance evidencing insurance coverage carried by such Subcontractors and Sub-subcontractors.

26.10 If Contractor fails (or its Subcontractors or Sub-subcontractors fail) to obtain or maintain any of the required insurance coverage, BISD may obtain and maintain such insurance, and Contractor shall reimburse BISD for the actual cost of such insurance within thirty (30) days after receipt of BISD's invoice, or BISD may offset such amount against any payment due Contractor.

27. **Relationship of Parties:** It is understood and agreed that Contractor is engaged under this Agreement as an independent contractor and not as an agent, joint venturer, business partner, or employee of BISD. Neither Contractor nor any employees, volunteers, or agents contracted by Contractor shall be deemed for any purposes to be employees, volunteers, or agents of BISD. Contractor shall assume full responsibility for the actions of its employees, volunteers, and agents (including without limitation all Subcontractors and Sub-subcontractors and their employees, volunteers, and agents) while performing any services incident to this Agreement and shall remain solely responsible for their supervision, daily direction and control, payment of salary (including withholdings), workers' compensation, disability benefits, and like requirements and obligations. Neither Contractor nor its employees, volunteers, or agents shall be entitled to benefits of any kind to which BISD's employees are entitled, including but not limited to unemployment compensation, workers' compensation, health insurance, or retirement benefits. Contractor assumes full responsibility for payment of all federal, state, and local taxes or contributions, including, but not limited to, unemployment insurance, social security, Medicare, and income taxes with respect to Contractor and Contractor's employees, volunteers, and agents. This Agreement shall not be construed to create or imply any partnership, employer-employee relationship, or joint venture between the Parties hereto, nor shall it be construed or deemed an endorsement of a specific company or product. This Agreement does not authorize either Party to serve as the legal representative or agent of the other. Neither Party has any right or authority to assume, create, or incur any liability or any obligation of any kind, express or implied, against or in the name of or on behalf of the other Party.

28. **Indemnity:** **TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS BISD, ITS TRUSTEES, OFFICERS, CONSULTANTS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL LOSSES, EXPENSES, FINES, PENALTIES, COSTS, AND LIABILITIES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, LITIGATION EXPENSES, AND COURT COSTS), ARISING FROM ANY CLAIM OR CAUSE OF ACTION FOR ANY INJURY (INCLUDING DEATH), LOSS, OR DAMAGE TO ANY PERSON OR PROPERTY CAUSED BY OR ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT (COLLECTIVELY, "CLAIM") TO THE EXTENT THE CLAIM ARISES FROM THE NEGLIGENCE, WILLFUL ACT, BREACH OF CONTRACT, OR VIOLATION OF LAW BY CONTRACTOR, ITS EMPLOYEES, AGENTS, SERVANTS, CONTRACTORS, OR SUBCONTRACTORS. CONTRACTOR'S OBLIGATIONS UNDER THIS CLAUSE SHALL SURVIVE ACCEPTANCE OF THE WORK AND FINAL PAYMENT BY BISD.**

29. **Notices:** All notices, consents, and requests ("Notices") given under this Agreement shall be given

by hand-delivery, certified mail, registered mail, or courier service providing proof of delivery, addressed to the proper Party, at the addresses indicated at the bottom of this Agreement. Notices shall be deemed to have been duly served if delivered in person to the designated representative of the Party; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the address of the Party as listed below. Notices are effective upon receipt. Each Party may change the address at which Notice may be sent to that Party, and/or change its designated representative (as hereinafter defined), by giving advance written Notice of such change to the other Party as outlined in this Article 29.

29.1 Designated Representatives.

a) BISD designates as its representative for matters related to this Agreement:
Allen DeVault, Director of Maintenance and Operations, or his/her designee
BISD's representative shall be authorized to act in BISD's behalf with respect to this Agreement, except for those matters which require approval of the BISD Board of Trustees. Contractor shall coordinate its Work solely through BISD's designated representative.

b) Contractor designates as its representative for matters related to this Agreement:
[INSERT NAME], [INSERT TITLE]
Contractor's designated representative shall act on behalf of Contractor with respect to this Agreement and all phases of the Work and shall be available as required for the benefit of BISD.

30. **Compliance With Laws:** Contractor agrees that it will, in its performance of its obligations hereunder, observe and fully comply with all applicable federal, state, county, and local laws, regulations, rules, and ordinances of all relevant authorities that in any manner affect the provision of services and performance of all obligations undertaken pursuant to this Agreement, including but not limited to those pertaining to safety, and shall maintain any and all applicable licenses, certifications, registrations, or other approvals required to fully perform its obligations hereunder. Contractor represents and warrants that all Work shall comply with the Americans with Disabilities Act and all other applicable codes, regulations, and laws. Contractor shall comply with all state and local building code requirements. Contractor is required to adhere to all applicable local, state, and national design codes and requirements as well as BISD's construction design standards. Contractor shall ensure that it and all of its Subcontractors at all tiers prevent illegal dumping of litter in accordance with Title 5, Texas Health and Safety Code, Chapter 365.

If Contractor is a corporation or a limited liability company, Contractor warrants, represents, and agrees that (1) it is duly organized, validly existing, and in good standing under the laws of the state of its incorporation or organization; (2) it is duly authorized and in good standing to conduct business in the State of Texas; (3) it has all necessary power and has received all necessary approvals to execute and deliver this Agreement; and (4) the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.

31. **No Waiver:** No action or failure to act by BISD or Contractor shall constitute a waiver of a right or duty afforded either Party under this Agreement, including, but not limited to, the requirements of Article 33, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing, signed by both Parties. The waiver by any Party of any right, obligation, or breach of this Agreement shall not be construed as a waiver of any other or subsequent right, obligation, or breach.

The Parties expressly acknowledge that BISD is an agency of the State of Texas, and nothing in this Agreement, including but not limited to its execution and the performance by BISD of its functions and obligations hereunder, is intended to waive or relinquish, or shall waive, relinquish, or be considered as a a waiver or relinquishment by BISD, of the right to claim any exemptions, privileges, rights, defenses, or

immunities, including without limitation any governmental or sovereign immunities or defenses from or to liability or prosecution, available to BISD or to its trustees, officers, employees, or agents under federal or Texas laws, including without limitation the Texas Constitution or the laws of the State of Texas.

