

**GALENA PARK INDEPENDENT SCHOOL DISTRICT**

**Cunningham Middle School and Tice Elementary School Waterline  
Replacement**

**GPISD Project #900-2022**

**ESSER Project #E046**

**CSP #23-207**

**Volume 01**



## Proposal Checklist

**Project:** Cunningham Middle School and Tice Elementary School Waterline Replacement

**Project #:** 900-2022

**Total Project Budget:** \$1,270,350.00

**Pre-Proposal Conference:** Galena Park ISD Administration Building  
14705 Woodforest Blvd., Houston, TX 77015  
Wednesday, April 5, 2023 at 10:00 AM CST  
Attendance is highly recommended.

**Proposal Opening Location:** Galena Park ISD Administration Building  
14705 Woodforest Blvd, Houston, TX 77015

**Proposal Deadline:** Tuesday, April 18, 2023 at 2:00 PM CST

### Items Due 5 Days Prior to Bid Opening – Thursday, April 13, 2023

#### Pre-Qualifications (See attribute 6 for additional information)

- OSHA (Occupational Safety & Health Administration) inspection logs for the last 3 years, a loss analysis from the Offeror's insurance carrier, & a loss history covering all lines of insurance coverage carried by the Offeror.
- Qualification Statement (AIA Document A305).
- A list of at least five (5) projects of similar scope as the project being proposed of which have been completed in the last five (5) years.
- Contractor's Proposed Project Personnel.

### Items Due at Proposal Deadline – Tuesday, April 18, 2023 at 2:00 PM CST

#### Base Bid Package including:

- Bid Bond (5%)
- Response to Bid Attributes 1 - 20
- Respond to All Bid Lines
- Unit Prices
- Subcontractor Listing
- Response to Small Business Enterprise Program (SBEP)
- Contractor Information (Must be signed)
- W9 Request for Taxpayer Identification Number and Certification
- Conflict of Interest Questionnaire
- GPISD Certificate of Interested Parties – Form 1295
- Texas and Federal Certification Forms
- Certification of Criminal History Record Information

#### Contract Documents [provided for Proposal Preparation, does not need to be submitted with proposal]

1. Standard form of Agreement between Owner and Contractor for Building Construction Contracts
2. General Conditions of the Contract for Construction
3. Supplementary Conditions to the General Conditions of the Contract for Construction
4. Special Conditions of the Contract for Construction
5. Davis-Bacon Form & Wage and Hour Division Form

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#### **Contract Documents** **38 Pages**

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Standard form of Agreement between Owner and Contractor	2 Pages
Section CA General Conditions	25 Pages
Section CB Supplementary Conditions	3 Pages
Section CC Special Conditions	3 Pages
Davis-Bacon Form & Wage and Hour Division Form	5 Pages

## Base Bid Information

CSP # 23-207  
Project: Cunningham Middle School and Tice Elementary School Waterline Replacement  
Type: Competitive Sealed Proposal  
Issue Date: May 31, 2023  
Question Deadline: April 13, 2023  
Proposal(s) Due: Tuesday, April 18, 2023 at 2:00 pm

Galena Park Independent School District (GPISD) is requesting **Competitive Sealed Proposals (CSP 23-207)** for **Cunningham Middle School and Tice Elementary School Waterline Replacement** (GPISD Project #900-2022). Proposals are due on **Tuesday, April 18, 2023 at 2:00 PM CST**, after which proposals will be opened publicly and read aloud at the GPISD Administration Building. Submissions must be delivered to the **Capital Projects Department** in the GPISD Administration Building, 14705 Woodforest Blvd., Houston, TX 77015, in a sealed envelope by the close date and time stated in this bid event. A Proposal Security in the amount of five percent (5%) of the proposal amount is required.

The scope of work includes the installation of a new underground 8" fire water line approximately 5, 100 LF. A separate domestic meter will be installed for the 2.5" domestic water line for Cunningham MS.

A pre-proposal conference will be held at the GPISD Administration Building, on **April 5, 2023 at 10:00 am**. Attendance is highly recommended.

Proposal Documents will be available on March 31, 2023 on the district website, and on the GPISD eBid system <https://galenaparkisd.ionwave.net>. Proposers may also obtain additional documents, at their cost, from ABC Imaging, 4902 Richmond Avenue, Suite C, Houston, TX 77027.

GPISD reserves the right to reject any and all proposals, the right to negotiate with any proposers after submission of proposals, and at its discretion, may waive any formalities or minor irregularities regarding the proposals.

### **Ship To Information**

Address: Capital & Bond Projects Department  
Galena Park ISD Administration Building  
14705 Woodforest Blvd.  
Houston, TX 77015  
Phone: (832) 386-1259  
Email: [capitalprojects@galenaparkisd.com](mailto:capitalprojects@galenaparkisd.com)

### **Billing Information**

Address: Accounts Payable  
Galena Park ISD Administration Building  
14705 Woodforest Blvd.  
Houston, TX 77015  
Phone: (832) 386-1025  
Fax: (832) 386-1428  
Email: [accounts\\_payable@galenaparkisd.com](mailto:accounts_payable@galenaparkisd.com)

### **Activities**

<b>Pre-Proposal Conference</b>	Wednesday, April 5, 2023 at 10:00 AM CST
<b>Pre-Qualifications Due</b>	April 13, 2023
<b>Questions Due</b>	April 13, 2023
<b>Board of Trustee Meeting</b>	May 8, 2023
<b>Contract Execution</b>	May 5, 2023
<b>Owner Receives Bonds and Insurance</b>	May 15, 2023
<b>Notice to Proceed</b>	May 22, 2023
<b>Substantial Completion</b>	July 28, 2023
<b>Final Completion</b>	August 31, 2023

## **Bid Attributes**

### **1. Introduction**

There are attributes, including this one, associated with this proposal. Some are notes and require no response, but most have a required response.

### **2. Submission Response**

Please ensure that you respond to all Bid Attributes and Line Items. Manual submissions must be delivered to the Capital Projects Department, in a sealed envelope by the close date and time stated in this bid event. No fax or email submissions will be accepted. Manual submission shall consist of one (1) original hard copy and one (1) electronic flash drive. For any questions, please contact the Capital Projects Department at [capitalprojects@galenaparkisd.com](mailto:capitalprojects@galenaparkisd.com).

### **3. Communications Statement**

Contact between vendors and Galena Park ISD personnel during the proposal process or evaluation process is prohibited. Any attempt by vendors during the proposal process to contact district personnel may result in disqualification. All communication shall go through the Capital Projects Department during this competitive process. All questions received and the corresponding answers will be distributed to all bidders. No verbal responses will be provided. The deadline for questions about this proposal is stated in the Bid Activities and the district will not respond to questions after this time and date. Response to questions will be posted in the ebid system and on Addenda. The vendors will be responsible for checking the ebid system for any posted responses.

### **4. Attachments Required**

Be sure to submit all required documents and forms.

### **5. Proposal Opening**

Any proposal received later than the specified time, whether delivered in person or by any other method shall be disqualified. Any questions pertaining to the proposal procedures should be addressed to the Capital Projects Department at [capitalprojects@galenaparkisd.com](mailto:capitalprojects@galenaparkisd.com). If the District office location where bids/proposals are to be submitted is closed due to inclement weather, natural disaster, or for any other cause including if the electronic bid system is unavailable on the due date, the deadline for submission shall be extended until the next District business day, unless the bidder is otherwise notified by the District. The time of day for submission shall remain the same.

### **6. Submission Required PRIOR to Proposal Opening**

The following forms are required **5 days prior to the proposal opening**:

- OSHA (Occupational Safety and Health Administration) inspection logs for the last three years, a loss analysis from the Offeror's insurance carrier, and a loss history covering all lines of insurance coverage carried by the Offeror.
- Qualification Statement (AIA Document A305).
- A list of at least five (5) projects of similar scope as the project being proposed of which have been completed in the last five (5) years.
- Contractor's Proposed Project Personnel.

Proposer Qualification Statements are the primary vehicle used by the project evaluation members to assess the credentials of the Proposer with respect to evaluation criteria set forth in the Project Manual leading to the recommendation for award of Contract.