32. **No Third-Party Beneficiaries; Successors and Assigns; No Assignment:** Neither the Agreement Documents, nor any term or provisions thereof, nor any inclusion by reference, shall be construed as being for the benefit of any party not in signatory thereto. No person, other than the Parties to this Agreement, is entitled to rely on any representation, warranty, covenant, or agreement contained herein.

BISD and Contractor, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other Party with respect to the terms and conditions of this Agreement.

This Agreement is a personal service contract for the services of Contractor, and neither this Agreement, nor Contractor's interest in this Agreement, nor any of Contractor's rights, duties, or obligations hereunder or fees due to Contractor hereunder may be assigned or delegated to a third party without the prior written approval of BISD. Any attempted assignment of this Agreement by Contractor shall be null and void. This Agreement may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Contractor without the prior written approval of BISD. The benefits and burdens of this Agreement are, however, assignable by BISD.

33. **Amendment:** This Agreement may not be supplemented, amended, changed, or otherwise modified except by a Valid Amendment, which requires an instrument in writing, to be attached to and incorporated in this Agreement in the form of either (1) a formal written amendment to the Agreement Documents signed and delivered by duly authorized representatives of both Parties hereto, or (2) a Change Order, issued by BISD or its authorized representative, as provided in Article 33.1. This Agreement may not be supplemented, amended, changed, or otherwise modified by conduct of either Party, custom, usage of trade, or course of dealing.

33.1 **Change Orders:** If BISD desires to increase the Scope of Work, the Parties will execute a written Change Order, signed by duly authorized representatives of both Parties hereto, increasing the Scope of Work and adjusting the Contract Sum and/or the Contract Time as mutually agreed by the Parties. In the event that BISD desires to reduce the Scope of Work, BISD may unilaterally issue a Change Order, signed only by a duly authorized representative of BISD, reducing the Scope of Work and making appropriate adjustments to the Contract Sum and/or the Contract Time, as determined by BISD in its sole discretion. If BISD issues a Change Order reducing the Scope of Work, Contractor is entitled to payment for the portion of the deleted Work actually performed, if any, prior to the effective date of the Change Order. The Parties agree that in no event shall any action or failure to act by BISD or Contractor constitute a waiver of requirements of this section, except as provided by Article 31.

In accordance with Texas Local Government Code § 271.060: (i) if the original Contract Sum is one-million dollars ($1,000,000.00) or more, the Contract Sum may not be increased by more than twenty-five percent (25%); and (ii) if the original Contract Sum is less than one-million dollars ($1,000,000.00) and a Change Order increases the Contract Sum to one-million dollars ($1,000,000.00) or more, then subsequent change orders may not increase the revised Contract Sum by more than twenty-five percent (25%). The original Contract Sum may not be decreased by more than twenty-five percent (25%) without the consent of Contractor.

34. **Attorneys' Fees:** The prevailing party in any adjudication relating to or arising out of this Agreement shall be awarded all reasonable and necessary attorneys' fees and costs.

35. **Entire Agreement:** The Agreement Documents constitute the complete, exclusive, integrated, and

entire written expression of the intentions of the Parties hereto with respect to the Project and supersede all previous communications, representations, agreements, negotiations, promises, and statements, either oral or written, by and between either Party with respect to the Project. The Agreement Documents supersede any conflicting terms and conditions on any purchase or work orders, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Contractor after the Effective Date of this Agreement.

No supplements, retractions, amendments, modifications, or changes to this Agreement shall be valid unless they are Valid Amendments in accordance with Article 33. Any Valid Amendments to this Agreement must be in writing and signed by the required Party(ies) in accordance with Article 33. The Parties expressly agree that this Agreement shall not be construed against either Party.

36. **Governing Law and Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regard to its conflicts of law provisions. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Agreement shall be a court of competent jurisdiction in Jefferson County, Texas.

37. **Severability:** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

38. **Survival of Provisions:** All representations, warranties, covenants, indemnities, and other continuing obligations as expressly provided in this Agreement shall survive the expiration or earlier termination of this Agreement.

39. **Force Majeure:** Neither Party to this Agreement shall be liable for any failure or delay to perform the terms of this Agreement when such failure is due to Force Majeure (as defined in this Article), during the time and to the extent that the Party is prevented from performance by the Force Majeure event. The term "Force Majeure" as used in this Agreement shall mean any delay or default in performance hereunder due to causes beyond the control of the Parties and without their fault or negligence that could not have been prevented or avoided by the affected Party through the exercise of due diligence, including, but not limited to: acts of God, fire, strike, or lockout. In no event shall Force Majeure include rainout or ordinary weather days that require Work stoppage, equipment breakage, or routine scheduled equipment maintenance.

40. **Exhibits:** The following Exhibits (including Valid Amendments thereto) are attached hereto, as Agreement Documents, and fully incorporated herein by reference:

a) Exhibit A: Prevailing Wage Rates
b) Exhibit B: Construction Schedule

IN WITNESS WHEREOF the undersigned Parties hereto execute this Agreement as of the day and year indicated below. By signature hereon, Contractor certifies that no member of BISD's Board of Trustees has a financial interest, directly or indirectly, in the transaction that is the subject of this Agreement.

BISD: Beaumont Independent School District
3395 Harrison Avenue
Beaumont Texas 77706

_____
By: Dr. Shannon Allen
Title: Superintendent
Date: _____

CONTRACTOR: **[INSERT CONTRACTOR NAME]**
[INSERT CONTRACTOR ADDRESS]

_____
By: _____
Title: _____
Date: _____

EXHIBIT A to Contractor Agreement
PREVAILING WAGE RATES

Contractor and Contractor's Subcontractors and Sub-Contractors shall comply with all applicable laws regarding prevailing wage rates including, but not limited to, Texas Government Code Chapter 2258 and any related federal requirements applicable to this Agreement, including the Davis-Bacon Act. **Contractor and Contractor's Subcontractors and Sub-subcontractors shall comply with all state and federal laws including, but not limited to, laws of labor, minimum wage, safety, and equal employment opportunity. Contractor and Contractor's Subcontractors and Sub-subcontractors must pay not less than the general prevailing wage rate as listed herein plus any applicable fringe benefits.**

The prevailing wage rates listed are to be considered the minimum to be paid, and the listing of prevailing wage rates shall not be construed to prohibit the payment of rates higher than those listed. The Contractor and Contractor's Subcontractor and Sub-subcontractors shall maintain an adequate workforce whether wage rates higher than those listed are required or not. BISD will not consider claims for additional compensation because of payments of wage rates in excess of the applicable rates listed herein.

Chapter 2258 of the Texas Government Code applies to the construction of a public work, including a building, highway, road, excavation, and repair work or other project development or improvement, paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction. Section 2258.021 mandates that a worker employed on a public work be paid not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed and not less than the general prevailing wage rate of per diem wages for legal holiday and overtime work. A worker is employed on a public work if the worker is employed by a contractor or subcontractor in the execution of a contract for the public work with BISD.

Section 2258.023 of the Texas Government Code, entitled "PREVAILING WAGE RATES TO BE PAID BY CONTRACTOR AND SUBCONTRACTOR; PENALTY," states, in pertinent part:
(a) The contractor who is awarded a contract by a public body or a subcontractor of the contractor shall pay not less than the rates determined under Section 2258.022 to a worker employed by it in the execution of the contract.
(b) A contractor or subcontractor who violates this section shall pay to the state or a political subdivision of the state on whose behalf the contract is made, $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A public body awarding a contract shall specify this penalty in the contract.
(d) The public body shall use any money collected under this section to offset the costs incurred in the administration of this chapter.

Contractor certifies that it is in compliance with all applicable standards, laws, orders, and/or regulations regarding prevailing wage rates, labor, minimum wage, safety, and equal employment opportunity, including without limitation the Davis-Bacon Act (40 U.S.C. §§ 3141-3144, 3146-3147), the regulations of the Department of Labor, 29 CFR Part 5, and Texas Government Code Chapter 2258.

Prevailing Wage Rate Determination Information

The following information is from Chapter 2258 Texas Government Code:

Sec. 2258.021. Right to be Paid Prevailing Wage Rates.

(a) A worker employed on a public work by or on behalf of the state or a political subdivision of the state shall be paid:
    (1) not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed; and
    (2) not less than the general prevailing rate of per diem wages for legal holiday and overtime work.
(b) Subsection (a) does not apply to maintenance work.
(c) A worker is employed on a public work for the purposes of this section if the worker is employed by a contractor or subcontractor in the execution of a contract for the public work with the state, a political subdivision of the state, or any officer or public body of the state or a political subdivision of the state.

Sec. 2258.023. Prevailing Wage Rates to be paid by Contractor and Subcontractor; Penalty.

(a) The contractor who is awarded a contract by a public body or a subcontractor of the contractor shall pay not less than the rates determined under Section 2258.022 to a worker employed by it in the execution of the contract.
(b) A contractor or subcontractor who violates this section shall pay to the state or a political subdivision of the state on whose behalf the contract is made, $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A public body awarding a contract shall specify this penalty in the contract.
(c) A contractor or subcontractor does not violate this section if a public body awarding a contract does not determine the prevailing wage rates and specify the rates in the contract as provided by Section 2258.022.
(d) The public body shall use any money collected under this section to offset the costs incurred in the administration of this chapter.
(e) A municipality is entitled to collect a penalty under this section only if the municipality has a population of more than 10,000.

Sec. 2258.051. Duty of Public Body to Hear Complaints and Withhold Payment.

A public body awarding a contract, and an agent or officer of the public body, shall:

(1) take cognizance of complaints of all violations of this chapter committed in the execution of the contract; and
(2) withhold money forfeited or required to be withheld under this chapter from the payments to the contractor under the contract, except that the public body may not withhold money from other than the final payment without a determination by the public body that there is good cause to believe that the contractor has violated this chapter.

Prevailing Wage Rates – School Construction Trades

June 1, 2022

Texas Gulf Coast Area

CLASSIFICATION	2022 HOURLY RATE
ASBESTOS WORKER	$21.13
BRICKLAYER; MASON	$25.32
CARPENTER; CASEWORKER	$23.38
CARPET LAYER; FLOOR INSTALLER	$25.12
CONCRETE FINISHER	$23.40
DATA COMM/TELE COMM	$23.50
DRYWALL INSTALLER; CEILING INSTALLER	$26.65
ELECTRICIAN	$25.93
ELEVATOR MECHANIC	$28.80
FIREPROOFING INSTALLER	$22.25
GLAZIER	$22.30
HEAVY EQUIPMENT OPERATOR	$22.40
INSULATOR	$20.50
IRONWORKER	$25.50
LABORER, HELPER	$16.71
LATHERER; PLASTERER	$23.25
LIGHT EQUIPMENT OPERATOR	$20.50
METAL BUILDING ASSEMBLER	$21.10
MILLWRIGHT	$33.63
PAINTER; WALL COVERING INSTALLER	$19.60
PIPEFITTER	$26.97
PLUMBER	$26.71
ROOFER	$20.50
SHEET METAL WORKER	$19.90
SPRINKLER FITTER	$26.13
STEEL ERECTOR	$23.25
TERRAZZO WORKER	$23.50
TILE SETTER	$19.58
WATERPROOFER; CAULKER	$19.88

This document was developed by PBK Architects, Inc., in strict accordance with Chapter 2258 of the Texas Government Code.