In order to receive full consideration during the proposal evaluation period, each Proposer must submit a completed Qualification Statement (AIA Document A305) to the Architect and Owner.

Forms should be submitted to **BOTH** the Architect/Engineer at [jdb@brooksandsparks.com](mailto:jdb@brooksandsparks.com) and to the GPISD Facilities Department at [facilities@galenaparkisd.com](mailto:facilities@galenaparkisd.com)

## **7. Instructions to Proposers for Contracts for Construction**

### ARTICLE 1. DEFINITIONS

- 1.0 Definitions set forth in the GPISD General Conditions of the Contract for Construction, or in other Proposal Documents, are applicable to the Proposal Documents.
- 1.1 Proposal Documents: Advertisement for Competitive Sealed Proposals, Instructions to Proposers, Proposal Security, Proposal Form, Felony Conviction Notice, Affidavit of Non-collusion, Certificate of Residency, the Drawings and the Project Manual.
- 1.2 Sub-proposer: A person or entity who submits a proposal to a Proposer for materials, equipment or labor for a portion of the Work.
- 1.3 Addenda: Written or graphic instruments issued by the Architect prior to the execution of the Contract which modify or interpret the Proposal Documents by additions, deletions, clarifications or corrections.
- 1.4 Proposal: A complete and properly signed Proposal to do the Work for the sums stipulated therein, submitted in accordance with the Proposal Documents.
- 1.5 Base Proposal: The sum stated in the Proposal for which the Proposer offers to perform the Work described in the Proposal Documents as the Base, to which Work may be added or from which Work may be deleted for sums stated in Alternate Proposals.
- 1.6 Alternate Proposal (or Alternate): An amount stated in the Proposal to be added to, or deducted from, the amount of the Base Proposal if the corresponding change in the Work, as described in the Proposal, is accepted by the Owner.
- 1.7 Unit Price: An amount stated in the Proposal as a price per unit of measurement to add or delete for labor, materials, and equipment or services or a portion of the Work as described in the Proposal Documents.
- 1.8 Proposer: A person or entity who submits a Proposal.
- 1.9 Safety Record: An offeror's OSHA (Occupational Safety and Health Administration) inspection logs for the last three years, a loss analysis from the Offeror's insurance carrier, and a loss history covering all lines of insurance coverage carried by the Offeror.

### ARTICLE 2. PROPOSER'S REPRESENTATIONS

- 2.1 The Proposer by making a Proposal represents that:
  - 2.1.1 The Proposer has read and understands the Proposal Documents and the Proposal is made in accordance therewith.

- 2.1.2 The Proposer has visited the site; has become familiar with local conditions under which the Work is to be performed; and has correlated the Proposer's personal observations with the requirements of the Proposal Documents.
- 2.1.3 The Proposal is based upon the materials, equipment and systems required by the Proposal Contract Documents without exception.

### ARTICLE 3. PROPOSAL DOCUMENTS

#### 3.1 Copies

- 3.1.1 Proposers may obtain complete sets of the Proposal Documents from the issuing office designated in the Advertisement for Sealed Proposals in the number and for the deposit sum, if any, stated therein. The deposit will be refunded to Proposers who return the Documents to the issuing office in good condition and in good order within ten days after proposal opening. The cost of replacement of missing or damaged Documents will be deducted from the deposit. A Proposer receiving a Contract award may retain the Documents and the Proposer's deposit will be refunded.
- 3.1.2 Proposal Documents will not be issued for deposit directly to Sub-proposers or others unless specifically offered in the Advertisement for Sealed Proposals, or in the Instructions to Proposers.
- 3.1.3 Additional complete sets of Proposal Documents, if available, may be obtained by Proposers and Sub-proposers from the issuing office for the cost of reproduction and mailing, which costs are not refundable. It shall be understood by entities obtaining additional sets and paying the reproduction and mailing costs that such additional sets remain the Owner's exclusive property and shall be returned to the office from where the Proposal Documents were issued.
- 3.1.4 Proposal Documents will also be issued to plan rooms in those cities which are likely to be home locations of Proposers and Sub-proposers.
- 3.1.5 Proposers shall use complete sets of Proposal Documents in preparing Proposals; neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Proposal Documents.
- 3.1.6 In making copies of the Proposal Documents available on the above terms, the Owner and the Architect do so only for the purpose of obtaining Proposals on the Work; and do not confer a license or grant permission for any other use of the Proposal Documents.

#### 3.2 Interpretation or Correction of Proposal Documents

- 3.2.1 The Proposer shall carefully study and compare the Proposal Documents with each other, and with other work being proposed concurrently or presently under construction to the extent that it relates to the Work for which the Proposal is submitted; shall examine the site and local conditions; and shall at once report to the Architect errors, inconsistencies or ambiguities discovered.



- 3.2.2 Proposers and Sub-proposers requiring clarification or interpretation of the Proposal Documents shall make a written request which shall reach the Architect at least 10 working days prior to the date for receipt of Proposals.
- 3.2.3 Interpretations, corrections and changes of the Proposal Documents will be made by addendum. Interpretations, corrections and changes of the Proposal Documents made in any other manner will not be binding, and Proposers shall not rely upon them.
- 3.3 Substitutions
  - 3.3.1 The materials, products and equipment described in the Proposal Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.
  - 3.3.2 No substitution will be considered prior to receipt of Proposals unless a written request for approval has been received by the Architect at least ten days prior to the date for receipt of Proposals. Such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work (including changes in the work of other contracts that incorporation of the proposed substitution would require) shall be included. The burden of proof of the merit of the proposed substitution is upon the Proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.
  - 3.3.3 If the Architect approves a proposed substitution prior to receipt of Proposals, such approval will be set forth in an Addendum. Proposers shall not rely upon approvals made in any other manner.
  - 3.3.4 No substitutions will be considered after the Contract award unless specifically provided for in the Proposal Documents.
- 3.4 Addenda
  - 3.4.1 Addenda will be mailed, faxed or Contractor shall pick up to those known by the issuing office to have received a complete set of Proposal Documents.
  - 3.4.2 Copies of Addenda will be made available for inspection wherever Proposal Documents are on file for that purpose.
  - 3.4.3 Each Proposer shall ascertain prior to submitting a Proposal that the Proposer has received all Addenda issued; and the Proposer shall acknowledge their receipt on the Proposal Form.
  - 3.4.4 Additional complete sets of Proposal Documents, if available, may be obtained by Proposers and Sub- proposers from the issuing office for the cost of reproduction and mailing, which costs are not refundable. It shall be understood by entities obtaining additional sets and paying the reproduction and mailing costs that such additional sets remain the Owner's exclusive property and shall be returned to the office from where the Proposal Documents were issued.

- 3.4.5 Proposal Documents will also be issued to plan rooms in those cities which are likely to be home locations of Proposers and Sub-proposers.
- 3.4.6 Proposers shall use complete sets of Proposal Documents in preparing Proposals; neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Proposal Documents.
- 3.4.7 In making copies of the Proposal Documents available on the above terms, the Owner and the Architect do so only for the purpose of obtaining Proposals on the Work; and do not confer a license or grant permission for any other use of the Proposal Documents.
- 3.5 Interpretation or Correction of Proposal Documents
  - 3.5.1 The Proposer shall carefully study and compare the Proposal Documents with each other, and with other work being proposed concurrently or presently under construction to the extent that it relates to the Work for which the Proposal is submitted; shall examine the site and local conditions; and shall at once report to the Architect errors, inconsistencies or ambiguities discovered.
  - 3.5.2 Proposers and Sub-proposers requiring clarification or interpretation of the Proposal Documents shall make a written request which shall reach the Architect at least 10 working days prior to the date for receipt of Proposals.
  - 3.5.3 Interpretations, corrections and changes of the Proposal Documents will be made by addendum. Interpretations, corrections and changes of the Proposal Documents made in any other manner will not be binding, and Proposers shall not rely upon them.
- 3.6 Substitutions
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  - 3.6.2 No substitution will be considered prior to receipt of Proposals unless a written request for approval has been received by the Architect at least ten days prior to the date for receipt of Proposals. Such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work (including changes in the work of other contracts that incorporation of the proposed substitution would require) shall be included. The burden of proof of the merit of the proposed substitution is upon the Proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.
  - 3.6.3 If the Architect approves a proposed substitution prior to receipt of Proposals, such approval will be set forth in an Addendum. Proposers shall not rely upon approvals made in any other manner.
  - 3.6.4 No substitutions will be considered after the Contract award unless specifically provided

for in the Proposal Documents.