Prevailing Wage Rates

Worker Classification Definition Sheet

CLASSIFICATION	DEFINITION
ASBESTOS WORKER	Worker who removes and disposes of asbestos materials.
BRICKLAYER; MASON	Craftsman who works with masonry products, stone, brick, block, or any material substituting those materials and accessories.
CARPENTER; CASEWORKER	Worker who build wood structures or structures of any material which has replaces wood. Includes rough and finish carpentry, hardware and trim.
CARPET LAYER; FLOOR INSTALLER	Worker who installs carpets and /or floor coverings, vinyl tile.
CONCRETE FINISHER	Worker who floats, trowels, and finishes concrete.
DATA COMM/TELE COMM	Worker who installs data/telephone and television cable and associate equipment and accessories.
DRYWALL; CEILING INSTALLER	Worker who installs metal framed walls and ceiling, drywall coverings, ceiling grids, and ceilings.
ELECTRICIAN	Skilled craftsman who installs or repairs electrical wiring and devices. Includes fire alarm systems and HVAC electrical controls.
ELEVATOR MECHANIC	Craftsman skilled in the installation and maintenance of elevators.
FIREPROOFING INSTALLER	Worker who sprays or applies fire proofing materials.
GLAZIER	Worker who installs glass, glazing, and glass framing.
HEAVY EQUIPMENT OPERATOR	Includes but not limited to: all CAT tractors, all derrick-powered, all power operated cranes, back-hoes, back-fillers, power operated shovels, winch trucks, and all trenching machines.
INSULATOR	Worker who applies, sprays, or installs insulation.
IRONWORKER	Skilled craftsman who erects structural steel framing, and installs structural concrete Rebar.
LABORER, HELPER	Worker qualified for only unskilled or semi-skilled work. Lifting, carrying materials or tools, hauling, digging, clean up.
LATHERER; PLASTERER	Worker who installs metal framing and lath. Worker who applies plaster to lathing and installs associated accessories.
LIGHT EQUIPMENT OPERATOR	Includes but not limited to , air compressors, truck crane drivers, flex planes, building elevators, form graders, concrete mixers less than 14cf), conveyers.
METAL BUILDING ASSEMBLER	Worker who assembles pre-made metal buildings.
MILLWRIGHT	Mechanic specializing in the installation of heavy machinery, conveyance, wrenches, dock levelers, hydraulic lifts, and align pumps.
PAINTER; WALL COVERING INSTALLER	Worker who prepares wall surfaces and applies paint and/or wall coverings, tape, and bedding.
PIPEFITTER	Trained worker who installs piping systems, chilled water piping and hot water (boiler) piping, pneumatic tubing controls, chillers, boilers, and associated mechanical equipment.
PLUMBER	Skilled craftsman who installs domestic hot and cold water piping, waste piping, storm system piping, water closets, sinks, urinals, and related work.
ROOFER	Worker who installs roofing materials, Bitumen (asphalt and coal tar) felts, flashings, all types of roofing membranes, and associated products.
SHEET METAL WORKER	Worker who installs sheet metal products, Roof metal, flashings and curbs, ductwork, mechanical equipment, and associated metals.
SPRINKLER FITTER	Worker who installs fire sprinklers systems and fire protectant equipment.
STEEL ERECTOR	Worker who erects and dismantles structural steel frames of buildings and other structures.
TERRAZZO WORKER	Craftsman who places and finishes Terrazzo
TILE SETTER	Worker who prepares wall and/or floor surfaces and applies ceramic tiles to these surfaces.
WATERPROOFER; CAULKER	Worker who applies water proofing material to buildings. Products include sealant, caulk, sheet membranes, and liquid membranes, sprayed, rolled or brushed.

EXHIBIT B to Contractor Agreement
CONSTRUCTION SCHEDULE

1. Begin Construction: **[INSERT]** *To be determined for each project individually*
2. Substantial Completion: **[INSERT]**
3. Final Completion: **[INSERT]**

The Construction Schedule above includes an allowance of Anticipated Weather Days, which are regular working days, in accordance with the following schedule:

January	3	July	4
February	4	August	4
March	4	September	4
April	2	October	3
May	5	November	5
June	6	December	4

Weather Days shall be defined as days on which weather events (such as rain, flooding, snow, unusually high winds, excessively wet grounds, and the like) prevent progress on items which affect the critical path of the Work on regular working days only. In order for a Weather Day to be allowed for rain-related reasons, the rain at the Project Site must have been in excess of .50 (1/2) inch in 24 hours.

If the number of actual Weather Days exceeds the number of Anticipated Weather Days included in the Contract Time, and if the additional Weather Days prevent the Contractor from performing the critical path of the scheduled Work, a change to the Contract Time may be made in accordance with Article 33 in this Agreement.

EXHIBIT C

BEAUMONT ISD
Purchasing Department
3395 Harrison Ave., Beaumont, TX 77706
Phone #: 409.617.5041

Vendor Packet

Vendor Packet that consists of the following documents:

(1) Vendor Information Form;
(2) ACH Form
(3) Conflict of Interest Form;
(4) W-9 Form;
(5) Proposer/Vendor Certification Forms;
(6) Felony Conviction Notice Form;
(7) Antitrust Certification Statement; and
(8) Confidentiality Declaration Form.

The completed Vendor Packet must be e-mailed by a BISD campus or department contact in PDF format to the BISD Purchasing Department at purchasing@bmtisd.com. Incomplete packets will be rejected.

Notice to Prospective Vendors:

1. Vendors must accept purchase orders for all purchases.
2. Purchase Orders are delivered electronically from teamssupport@bmtisd.com. Please make sure email/spam settings are adjusted to accept emails from this address.
3. The District will not be responsible for payment of goods/services without an approved purchase order.
4. In order to process payments timely, all invoices should reflect the purchase order number and must be sent (mailed or emailed) to BISD Accounts Payable Department.

   Mail: BISD Accounts Payable Dept.
   3395 Harrison Ave
   Beaumont, TX 77706

   E-mail: invoices@bmtisd.com
5. All payments are net 30 days after receipt of the goods and/or services.
6. Terms and conditions for all BISD purchases can be found at www.bmtisd.com.

Beaumont ISD
Preparing Our Next Generation

Vendor Information

Business Name: _____

DBA: _____

Website: _____

Phone: _____

Address: _____

_____

Type of Products/Services Provided: _____

Contact Information:

Name: _____

Title: _____

Email Address: _____

Phone: _____

Remit Information: (Please select option)

☐ Check ☐ ACH (form attached)

Check Payable To: _____

Address: _____

Phone: _____

Email address where purchase orders are to be sent: _____

Is Vendor Awarded on a Contract through a Purchasing Cooperative? ____ Yes ____ No

Cooperative Name(s): _____

Cooperative Contract #s: _____

Expiration Date(s): _____

Will the Vendor/Vendor's employees potentially have direct contact with students? ____ Yes ____ No
If yes, Independent Contractor Agreement & Criminal History Certification (fingerprinting) may be required.

Is the Vendor a current or former employee of BISD? ____ Yes ____ No

Is the Vendor a Minority and/or Women's Business Enterprise? ____ Yes ____ No

Is the Vendor HUB certified? ____ Yes ____ No

BISD
Preparing Our Next Generation

Office of Business and Finance

Beaumont ISD now offers payment by ACH direct deposit to all Accounts Payable vendors.

Payments by ACH are deposited directly into your bank account. A notification of the upcoming deposit is sent by email, containing the same memo information that would appear on a check stub.

If you would like your payment to be made by Electronic Funds Transfer through ACH, please complete Sections 1-3 of the form below, sign in Section 3, and return to the Accounts Payable department via email at **invoices@bmtisd.com**, fax at **409-617-5182**, or mail at **3395 Harrison Avenue, Beaumont, TX 77706**.

Accounts Payable Electronic Fund Transfer Agreement (EFT)

(PAYMENT BY ACH)

Section 1- Vendor Information

Name:
Address:
City/State/Zip: Phone:
Last 3 digits of Fed ID or SSN (to verify vendor identification):
Email Address for Notification of Deposit (required):

Section 2 – Bank Account Information (contact bank ACH department for correct routing number)

Financial Institution Name:
Financial Institution Address:
Routing Number for ACH:
Depositor Account Number:
Type of Account: _____ Checking _____ Savings

Section 3 – Authorization

I authorize Beaumont ISD to credit my account with the depository named above. If the district erroneously deposits funds into my account, upon notification by the district, I will authorize the necessary debit entries to correct the error, provided they do not exceed the amount deposited in error.
This authorization will remain in effect until the district has received written notification from me that it is to be terminated.
Printed Name: **Date:**
Signature:

BISD CONFLICT OF INTEREST DISCLOSURE STATEMENT

Beaumont Independent School District (BISD) is required to comply with Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers. House Bill 23 significantly changed Chapter 176 as well as the required disclosures and the corresponding forms. As of September 1, 2015, any vendor who does business with BISD or who seeks to do business with BISD must fill out the new Conflict of Interest Questionnaire (CIQ) whether or not a conflict of interest exists. A conflict of interest exists in the following situations:

1) If the vendor has an employment or other business relationship with a local government officer of BISD or a family member of the officer, as described by section 176.003(a)(2)(A) of the Texas Local Government Code; or
2) If the vendor has given a local government officer of BISD, or a family member of the officer, one or more gifts with the aggregate value of $100, excluding any gift accepted by the officer or a family member of the officer if the gift is: (a) a political contribution as defined by Title 15 of the Election Code; or (b) a gift of food accepted as a guest; or
3) If the vendor has a family relationship with a local government officer of BISD.

"Vendor" means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. *Texas Local Government Code 176.001(7).*

"Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on: (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity; (B) a transaction conducted at a price and subject to terms available to the public; or (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency. *Texas Local Government Code 176.001(3).*

"Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code. *Texas Local Government Code 176.001(2-a).*

"Local government officer" means: (A) a member of the governing body of a local governmental entity; (B) a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or (C) an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. *Texas Local Government Code 176.001(4).*

- ***BISD Board of Trustees and Superintendent include:***

  Ms. Matilda "Tillie" Hickman, President
  Mr. Stacey Lewis, Jr., Vice-President
  Ms. Denise Wallace-Spooner, Secretary
  Mr. Robert C. Dunn, Sr.
  Mr. Woodrow Reece, II
  Mr. Thomas Sigee, Sr.
  Mr. Joe A. Evans, Jr.
  Dr. Shannon Allen, Superintendent

- ***Current local government officers include, but are not limited to:***
  Superintendent, Assistant Superintendents, Administrators, Directors, Principals, Supervisors, Secretaries, Faculty members, District Staff.

If no conflict of interest exists, you must fill out Box 1 and type N/A on Box 3 of the CIQ form, sign and date it. In the event of changed circumstances, an updated CIQ must be filed within seven (7) business days after the vendor becomes aware that a conflict of interest exists.

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____
Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

_____ _____
Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 1/1/2021

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Form **W-9**
(Rev. March 2024)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give form to the requester. Do not send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See ***Specific Instructions*** on page 3.

1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)

2 Business name/disregarded entity name, if different from above.

3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor ☐ C corporation ☐ S corporation ☐ Partnership ☐ Trust/estate

☐ LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) . . . . .

Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner.

☐ Other (see instructions)

3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions . . . . . ☐

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any)

Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any)

(Applies to accounts maintained outside the United States.)

5 Address (number, street, and apt. or suite no.). See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			–		–				

or

Employer identification number

		–							

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	**Signature of U.S. person**	**Date**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

CERTIFICATION REGARDING TERRORIST ORGANIZATIONS

Vendor hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

_____ Initials of Authorized Representative of Vendor

CERTIFICATION REGARDING BOYCOTTING OF ISRAEL

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of $100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2271 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

_____ Initials of Authorized Representative of Vendor, if applicable

CERTIFICATION REGARDING CONTRACTING INFORMATION

If Vendor is not a governmental body and (a) this Agreement has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by BISD; or (b) this Agreement results in the expenditure of at least $1 million in public funds for the purchase of goods or services by BISD in a fiscal year of BISD, the following certification shall apply; otherwise, this certification is not required. As required by Tex. Gov't Code § 552.374(b), the following statement is included in the RFP and the Agreement (unless the Agreement is (1) related to the purchase or underwriting of a public security; (2) is or may be used as collateral on a loan; or (3) proceeds from which are used to pay debt service of a public security of loan): "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this RFP and Agreement and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter." Pursuant to Subchapter J, Chapter 552, Texas Government Code, the Vendor hereby certifies and agrees to (1) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to BISD for the duration of the Agreement; (2) promptly provide to BISD any contracting information related to the Agreement that is in the custody or possession of the Vendor on request of BISD; and (3) on completion of the Agreement, either (a) provide at no cost to BISD all contracting information related to the Agreement that is in the custody or possession of Vendor, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to BISD.

_____ Initials of Authorized Representative of Vendor, if applicable

CERTIFICATION REGARDING BOYCOTTING CERTAIN ENERGY COMPANIES

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of $100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required. Pursuant to TEX. GOV'T CODE Ch. 2274 of SB 13 (87th session), Vendor hereby certifies and verifies that Vendor, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, does not boycott energy companies and will not boycott energy companies during the term of the Agreement. For purposes of this Agreement, the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit. The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." *See* TEX. GOV'T CODE § 809.001(1).