### 3.7 Addenda

- 3.7.1 Addenda will be mailed, faxed or Contractor shall pick up to those known by the issuing office to have received a complete set of Proposal Documents.
- 3.7.2 Copies of Addenda will be made available for inspection wherever Proposal Documents are on file for that purpose.
- 3.7.3 Each Proposer shall ascertain prior to submitting a Proposal that the Proposer has received all Addenda issued; and the Proposer shall acknowledge their receipt on the Proposal Form.

## ARTICLE 4. PROPOSAL PROCEDURES

### 4.1 Form and Style of Proposals

- 4.1.1 Proposals shall be submitted on forms included with the Proposal Documents.
- 4.1.2 All blanks on the Proposal Form shall be filled in electronically or manually in ink.
- 4.1.3 Where so indicated by the makeup of the Proposal Form, sums shall be expressed in both words and figures, and in cases of discrepancy between the two, the amount written in words shall govern.
- 4.1.4 Interlineations, alterations and erasures must be initialed by the signer of the Proposal.
- 4.1.5 All requested Alternates shall be proposed. If no change in the Base Proposal is required, enter "No Change."
- 4.1.6 Where two or more Proposals for designated portions of the Work have been requested, the Proposer may, without forfeiture of the proposal security, state the Proposer's refusal to accept award of less than the combination of Proposals stipulated by the Proposer. The Proposer shall make no additional stipulations on the Proposal Form nor qualify the Proposal in any other manner.
- 4.1.7 Each copy of the Proposal shall include the legal name of the Proposer and a statement that the Proposer is a sole proprietor, partnership, corporation or other legal entity. Each copy shall be signed by the person or persons legally authorized to bind the Proposer to a contract. A Proposal by a corporation shall further give the state of incorporation and have the corporate seal affixed. A Proposal submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Proposer.
- 4.1.8 To be considered complete, the Proposal shall include the following attributes, line items and/or forms completely and accurately filled out and executed:
  - Proposal (including Alternate Proposals if applicable)
  - Proposal Bond - 5%
  - Felony Conviction Notice

- Affidavit of Non-collusion
- Certificate of Residency
- Verification of Business Type
- Conflict of Interest Questionnaire
- Subcontractor Listing
- Texas and Federal Certifications
- Certificate of Interested Parties – Form 1295
- Certification of Criminal History Record Information
- Request for Taxpayer Identification Number and Certification (W-9)

4.1.9 For additional proposal information and requirements refer to the following:

Proposal Phase Procedures  
Contractor Proposed Project Personnel

4.2 Proposal Bond and Insurance

4.2.1 If so stipulated in the Advertisement for Sealed Proposals, or the Instructions to Proposers, each Proposal shall be accompanied by a Proposal Security in the form and amount required, pledging that the Proposer will enter into a Contract with the Owner on the terms stated in the Proposal and will, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Proposer refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the Proposal Security shall be forfeited to the Owner as liquidated damages, not as a penalty.

4.2.2 If a Proposal Bond is required it may be written on the Owner's standard form, a copy of which is included with the Proposal Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.

4.2.3 The Owner will have the right to retain the Proposal Security of Proposers to whom an award is being considered until either (a) the Contract has been executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that Proposals may be withdrawn, or (c) all Proposals have been rejected.

4.2.4 The Proposer shall provide the required insurance prior to the issuing of the Notice to Proceed. Should the Proposer fail to furnish such Insurance, the amount of the Proposal Security shall be forfeited to the Owner as liquidated damages, not as a penalty.

4.3 Submission of Proposals

4.3.1 All copies of the Proposal, the Proposal Security, if any, and other documents required to be submitted with the Proposal shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Proposals and shall be identified with the Project Name, the Owner's Project Number, the Proposer's name and address and if applicable, the designated portion of the Work for which the Proposal is submitted, If the Proposal is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED PROPOSAL ENCLOSED" on the face thereof.

- 4.3.2 Proposals shall be deposited at the designated location prior to the time and date for receipt of Proposals. Proposals received after the time and date for receipt of Proposals will be returned unopened.
- 4.3.3 The Proposer shall assume full responsibility for timely delivery at the location designated for receipt of Proposals.
- 4.3.4 Oral, telephonic, telegraphic Proposals or revisions noted on the outside of the sealed opaque envelope are invalid and will not receive consideration.
- 4.4 Modification or Withdrawal of Proposal.
  - 4.4.1 A Proposal may not be modified, withdrawn or canceled by the Proposer for a period of sixty (60) calendar days following the time and date designated for the receipt of Proposals, and each Proposer so agrees in submitting a Proposal.
  - 4.4.2 Prior to the time and date designated for receipt of Proposals, a Proposal submitted may be modified or withdrawn by notice to the party receiving Proposals at the place designated for receipt of Proposals. Such notice shall be in writing over the signature of the Proposer or by telegram. If by telegram, written confirmation over the signature of the Proposer shall be mailed and postmarked on or before the date and time set for receipt of Proposals. A change shall be so worded as not to reveal the amount of the original Proposal.
  - 4.4.3 Withdrawn Proposals may be resubmitted up to the date and time designated for the receipt of Proposals provided that they are then fully in conformance with these Instructions to Proposers.
  - 4.4.4 Proposal Security, if required, shall be in an amount sufficient for the Proposal as modified or resubmitted.

## ARTICLE 5. PRE & POST PROPOSAL INFORMATION

- 5.1 Submittals
  - 5.1.1 Upon request by the Owner, Proposers shall provide the following:
    - .1 a designation of the Work to be performed with the Proposer's own forces;
    - .2 names of the manufacturers, products and the suppliers of principal items or systems of materials and equipment proposed for the Work; and
    - .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.
  - 5.1.2 The Proposer will be required to establish to the satisfaction of the Architect and the Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Proposal Documents.
  - 5.1.3 Prior to the award of the Contract, the Architect will notify the Proposer in writing if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Proposer. If the Owner or Architect has reasonable objection to a proposed person or entity, the Proposer may at the Proposer's option (1) withdraw the

Proposal, or (2) submit an acceptable substitute person or entity with an adjustment in the Base Proposal or Alternate Proposal to cover the difference in cost occasioned by such substitution. The Owner may accept the adjusted proposal price or disqualify the Proposer. In the event of either withdrawal or disqualification, Proposal Security will not be forfeited.

- 5.1.4 Persons and entities proposed by the Proposer, and to whom the Owner and Architect have made no reasonable objection, must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and Architect.

## ARTICLE 6. CONSIDERATION OF PROPOSALS

### 6.1 Opening of Proposals

- 6.1.1 Unless stated otherwise in the Advertisement for Sealed Proposals, the properly identified Proposals received on time will be opened publicly and will be read aloud. An abstract of the Proposals will be made available to Proposers.

### 6.2 Rejection of Proposals

- 6.2.1 The Owner shall have the right to reject any or all Proposals, reject a Proposal not accompanied by a required Proposal Security or by other data required by the Proposal Documents, or reject a Proposal which is in any way incomplete or irregular.

### 6.3 Acceptance of Proposals (Award)

- 6.3.1 It is the intent of the Owner to award a Contract to the Proposer deemed to be in the best interests of Galena Park I.S.D. provided the Proposal has been submitted in accordance with the requirements of the Proposal Documents and does not exceed the funds available. The Owner shall have the right to waive informalities or irregularities in a Proposal received and to accept the Proposal which, in the Owner's judgment, is in the Owner's own best interests.
- 6.3.2 The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Proposal Documents, and to determine the low Proposer on the basis of the sum of the Base Proposal and Alternates accepted.

- 6.4 The Owner will use the following criteria with respect to evaluating the proposals:

<b>Criteria</b>	<b>Percent</b>
Purchase Price (Line Items)	45
Reputation, quality, and long-term value to the Owner (Warranty) of the Offeror's goods and services, and safety record of the Offeror (Exhibit A, B, C, D & E - A305 and References)	30
Qualifications of the Offeror's proposed project team (Proposed Project Personnel Attribute, Qualification Statement, & Exhibit C - A305)	10

## ARTICLE 7. PERFORMANCE AND PAYMENT BONDS

### 7.1 Bond Requirements

7.1.1 If stipulated in the Proposal Documents, the Proposer shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Bonds may be secured through the Proposer's usual sources.

7.1.2 If the furnishing of such bonds is stipulated in the Proposal Documents, the cost shall be included in the Proposal.

### 7.2 Time of Delivery and Form of Bonds

7.2.1 The Proposer shall deliver the required bonds to the Owner not later than ten days following the date of execution of the Contract.

7.2.2 Unless otherwise provided, the bonds shall be written on the Owner's standard forms for performance and payment bonds, copies of which are included in the Proposal Documents. Both bonds shall be written in the amount of the Contract Sum.

7.2.3 The bonds shall be dated on or after the date of the Contract.

7.2.4 The Proposer 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.

## ARTICLE 8. FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

### 8.1 Form to be used

8.1.1 The Agreement for the Work will be written on the Owner's standard form of agreement, a copy of which is included in the Proposal Documents.

**8. PROJECT INFORMATION**

**Project:** Cunningham Middle School and Tice Elementary School  
Waterline Replacement

**Project Address:** 14120 Wallisville Rd, Houston, TX 77049

**Project #:** 900-2022

**Total Project Budget:** \$1,270,350.00

**Substantial Completion** July 28, 2023

**Final Completion** August 31, 2023

**The Architect/Engineer is:** Brooks & Sparks, Inc.

21020 Park Row Dr., Katy, TX 77449

**Contact Name:** JD Brooks

**Contact Email:** [jdb@brooksparks.com](mailto:jdb@brooksparks.com)



## 9. PROPOSAL ACKNOWLEDGEMENT

Having carefully examined the Proposal Documents for the Project and all Addenda thereto, as well as the site of the proposed Work and all the conditions affecting the Work, the undersigned proposes to furnish all labor, materials, services and equipment necessary to complete the entire Work in accordance with the Proposal Documents for the sums submitted on the Bid Lines tab.

**BASE PROPOSAL:** The undersigned agrees to perform all work required by the Proposal Documents which is not specifically indicated to be proposed as an Alternate.

**ALTERNATE PROPOSALS:** If the Owner elects to require increases, decreases or changes in the Work specifically described in the Proposal Documents as Alternates, the undersigned agrees to perform such increases, decreases or changes for the sums stated below. The undersigned also understands that the Owner reserves the right to accept or reject any alternate proposal in the order of its choosing and to suit available funding.

The undersigned further agrees, if awarded the Contract, to complete all work required by the Proposal Documents in the number of calendar days after Notice to Proceed or by the specific date stipulated in the Proposal Documents.

The undersigned further agrees that the Proposal Security, payable to the Board of Trustees of the Galena Park Independent School District, accompanying this proposal is left in escrow with the Chief Finance Officer of the Galena Park Independent School District; that its amount is measure of the liquidated damages which the Owner will sustain by the failure of the undersigned to execute and deliver the above named Agreement and Bonds, and that if the undersigned defaults in executing that Agreement or in furnishing the Performance and Payment Bonds or insurance certificates within the stipulated time period following the written notification of the award of the Contract, then the check shall become the property of the Owner, or the Proposal Bond shall become subject to forfeiture to the Owner.

It is understood that the Owner reserves the right to accept or reject any and all Proposals and to waive formalities or irregularities as it deems to serve its best interests. It is further agreed that this Proposal shall be valid and not withdrawn within a period of sixty (60) days from the date of opening thereof. Withdrawal of Proposal within the stipulated sixty-day period may result in the forfeiture of the Proposal Security.

The work to be performed under this Contract shall be commenced within ten (10) days from the date of the Notice to Proceed issued by the Owner and the Contractor shall achieve Substantial Completion within the time stipulated in the Supplementary Conditions of the Contract, subject to adjustments of this Contract Time as provided elsewhere in the Proposal Documents. The time set forth for completion of the Work is an essential element of the Contract.

## **10. PROPOSAL BOND FOR BUILDING CONSTRUCTION CONTRACTS**

### **Proposal Bond for Building Construction Contracts**

A. Each individual Proposal package submitted must be accompanied by Bid Bond made payable to Owner in an amount of five percent (5%) of the Proposal price (for Proposal bond purposes, the Proposal price shall include the base Proposal, plus all alternates; however, the Contract price shall be as awarded by Galena Park Independent School District). Proposal Bond shall be in the form of a Cashier's Check or a Proposal Bond, duly executed by proposer as principal and having as surety thereon, a corporate surety company duly authorized and admitted to do business in the State of Texas and licensed by the State of Texas to issue such bond, as a guarantee that the proposer will enter into a Contract and execute required Performance and Payment Bonds within ten (10) days of Galena Park Independent School District award of Contract.

B. Each Proposal must be accompanied by information establishing that the agent signing the bond is authorized to write the bond in the amount requested, and if applicable, that reinsurance requirements, have been met, including limits and ratings or other evidence of company solvency.

C. Proposer must demonstrate to Owner that he can secure required bonds, issued by a corporate surety company authorized and admitted to do business in the State of Texas and licensed in the State of Texas to issue such bond, which bonds shall be written in the form contained in the Project Manual without modification.

## **11. PROPOSAL PHASE PROCEDURES**

### **Proposer Qualification Statements**

Conditions of the Contract, Supplementary Conditions and Division 1 Apply to this section.

#### **PART 1 – GENERAL**

##### **1.1 DESCRIPTION**

- A. This section contains procedures to be followed by general contractor proposers and sub-contractors / material suppliers during the proposal phase of the project.

##### **1.2 RELATED WORK**

- A. All sections of specifications contained in the Project Manual.
- B. All drawings issued as Contract Documents
- C. All Addenda issued during the proposal phase.

##### **1.3 SUBMITTALS**

- A. Qualification Statements
- B. Project Lists
- C. References

##### **1.4 QUALITY ASSURANCE**

- A. The Proposer's Qualification Statement, including accompanying documents, is the primary tool used in the Competitive Sealed Proposal evaluation process. It is the Proposer's opportunity to demonstrate their strengths and qualifications.
- B. It is the Proposer's sole responsibility to provide complete information on all required submittal documents.
- C. It is the Proposer's sole responsibility to provide reference information that is current, accurate and viable; in that the references submitted shall respond.
  - 01 Evaluation requests for reference input shall be distributed to references by fax or email.
  - 02 No attempt shall be made by the Architect to correct inaccurate information submitted by the Proposer.
  - 03 Non-responses from Proposer's references shall have a negative impact on the Proposer in the evaluation process.
- D. It is the Proposer's sole responsibility to provide Qualification Statement, including accompanying documents in a timely manner to allow ample time for reference inquiries and responses, and other evaluation processes.
  - 01 No attempt shall be made by the Architect to expedite responses from references submitted by the Proposer.
  - 02 Non-responses from Proposer's references shall have a negative impact on the Proposer in the evaluation process.

#### **PART 2 – PROCEDURES**

##### **2.1 PROPOSER QUALIFICATION STATEMENTS**

- A. Proposer Qualification Statements are the primary vehicle used by the project evaluation members to assess the credentials of the Proposer with respect to evaluation criteria set forth in the Project Manual leading to the recommendation for award of Contract.
  - 01 It is the sole responsibility of the Proposer to assure the information provided as reference is accurate, current, useful and verifiable.
- B. In order to receive full consideration during the proposal evaluation period, each Proposer

must submit a completed Qualification Statement (AIA Document A305) to the Architect and Owner according to the "Submission Required PRIOR to Proposal Opening" attribute.