_____ Initials of Authorized Representative of Vendor, if applicable

CERTIFICATION PROHIBITING DISCRIMINATION AGAINST FIREARM AND AMMUNITION INDUSTRIES

If (a) Vendor is not a sole proprietorship; (b) Vendor has at least ten (10) full-time employees; (c) this Agreement has a value of at least $100,000 that is paid wholly or partly from public funds; (d) the Agreement is not excepted under TEX. GOV'T CODE § 2274.003 of SB 19 (87th leg.); and (e) BISD has determined that Vendor is not a sole-source provider or BISD has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required. Pursuant to TEX. GOV'T CODE Ch. 2274 of SB 19 (87th session), Vendor hereby certifies and verifies that Vendor, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association. For purposes of this Agreement, "discriminate against a firearm entity or firearm trade association" shall mean, with respect to the entity or association, to: "(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association." *See* TEX. GOV'T CODE § 2274.001(3) of SB 19. "Discrimination against a firearm entity or firearm trade association" does not include: "(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association." *See* TEX. GOV'T CODE § 2274.001(3) of SB 19.

_____ Initials of Authorized Representative of Vendor, if applicable

CERTIFICATION REGARDING CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE

BISD is prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant to Vendor direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by BISD for product warranty and support purposes. Vendor certifies that neither it nor its parent company nor any affiliate of Vendor or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country. For purposes of this Agreement, "critical infrastructure" means "a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." *See* TEX. GOV'T CODE § 2274.0101(2) of SB 1226 (87th leg.). Vendor verifies and certifies that Vendor will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

_____ Initials of Authorized Representative of Vendor, if applicable

REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS – APPENDIX II TO 2 C.F.R. PART 200

The following provisions are required and apply when federal funds are expended by BISD for any contract resulting from this procurement process. In the event of a conflict or inconsistency between the following terms and conditions and any provision of any contract, agreement, or Purchase Order, the following terms and conditions shall control. Accordingly, the parties agree that the following terms and conditions apply to the Contract/PO between BISD and Vendor in all situations where Vendor has been paid or will be paid with federal funds:

(A) Contracts for more than the simplified acquisition threshold currently set at $250,000 (2 CFR §200.320), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense

Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when federal funds are expended by BISD, BISD reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree? YES _____Initials of Authorized Representative of vendor

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

Pursuant to Federal Rule (B) above, when federal funds are expended by BISD, BISD reserves the right to immediately terminate any agreement in excess of $10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor, in the event vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation; (4) to the greatest extent authorized by law, if an award no longer effectuates the program goals or priorities of the Federal awarding agency or BISD. BISD also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if BISD believes, in its sole discretion that it is in the best interest of BISD to do so. The vendor will be compensated for work performed and accepted and goods accepted by BISD as of the termination date if the contract is terminated for convenience of BISD. Any award under this procurement process is not exclusive and BISD reserves the right to purchase goods and services from other vendors when it is in the best interest of BISD.

Does vendor agree? YES_____Initials of Authorized Representative of vendor

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when federal funds are expended by BISD on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does vendor agree to abide by the above? YES_____Initials of Authorized Representative of vendor

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146- 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non- Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when federal funds are expended by BISD, during the term of an award for all contracts and subgrants for construction or repair, the vendor will be in compliance with all applicable Davis-Bacon Act provisions.

Does vendor agree? YES_____Initials of Authorized Representative of vendor

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when federal funds are expended by BISD, the vendor certifies that during the term of an award for all contracts by BISD resulting from this procurement process, the vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does vendor agree? YES_____Initials of Authorized Representative of vendor

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by BISD, the vendor certifies that during the term of an award for all contracts by BISD resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does vendor agree? YES_____Initials of Authorized Representative of vendor

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to Federal Rule (G) above, when federal funds are expended by BISD, the vendor certifies that during the term of an award for all contracts by BISD resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does vendor agree? YES_____Initials of Authorized Representative of vendor

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by BISD, the vendor certifies that during the term of an award for all contracts by BISD resulting from this procurement process, the vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas. Vendor shall immediately provide written notice to BISD if at any time the vendor learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. BISD may rely upon a certification of a vendor that the vendor is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless BISD knows the certification is erroneous.

Does vendor agree? YES_____Initials of Authorized Representative of vendor

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (I) above, when federal funds are expended by BISD, the vendor certifies that during the term and after the awarded term of an award for all contracts by BISD resulting from this procurement process, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certificate is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Does vendor agree? YES_____Initials of Authorized Representative of vendor

(J) Procurement of Recovered Materials – When federal funds are expended by BISD, BISD and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to Federal Rule (J) above, when federal funds are expended BISD, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the vendor certifies, by signing this document, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(K) Required Affirmative Steps for Small, Minority, And Women-Owned Firms for Contracts Paid for with Federal Funds – 2 CFR § 200.321 – When federal funds are expended by BISD, Vendor is required to take all affirmative steps set forth in 2 CFR 200.321 to solicit and reach out to small, minority and women owned firms for any subcontracting opportunities on the project, including: 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; 2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

CERTIFICATION OF COMPLIANCE WITH NEVER CONTRACT WITH THE ENEMY – 2 C.F.R. § 200.215

When federal funds are expended by BISD for grant and cooperative agreements, or any contract resulting from this procurement process, that are expected to exceed $50,000 within the period of performance, and are performed outside of the United States, including U.S. territories, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, BISD will terminate any grant or cooperative agreement or contract resulting from this procurement process as a violation of Never Contract with the Enemy detailed in 2 CFR Part 183. The vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIIS) for any grant or cooperative agreement terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply. BISD has a responsibility to ensure no Federal award funds are provided directly or indirectly to the enemy, to terminate subawards in violation of Never Contract with the Enemy, and to allow the Federal Government access to records to ensure that no Federal award funds are provided to the enemy.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

CERTIFICATION OF COMPLIANCE WITH PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT – 2 C.F.R. § 200.216

BISD, as a non-federal entity, is prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system. Covered telecommunications equipment is telecommunications equipment produced Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216. The vendor certifies that vendor will not purchase equipment, services, or systems that use covered telecommunications, as defined herein, as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor agree? YES_____Initials of Authorized Representative of vendor

RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS – 2 C.F.R. § 200.334

When federal funds are expended by BISD for any contract resulting from this procurement process, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. The vendor further certifies that vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

CERTIFICATION OF COMPLIANCE WITH EPA REGULATIONS APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS IN EXCESS OF $100,000 OF FEDERAL FUNDS

When federal funds are expended by BISD for any contract resulting from this procurement process in excess of $100,000, the vendor certifies that the vendor is in compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When federal funds are expended by BISD for any contract resulting from this procurement process, the vendor certifies that the vendor will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

CERTIFICATION OF EQUAL EMPLOYMENT STATEMENT

It is the policy of BISD not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

CERTIFICATION OF DOMESTIC PREFERENCES FOR PROCUREMENTS AND COMPLIANCE WITH BUY AMERICA PROVISIONS – 2 C.F.R. § 200.322(a) and (b)

As appropriate and to the extent consistent with law, BISD has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) when spending federal funds. Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. (Purchases that are made with non-federal funds or grants are excluded from the Buy America Act.) Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

"Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

CERTIFICATION OF DOMESTIC PREFERENCES FOR PROCUREMENTS AND COMPLIANCE WITH BUY AMERICA PROVISIONS – 2 C.F.R. § 200.322(c)

Pursuant to the Build America, Buy America Act ("BABA"), when BISD is the recipient of an award of Federal financial assistance from a program for infrastructure, none of the funds provided under the award may be used for an infrastructure project unless all iron and steel, manufactured products, and construction materials incorporated into the project are produced in the United States. **"Infrastructure"** means public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging. Vendor hereby certifies and agrees that it is in compliance with all applicable provisions and requirements of the Buy America Preference, including, but not limited to, all BABA requirements and/or guidance that are specific to the Federal agency awarding the Federal financial assistance, including, but expressly not limited to: the U.S. Department of Education, the U.S. Department of Health and Human Services, and the U.S. Department of Agriculture (collectively, the "Buy America Preference Requirements").

The Buy America Preference Requirements shall flow down to and be included in all subawards of the Federal award to all subrecipients at all tiers, including all contracts and purchase orders for work performed or products supplied

under the Federal award. Vendor shall be responsible to obtain certifications of compliance with the Buy America Preference Requirements from such subrecipients, to retain such certifications in accordance with the record retention requirements applicable to the Federal award, and to provide copies of such certifications, upon request, to BISD and/or the awarding Federal agency.

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.337

Vendor agrees that BISD, Inspector General, Department of Homeland Security, FEMA, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of Vendor, and its successors, transferees, assignees, and subcontractors that are directly pertinent to the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. Vendor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Vendor agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

CERTIFICATION OF NON-COLLUSION STATEMENT

Vendor certifies under penalty of perjury that its response to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

Does vendor agree? YES_____ Initials of Authorized Representative of vendor

Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Vendor's Name/Company Name: _____

Address, City, State, and Zip Code: _____

Phone Number:_____

Printed Name and Title of Authorized Representative: _____

Email Address: _____

Signature of Authorized Representative: _____

Date:_____Federal Tax ID #_____

BEAUMONT INDEPENDENT SCHOOL DISTRICT
FELONY CONVICTION NOTICE FORM

FELONY CONVICTION NOTIFICATION

State of Texas Legislative Senate Bill No. 1 Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into an agreement with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony".

Subsection (b) states "a school district may terminate the agreement with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a), or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract".

Subsection (c) states "this section does not apply to a publicly held corporation".

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the information furnished is true to the best of my knowledge.

Contractor's Name/Company Name: _____

Authorized Official's Name (Printed or Typed): _____

You must select one and sign below:

☐ Firm is a publicly held corporation; therefore the above reporting requirement does not apply per Section 44.034, Texas Education Code, Subsection (c).

☐ Contractor/Firm **is not** owned nor operated by anyone who has been convicted of a felony.

☐ Contractor/Firm **is** operated or owned by the following individual(s) who has/have been convicted of a felony:

Name of Individual(s): _____

Detail of Conviction(s): _____

(Attach additional pages if necessary.)

Signature of Company Official: _____

Date: _____

BEAUMONT INDEPENDENT SCHOOL DISTRICT ANTITRUST CERTIFICATION STATEMENT
(Tex. Government Code § 2155.005)

I affirm under penalty of perjury of the laws of the State of Texas that:

1. I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;

2. In connection with this bid, neither I nor any representatives of the Company have violated any provision of the Texas Antitrust laws codified in Tex. Bus. & Comm. Code Chapter 15;

3. In connection with this bid, neither I nor any representative of the Company have violated any federal antitrust law; and

4. Neither I nor any representatives of the Company have directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Contractor's Name/Company Name: _____

Address, City, State, and Zip Code: _____

Signature: _____

Printed Name: _____

Title: _____ Date Signed: _____

CONFIDENTIALITY DECLARATION FORM

INFORMATION SUBMITTED TO BISD IN CONNECTION WITH THIS PROCUREMENT SOLICITATION OR THE AGREEMENT IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552.

As a governmental body, BISD is subject to the Texas Public Information Act found in Chapter 552, Texas Government Code. Proposals and other information submitted to BISD in connection with this procurement solicitation or the Agreement may be subject to release as public information. If a Vendor believes that part(s) of its proposal or any other information submitted by Vendor to BISD in connection with this procurement solicitation or the Agreement contain confidential, proprietary, and/or trade secret information or otherwise may be excepted from disclosure under Texas law, the Vendor must clearly and conspicuously mark the applicable information as "CONFIDENTIAL."