01 Qualification Statements received after the "Submission Required PRIOR to Proposal Opening" deadline shall be accepted and processed; however, the proposer shall bear any / all consequences of a less than adequate evaluation due to a late submission.

02 Fax submissions will not be accepted.

C. In addition to the information required in AIA A305 Qualification Statement, each proposer shall submit the following specific information attached to the Qualification Statement:

01 A list of at least five (5) projects of similar scope as the project being proposed on which have been completed in the last five (5) years. Referenced projects to include the following information:

- a. Project Name and Location
- b. Project Completion Date
- c. Final Project Cost
- d. Owner's Name and Contact Information (current phone number, fax number, and email address.).
- e. Architect's Project Manager Name and Contact Information (current phone number and fax number).

02 A list of at least five (5) references of Owners and five (5) Architects which the proposer has completed work for in the last five (5) years including the following information:

- a. Name and Contact Information (current phone number, and email address).

03 A list of all projects completed in the last three (3) years including the following information:

- a. Project Name and Location
- b. Project Completion Date
- c. Final Project Cost
- d. Owner's Name and Contact Information (current phone no.).
- e. Architect's Project Manager Name and Contact Information (current phone no.).

D. Any other information the Proposer wishes to submit to be used in the evaluation process.

## 2.2 **ELECTRONIC AVAILABILITY OF PROPOSAL DOCUMENTS**

A. Proposal documents – drawings, specifications and addenda – shall be posted on the GPISD website at <https://www.galenaparkisd.com/Page/1155>.

B. Proposal documents – drawings, specifications and addenda – shall be posted in the following plan rooms:

ABC Imaging, 4902 Richmond Ave., Suite C, Houston, TX 77027

## 2.3 **PROPOSAL PHASE - REQUEST FOR INFORMATION**

A. All Requests For Information (RFI) during the Proposal Phase should be made in writing (email preferred). Requests by telephone shall be accepted only at the discretion of the recipient.

B. Proposal RFI's should be made directly to the responsible party/consultant per the project information attribute.

C. All Proposal RFI's shall be responded to in writing by return fax or email only to the original sender.

D. Official changes to the Contract Documents originating from Proposal RFI's shall be issued by Addendum

2.4

**ADDENDA**

- A. All Addenda shall be issued by the Architect/Engineer on record.
- B. Generally, each Addendum shall be limited to a single discipline (Architectural, MEP, Civil, Structural, etc.), containing only Contract Document changes relative to that discipline.
- C. All Addenda shall be issued and posted to the district website at <https://www.galenaparkisd.com/Page/1155>.

## 12. FELONY CONVICTION NOTICE

### Felony Conviction Notice

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 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 for services performed before the termination of the contract." Is your firm owned or operated by anyone who has been convicted of a felony?

Subsection (c) states, "This notice is not required of a publicly held corporation."

- A. My firm is publicly held corporation; therefore, this reporting requirement is not applicable.
- B. My firm is not owned or operated by anyone who has been convicted of a felony.
- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony  
(Must complete next section)

- A Publicly held corporation; N/A
- B Not owned/operated by anyone convicted of felony
- C Is owned/operated by anyone convicted of felony

(Required: Check only one)

### Felony Conviction Details

If your firm is owned or operated by anyone who has been convicted of a felony, please list

- name(s)
- date(s) of conviction(s)
- details of the conviction(s)

If not applicable, please enter N/A (not applicable).

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### **13. AFFIDAVIT OF NON-COLLUSION**

#### Anti-Collusion Statement

The undersigned affirms that they are duly authorized to execute this proposal, that this company, corporation, firm, partnership or individual has not prepared this proposal in collusion with any other proposer, and that the contents of this proposal as to prices, terms or conditions of said proposal 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 proposal.

*(Required: Check if applicable)*

I agree.

## 14. CERTIFICATE OF RESIDENCY

### Certificate of Residency

The State of Texas has passed a law concerning non-resident contractors. This law makes it necessary for the Galena Park Independent School District to determine the residency of its proposers. This law can be found in Vernon's Annotated Civil Statutes as Article 601g, Sections 1 and 2. It reads:

"Section 1 (a) (2) "Non-resident bidder means a bidder whose principal place of business is not in this state but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

"Section 1 (a) (3) "Texas resident bidder means a bidder whose principal place of business is in this state and includes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

"Section 1(b) The state or governmental agency of the state may not award a contract for general construction, improvements, services, or public works projects or purchases of supplies materials or equipment to a non-resident bidder unless the non-resident's bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid a non-resident bidder to obtain a comparable contract in the state in which the non-resident's principal place of business is located."

*(Required: Check only one)*

Please select one of the following:

- My company is a Resident Proposer
- My company is a Nonresident Proposer

### **Certificate of Residency**

Enter the **city** and **state** of the principal place of business (under Article 601g).

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**15. VERIFICATION OF BUSINESS TYPE**

Verification of Business Type

*(Required: Check only one)*

- Sole Proprietor
- Partnership
- Corporation (provide state of incorporation)
- Other (provide detail in next attribute)

Verification of Business Type

Provide state of incorporation or additional details if applicable

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## 16. CONFLICT OF INTEREST QUESTIONNAIRE

### Conflict of Interest Questionnaire

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session. Instructions on filling out this form are included in the bid invitation.

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 not later than the 7<sup>th</sup> 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.

Local government officers:

Board of Trustees & Superintendent of Schools

Name	Position
Adrian Stephens	President
Noe Esparza	Vice President
Norma Hernandez	Secretary
Wanda Heath Johnson	Board Trustee
Ramon Garza	Board Trustee
Herbert Alexander Sanchez	Board Trustee
Linda Clark Sherrard	Board Trustee
Dr. John C. Moore	Superintendent of Schools

Does this vendor have a conflict of interest with Galena Park Independent School District?

*(Required: Check only one).*

- Yes
- No

**17. CONTRACTOR'S PROPOSED PROJECT PERSONNEL**

**Contractor's Proposed Project Personnel**

An item of the evaluation criteria used to select the successful general contractor to perform this work is the qualifications of the Contractor's project team proposed to be assigned to this project. Please submit the names of the personnel in the spaces provided.

**Principal in Charge**

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**Project Manager**

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**Assistant Project Manager (as applicable)**

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**Construction Superintendent**

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**Assistant Superintendent (as applicable)**

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## 18. ANTITRUST CERTIFICATION STATEMENT

Antitrust Certification Statement

Per 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)
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.

*(Required: Check only one)*

- Agree
- Do Not Agree

## 19. FORM 1295 - CERTIFICATE OF INTERESTED PARTIES

### Form 1295 - Certificate of Interested Parties

Pursuant HB 1295, the addition of section 2252.908 of the Government Code, all awarded vendors must fill out electronically, with the Texas Ethics Commission's online filing application.

[www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](http://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

The law states that a governmental entity or state may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental or state agency. The Texas Ethics Commission has adopted rules requiring the business to file Form 1295 electronically with the Commission.

This form must then be signed and returned, prior to any business transaction.

Please note the following:

Box 2: Please enter Galena Park ISD

Box 3: Please use **CSP #23-207** as the identification number being requested and **Cunningham Middle School and Tice Elementary School Waterline Replacement** as description of goods or services.

Please acknowledge that you have read and understand that the district may not do business with your company without the submittal of this form.

*(Required: Check only one)*

- Yes
- No

**20. CONTRACT DOCUMENTS (Sample Contract Documents)**

**Contract Documents (Sample Contract Documents)**

The Contract Documents (Sample Contract Documents) are provided, please check if you agree or disagree to the Terms of the Agreement as presented. This is your electronic signature.

*(Required: Check only one)*

- I have Read and Agree

**No Deviations or Exceptions**

I certify that there are NO deviations or exceptions from the attached specific terms, conditions, and specifications.