Marking information as "CONFIDENTIAL" does not guarantee that the information will be withheld from disclosure. If BISD receives a request for public information involving information that Vendor has clearly and conspicuously marked as "CONFIDENTIAL," BISD will respond pursuant to Chapter 552, Texas Government Code, which may or may not require that BISD provide notice of the request to Vendor. Vendor understands and agrees that it is solely responsible for submitting to the Attorney General of Texas each reason why the requested information should be withheld and a letter, memorandum, or brief in support of that reason. Pursuant to Tex. Gov't Code § 552.0222, "contracting information"[1] is public and must be released unless excepted from disclosure under Chapter 552. The exceptions provided by Chapter 552 for disclosure for proprietary information (552.1101), commercial or financial information that would cause substantial competitive harm if released (552.110(c)), or trade secrets (552.110(b)) may not be asserted for the following types of contracting information:

(1) the following contract or offer terms or their functional equivalent: (A) any term describing the overall or total price the governmental body will or could potentially pay, including overall or total value, maximum liability, and final price; (B) a description of the items or services to be delivered with the total price for each if a total price is identified for the item or service in the contract; (C) the delivery and service deadlines; (D) the remedies for breach of contract; (E) the identity of all parties to the contract; (F) the identity of all subcontractors in a contract; (G) the affiliate overall or total pricing for a vendor, contractor, potential vendor, or potential contractor; (H) the execution dates; (I) the effective dates; and (J) the contract duration terms, including any extension options; or

(2) information indicating whether a vendor, contractor, potential vendor, or potential contractor performed its duties under a contract, including information regarding: (A) a breach of contract; (B) a contract variance or exception; (C) a remedial action; (D) an amendment to a contract; (E) any assessed or paid liquidated damages; (F) a key measures report; (G) a progress report; and (H) a final payment checklist.

BISD assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Vendors, and **Vendor hereby waives any claim against and releases from liability BISD, its respective officers, employees, agents, and attorneys with respect to disclosure of information provided under or in connection with this procurement solicitation or the Agreement or otherwise created, assembled, maintained, or held by Vendor or BISD and determined by BISD, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act**. Further, even if Vendor marks information as "CONFIDENTIAL," **Vendor expressly agrees that BISD may disclose Vendor's proposal, including, but not limited to, pricing information, to other governmental entities.**

[1] "Contracting information" is defined by Tex. Gov't Code § 552.003(7) as "the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor: (A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body; (B) solicitation or bid documents relating to a contract with a governmental body; (C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract; (D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and (E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body."

Please check **ONLY ONE** of the following options:

☐ **Declaration of Confidentiality – Vendor HAS clearly and conspicuously marked information contained in its proposal and/or other information submitted by Vendor to BISD in connection with this procurement solicitation or the Agreement as "CONFIDENTIAL." Vendor declares that the information marked by Vendor as "CONFIDENTIAL" contains confidential, proprietary, and/or trade secret information and is excepted from disclosure under Chapter 552, Texas Government Code.**

☐ **Waiver of Confidentiality – Vendor HAS NOT marked any information contained in its proposal and/or other information submitted by Vendor to BISD in connection with this procurement solicitation or the Agreement as "CONFIDENTIAL." Vendor certifies that it has not submitted any confidential, proprietary, and/or trade secret information to BISD and that its proposal and all other information—including any pricing information—submitted by Vendor to BISD in connection with this procurement solicitation or the Agreement is subject to disclosure under Chapter 552, Texas Government Code. Vendor hereby expressly waives any claim of confidentiality with respect to its proposal and/or any other information submitted by Vendor to BISD in connection with this procurement solicitation or the Agreement.**

_____
Vendor Name

_____ _____
Printed Name of Authorized Officer/ Representative of Vendor **Title**

_____ _____
Signature **Date**

EXHIBIT D

ATTACHMENT A – BISD'S REQUIRED WORKERS' COMPENSATION INSURANCE COVERAGES

BISD shall use the following language for bid specifications and contracts for building or construction, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation.
A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project is required for the duration of the project.

Duration of the project includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in Texas Labor Code 406.096) include all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the project.

Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all employees of the contractor providing services on the project for the duration of the project.

The contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

1. A certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

2. No later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten days after the contractor knew or should have known, of any change that materially affects the provision of

coverage of any person providing services on the project.

The contractor shall post on each project site a notice, in the text, form, and manner prescribed by the TDI, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

3. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the project for the duration of the project;

4. Provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project for the duration of the project;

5. Provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

6. Obtain from each other person with whom it contracts, and provide to the contractor:

    a. A certificate of coverage, prior to the other person beginning work on the project; and
    b. A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

7. Retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

8. Notify the governmental entity in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

9. Contractually require each person with whom it contracts to perform as required by items 1–6, with the certificates of coverage to be provided to the person for whom they are providing services.

By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the TDI's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

The contractor's failure to comply with any of these provisions is a breach of contract by the contractor that entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996.

REQUEST FOR COMPETITIVE SEALED PROPOSALS
BEAUMONT INDEPENDENT SCHOOL DISTRICT
RFP 25.02 – NEW TRANSPORTATION CENTER PROJECT

ATTACHMENT B - BUSINESS QUESTIONNAIRE & QUALIFICATION STATEMENT

FIRM NAME: _____

CONTACT PERSON'S NAME, PHONE NUMBER AND EMAIL ADDRESS:

_____

Do you or any officer, partner, owner, sales representative, and/or spouse work for Beaumont Independent School District? ☐ Yes ☐ No

If yes, please specify: _____

Please indicate how you became aware of this procurement.
Source: _____

I. ORGANIZATION

1. Type of Organization

_____ Individual _____ Sole Proprietorship
_____ Partnership _____ Corporation, Incorporated in _____

2. Federal Employer Identification Number: _____

3. Number of persons currently employed: _____

4. How many years has your organization been in business as a contractor? _____

5. How many years has your organization been in business under its present business name? _____

List any other or former names your organization has operated under:
_____

II. LICENSING

1. List the jurisdiction(s) and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable.
_____
_____

2. List the jurisdiction(s) in which your organization's partnership or trade name is filed.
_____

III. EXPERIENCE

1. List the categories of work that your organization normally performs with its own forces.
   _____
   _____

2. Claims and Suits: (If the answer to any of the questions below is yes, please attach details.)

   Has your organization ever failed to complete any work awarded to it?
   ☐ Yes ☐ No

   Has your organization filed any lawsuits or requested arbitration with regard to construction contracts within the last five years? ☐ Yes ☐ No

Personnel

3. Identify key personnel who would work on the Project including the Project Manager, Superintendent, and Estimator.
   _____
   _____

4. Provide a description of your firm's home office location, satellite office locations, number and types of equipment available to support this Project.
   _____
   _____
   _____

IV. PAST RELATIONSHIP WITH BISD

1. Provide a list of past projects with Beaumont ISD including location, project description and date.
   _____
   _____
   _____
   _____

2. Was project(s) listed above completed successfully and on time?

   ☐ Yes ☐ No

   If no, explain why:
   _____
   _____