*(Required: Check only one)*

- Agree - No Deviations
- Do Not Agree - Please see below

**Deviations and Exceptions**

If your company intends to deviate from the Specifications listed in the attached documents, all such deviations and exceptions must be listed here, with complete and detailed conditions and information included. The District will consider any deviations or exceptions in its bid award decisions. The District reserves the right to accept or reject any proposals based upon any deviations indicated below. If none, please enter N/A (Not Applicable).

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**Bid Lines**

**BASE PROPOSAL**

Item Notes: The undersigned agrees to perform all work required by the Proposal Documents which is not specifically indicated to be proposed as an Alternate for the sum of:

**1.1 BASE PROPOSAL:** \$ \_\_\_\_\_

**1.2 Owner's Contingency Allowance:** \$21,000.00

**1.3 Base Proposal + Owner's Contingency Total:** \$ \_\_\_\_\_

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*(Written Total Amount)*

**ACKNOWLEDGE ADDENDUM(S)**

Acknowledge receipt of Addendum 1 through \_\_\_\_\_

## **Small Business Enterprise Program (SBEP)**

**Item Notes:** The Small Business Enterprise Program (SBEP) provides increased business opportunities for small businesses to participate in contracting and procurement opportunities with the District. The SBEP is a goal-oriented program, requiring contractors to whom the District awards prime contracts for architectural design services, engineering design services, or construction services valued at \$50,000 or greater to use good-faith efforts to utilize small business subconsultants, subcontractors, and suppliers.

To be eligible as a small business under the SBEP, a business shall:

1. Demonstrate that the firm's gross revenues or number of employees averaged over the past three years, inclusive of any affiliates as defined by 13 C.F.R. 121.103, does not exceed the size standards as defined pursuant to Section 3 of the Small Business Act and 13 C.F.R. 121.201.
2. Have or be eligible for one of the following small business certifications:
  - a. Port of Houston Authority SBE Certification (not including any location requirement);
  - b. Metropolitan Transit Authority of Harris County (METRO) SBE Certification (not including any location requirement);

In eligible procurements, the District may award additional scoring points to a bidder or proposer based on its SBEP participation. The District may likewise consider a bidder or proposer's failure to achieve SBEP participation commitments on previous District projects when scoring a subsequent bid or proposal. Any weighted point values available to a bidder or proposer related to SBEP participation shall be published with all other weighted selection criteria in the procurement solicitation.

The respondent to this CSP shall list their Small Business prime contract or sub-contract participation goal /commitment percentage (0%-100%) of their total contract.

1. Provide the Small Business prime contract or sub-contract participation goal /commitment percentage (0%-100%).

*(Response required)*

Participation goal /commitment percentage (0%-100%) \_\_\_\_\_



**Contractor Information**

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Contractor Notes:  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned, in submitting this Bid/Proposal and endorsement of same, represents that he/she is authorized to obligate his/her Firm, that he/she is an equal opportunity employer and will not discriminate with regard to race, color, religion, sex, national origin, age or disability unrelated to job performance of this Bid/Proposal; that he/she will abide by all the policies and procedures of Galena Park ISD; and that he/she has read this entire Bid/Proposal package, is aware of the covenants contained herein and will abide by and adhere to the expressed requirements in ALL sections of this Bid/Proposal.

Print Name \_\_\_\_\_ Signature \_\_\_\_\_

# Request for Taxpayer Identification Number and Certification

**Give Form to the requester. Do not send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type.  
See Specific Instructions on page 3.

<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
<b>2</b> Business name/disregarded entity name, if different from above	
<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC  <input type="checkbox"/> C Corporation  <input type="checkbox"/> S Corporation  <input type="checkbox"/> Partnership  <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.  <input type="checkbox"/> Other (see instructions) ▶ _____	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <small>(Applies to accounts maintained outside the U.S.)</small>
<b>5</b> Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
<b>6</b> City, state, and ZIP code	
<b>7</b> 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. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number																	
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## Part II Certification

Under penalties of perjury, I certify that:

- 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
- 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
- I am a U.S. citizen or other U.S. person (defined below); and
- 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.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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## 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](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or “doing business as” (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity’s name as shown on the entity’s tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a “disregarded entity.” See Regulations section 301.7701-2(c)(2)(iii). Enter the owner’s name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner’s name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity’s name on line 2, “Business name/disregarded entity name.” If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys’ fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.**

You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.**

You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.**

You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.**

You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.**

You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

\*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

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

**SAMPLE FORM CIQ**

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.

**Company/Independent Contractor's Name**

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.

**Enter "N/A" if there is no employment of business relationship**

\_\_\_\_\_  
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

**At least one box must be checked**

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

**At least one box must be checked**

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.

**If a relationship exists, please describe it here**

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**

\_\_\_\_\_  
Signature of vendor doing business with the governmental entity

**Date**

\_\_\_\_\_  
Date



## **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.

# CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

## FORM CIQ

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

## **GPISD CERTIFICATE OF INTERESTED PARTIES - FORM 1295**

**Certificate of Interested Parties (Form 1295) – Must be filled out electronically with the Texas Ethics Commission’s online filing application, printed out, signed, and submitted to GPISD with the proposal.**

GPISD is required to comply with House Bill 1295, which amended the Texas Government Code by adding Section 2252.908, Disclosure of Interested Parties. Section 2252.908 prohibits GPISD from entering into a contract resulting from this solicitation with a business entity unless the business entity submits a Disclosure of Interested Parties (Form 1295) to GPISD at the time business entity submits the signed contract. Effective January 1, 2018, the Form 1295 requirement does not apply to: (1) a contract with a publicly traded business entity or wholly owned subsidiary of the same; (2) an electric utility; or (3) a gas utility. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Texas Ethics Commission. The following definitions apply:

*“Business Entity”* means an entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. TEX. GOV’T CODE § 2252.908(1).

*“Interested Party”* means a person who has a controlling interest in a business entity with whom GPISD contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity. TEX. GOV’T CODE § 2252.908(3).

*“Controlling interest”* means an Districtship interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. *Subsection (c) does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.* TEX. ETHICS COMM. RULE 46.3(c).

*“Intermediary”* means a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who receives compensation from the business entity for the person’s participation; communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and is not an employee of the business entity. TEX. ETHICS COMM. RULE 46.3(e).

As a “business entity,” unless an exception applies, Vendors must:

1. Complete Form 1295 electronically with the Texas Ethics Commission using the online filing application, which can be found at [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)
  - a. All Vendors must complete Form 1295, even if no interested parties exist, unless Vendor is a publicly traded business entity or wholly owned subsidiary of the same, an electric utility or a gas utility.
  - b. In Section 2, insert “Galena Park Independent School District”
  - c. In Section 3, insert the GPISD RFP/RFQ # for this proposal
2. Print a copy of the completed form (make sure that it has a computer-generated certification number in the “Office Use Only” box);
3. Have an authorized agent of the business entity sign the form; and
4. Submit the completed, signed Form 1295 by attaching the form to your proposal.

GPISD must notify the Texas Ethics Commission of the receipt of the filed Form 1295 no later than the 30<sup>th</sup> day after receipt by GPISD. After GPISD acknowledges the Form 1295, the Texas Ethics Commission is required to post the completed Form 1295 to its website within seven business days after receiving notice from GPISD.

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

**OFFICE USE ONLY**

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

**5** Check only if there is **NO** Interested Party.

**6 UNSWORN DECLARATION**

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

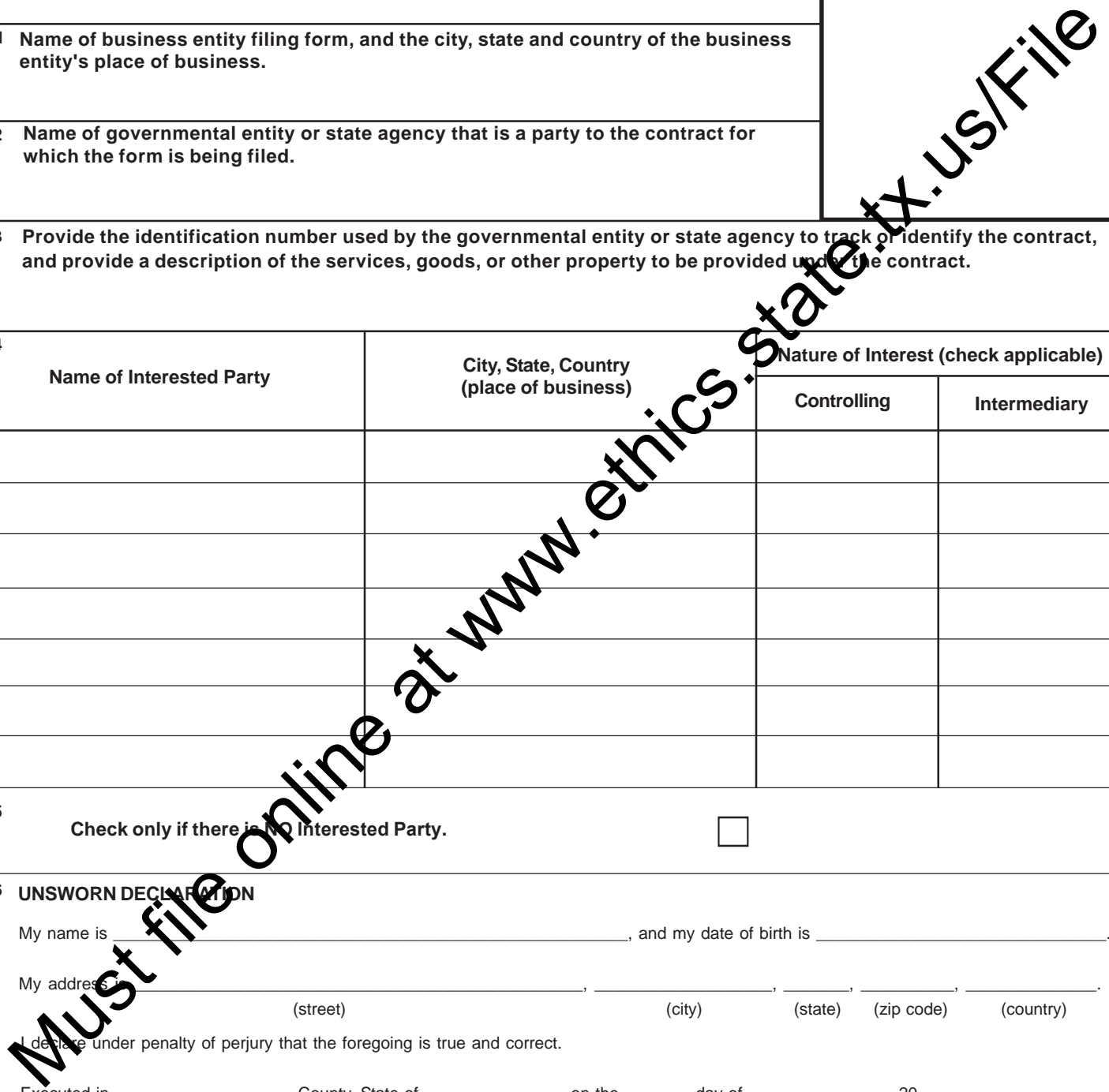
My address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
 (street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 (month) (year)

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity  
 (Declarant)

**ADD ADDITIONAL PAGES AS NECESSARY**



## TEXAS AND FEDERAL CERTIFICATION FORMS

Accordingly, the parties agree that the following terms and conditions apply to the Contract between the District and vendor ("Vendor") to the extent applicable to the contract type or dollar amount:

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### CERTIFICATION REGARDING TERRORIST ORGANIZATIONS & BOYCOTTING OF ISRAEL

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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. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel, and Vendor agrees that 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 terminating business activities 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.

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### VERIFICATION REGARDING CONTRACTS WITH COMPANIES THAT BOYCOTT ENERGY COMPANIES

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If Vendor is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Vendor hereby verifies that it does not, and will not for the duration of the contract, boycott energy companies. "Boycott energy company" means, without an ordinary business purpose, 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 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). *[Verification does not apply to a vendor that employs less than 10 full-time employees; AND the value of the contract is less than \$100,000 – Note that the term "company" does not include a sole proprietorship.]*

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### VERIFICATION REGARDING CONTRACTS WITH COMPANIES THAT DISCRIMINATE AGAINST FIREARMS ENTITY OR TRADE ASSOCIATION

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If Vendor is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Vendor hereby verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. *[Verification does not apply to a vendor that employs less than 10 full-time employees; AND the value of the contract is less than \$100,000 – Note that the term "company" does not include a sole proprietorship.]*

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### REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS APPENDIX II TO 2 CFR PART 200

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**(A)** *[Applicable ONLY to contracts in excess of \$250,000.]* Contracts for more than the simplified acquisition threshold currently set at \$250,000, 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 the District expends federal funds, the District 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.

**(B)** *[Applicable ONLY to contracts in excess of \$10,000.]* Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be affected and the basis for settlement.

Pursuant to Federal Rule (B) above, when the District expends federal funds, the District 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. The District also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if the District believes, in its sole discretion that it is in the best interest of the District to do so. Vendor will be compensated for work performed and accepted and goods accepted by the District as of the termination date if the contract is terminated for convenience of the District. Any award under this procurement process is not exclusive and the District reserves the right to purchase goods and services from other vendors when it is in the District's best interest.

**(C) [Applicable ONLY to federally assisted construction contracts.] 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 the District expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

**(D) [Applicable ONLY to prime construction contracts in excess of \$2,000 where federal funds are being used for the project] 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.**

**(E) [Applicable ONLY to contracts in excess of \$100,000 involving mechanics or laborers.] 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 the District expends federal funds, Vendor certifies that Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by the District resulting from this procurement process.

**(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 the District, Vendor certifies that during the term of an award for all contracts by the District resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

**(G) [Applicable ONLY to contracts in excess of \$250,000.] 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 \$250,000 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 the District, Vendor certifies that during the term of an award for all contracts by the District resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

**(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 the District, Vendor certifies that during the term of an award for all contracts by the District resulting from this procurement process, 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.

**(I) [Applicable ONLY to contracts in excess of \$100,000] 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 the District, Vendor certifies that during the term and after the awarded term of an award for all contracts by the District 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 for 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 grant 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 covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

**(J) Procurement of Recovered Materials – When federal funds are expended, the District 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 by the District, 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.

**(K) Domestic Preferences for Procurements – As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide 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). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of 2 CFR Part 200.322, "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. Moreover, for purposes of 2 CFR Part 200.322, "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.**

Pursuant to Federal Rule (K) above, when federal funds are expended by the District, vendor certifies, by signing this document, that to the greatest extent practicable vendor will provide 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).

**(L) Ban on Foreign Telecommunications – Federal grant funds may not be used to purchase equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), 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).**



Pursuant to Federal Rule (L) above, when federal funds are expended by the District, vendor certifies, by signing this document, vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216, equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

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**RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS**

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When federal funds are expended by the District for any contract resulting from this procurement process, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor further certifies that it 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.

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**CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT**

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When the District expends federal funds for any contract resulting from this procurement process, Vendor certifies that it will comply with the 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 (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

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**CERTIFICATION OF EQUAL EMPLOYMENT STATEMENT**

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It is the policy of the District 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.

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**CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS**

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*[Only Applicable to Contracts funded under the National School Lunch Program]* The Buy American regulations promulgated by USDA and TDA require public school districts to purchase domestically grown and processed food to the maximum extent practicable. The food product must consist of agricultural commodities that were grown domestically, unless an authorized exception exists and has been approved by the District.

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**CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336**

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Vendor agrees that the District's Inspector General or any of their duly authorized representatives shall have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under 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.

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**CERTIFICATION OF APPLICABILITY TO SUBCONTRACTRS**

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

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**VENDOR AGREES TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES, REGULATIONS, AND ORDINANCES. IT IS FURTHER ACKNOWLEDGED THAT VENDOR CERTIFIES COMPLIANCE WITH ALL PROVISIONS, LAWS, ACTS, REGULATIONS, ETC. AS SPECIFICALLY NOTED ABOVE.**

Vendor's Name: \_\_\_\_\_

Address, City, State, and Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Printed Name and Title of Authorized Representative: \_\_\_\_\_

Email Address: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_

**GALENA PARK INDEPENDENT SCHOOL DISTRICT  
 CERTIFICATION OF CRIMINAL HISTORY RECORD INFORMATION  
 THIS FORM MUST BE COMPLETED BY ALL SERVICE PROVIDERS**

Section 1	<p>Vendor (Name): _____</p> <p>Contract Dates: _____ Drivers License Number: _____ Date of Birth: _____</p> <p>_____ Will employees, including you have continuing duties related to the proposal or contract named above or any other services performed at GPISD?</p> <p>Until further guidance is received, GPISD considers “continuing duties” to mean repetitive work duties rather than a onetime appearance or engagement.</p> <p>_____ Will those employees, including yourself, have direct contact with students?</p> <p>Direct contact with students is contact that results from activities that provide substantial opportunity for verbal or physical interaction with students and that is not supervised by a certified educator or other professional district employee. Examples include unsupervised coaching, tutoring, or other services to students. 19 Tex. Admin. Code § 153.1101(7).</p> <p style="text-align: center;"><b>If either question is answered “no” vendor should complete section 2 of this form.</b></p> <p style="text-align: center;"><b>If answer to both questions is “yes” vendor should complete section 3 of this form.</b></p>
Section 2	<p>I agree and understand employees of the company or individuals, including myself, who have not received the required criminal background check because the above description does not apply to them/myself will be considered visitors when on school campuses and must follow school district and campus policies related to visitors on school campuses.</p> <p>_____</p> <p style="display: flex; justify-content: space-between;"> <span>Signature of Vendor</span> <span>Print Name</span> <span>Date</span> </p>
Section 3	<p>As a result of revised DPS procedures related to access to national criminal history record information, only NCPA qualified school district contractors have access to national criminal history record information. Accordingly, non-NCPA qualified contractors must cooperate with the school district in facilitating criminal history reviews when the school performs the DPS FACT Clearinghouse review of criminal history record information in place of the school contractor. Accordingly, contractors must certify one of the following, depending on whether contractor is NCPA-qualified.</p> <p>_____ <b>NCPA Qualified:</b> The undersigned certifies that all employees, including myself, of the company that I own, operate, or manage, or myself as an independent contractor who have continuing duties related to the service to be performed on a GPISD campus and who also have direct contact with students have undergone the required criminal history background check or national criminal history record information review which may include fingerprints and photographs and that no prohibited contact as described herein was revealed.</p> <p style="text-align: center;">OR</p> <p>_____ <b>Non-NCPA Qualified:</b> The undersigned certifies that I have ensured that all employees, including myself, of the company that I own, operate, or manage, or myself as an independent contractor who have continuing duties related to the service to be performed on a GPISD campus and who also have direct contact with students have cooperated with GPISD in submitting all information necessary for GPISD to utilize its LEE Fast Pass procedure to perform the required criminal history background check or national criminal history record information review which may include fingerprints and photographs.</p> <p>_____</p> <p style="display: flex; justify-content: space-between;"> <span>Signature of Vendor</span> <span>Print Name</span> <span>Date</span> </p>



**GALENA PARK INDEPENDENT SCHOOL DISTRICT**

**STANDARD FORM OF AGREEMENT BETWEEN OWNER  
AND CONTRACTOR FOR BUILDING CONSTRUCTION  
CONTRACTS**

**[INSERT PROJECT NAME]**

**Project #: [INSERT PROJECT NUMBER]**

**CSP # [INSERT CSP#]**

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

# STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR BUILDING CONSTRUCTION CONTRACTS

Agreement made as of [INSERT BOT APPROVAL DATE], between the Board of Trustees of the Galena Park Independent School District, hereinafter called the Owner,

and the Contractor: [INSERT CONTRACTOR NAME]  
[INSERT CONTRACTOR ADDRESS]

Project: [INSERT PROJECT NAME]  
Address: [INSERT PROJECT ADDRESS]  
Project #: [INSERT PROJECT NUMBER]

The Architect/Engineer is: [INSERT A/E FIRM NAME]  
[INSERT A/E ADDRESS]

The Contractor and the Owner for the consideration hereinafter named agree as follows:

ARTICLE 1. SCOPE OF WORK: The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others. The Contract Documents are listed below; these form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract Documents, in order of priority, are:

This Agreement (Standard Form of Agreement Between Owner and Contractor, as may be amended by duly executed and authorized Change Orders)

Uniform General Conditions of the Contract for Construction – Consisting of 26 Pages, as modified by the:

- Supplementary Conditions to the General Conditions of the Contract for Construction – Consisting of \_\_\_ Page(s)
- Special Conditions of the Contract for Construction – Consisting of \_\_\_ Page(s)

Project Manual (Technical Specifications) Per Attachment A [PROVIDE THE FINAL TOC FOR SPECS]

Drawing List Per Attachment B [PROVIDE THE FINAL LIST OF DRAWINGS]

Addendum #1 – Dated \_\_\_\_\_ – Consisting of \_\_\_ Page(s)

Addendum #2 – Dated \_\_\_\_\_ – Consisting of \_\_\_ Page(s)

Addendum #3 – Dated \_\_\_\_\_ – Consisting of \_\_\_ Page(s)

Alternates: The following Alternates, fully described in the Contract Documents, are included as a part of this Contract:

**(ACCEPTED ALTERNATES WILL BE LISTED HERE)**

Unit Prices: The following Unit Prices, fully described in the Contract Documents, are included as a part of this Contract:

**(UNIT PRICES WILL BE LISTED HERE)**

ARTICLE 2. TIME OF COMPLETION: The Work to be performed under this Contract shall be commenced within ten (10) days from the date of the Notice to Proceed issued by the Owner; and the Contractor shall achieve

Substantial Completion within the time stipulated in the Supplementary Conditions of the Contract, subject to adjustments of this Contract Time as provided elsewhere in the Contract Documents. The time set forth for completion of the Work is an essential element of the Contract.

ARTICLE 3. THE CONTRACT SUM: The Owner shall pay the Contractor for performance of the Contract, subject to additions and deductions provided therein, the sum of

<b>Base Bid</b>	\$	[ENTER \$]
<b>Alternate 1 [DESCRIPTION]</b>		[ENTER \$]
<b>Alternate 2 [DESCRIPTION]</b>		[ENTER \$]
<b>Owner's Contingency Allowance</b>		[ENTER \$]
<b>[WRITE OUT TOTAL AMOUNT] DOLLARS</b>	\$	[ENTER \$]

and make payments on account as provided elsewhere in the Contract Documents.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

ATTEST: (Notary Seal)

CONTRACTOR  
[INSERT CONTRACTOR NAME]

By:

By: \_\_\_\_\_  
(original signature)

\_\_\_\_\_  
(notary signature)

\_\_\_\_\_  
(name and title printed)

\_\_\_\_\_  
(notary name printed) (notary expiration date)

GALENA PARK INDEPENDENT SCHOOL DISTRICT

CERTIFICATE OF APPROVAL

By:

I hereby certify that pursuant to procedures authorized by the Board of Trustees of the Galena Park Independent School District, the foregoing Agreement was approved the ## day of MMM in the year 20##, and that the person whose signature appears above is authorized to execute such Agreement on behalf of the Board.

\_\_\_\_\_  
(original signature)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
Title

## **INSTRUCTIONS FOR PERFORMANCE AND PAYMENT BONDS**

1. The name, including full legal name, and business or residence address of each individual party to the bond shall be inserted in the space provided therefore, and each such party shall sign the bond with his/her usual signature on the line opposite his/her seal.
2. If the Principals are partners, their individual names shall appear in the space provided therefore, with the recital that they are partners composing a firm, naming it, and all the members of the firm shall execute the bond as individuals and as co-partners.
3. If the Principal or Surety is a corporation, the name of the state in which incorporated shall be inserted in the space provided therefore, and said instrument shall be executed and attested under the corporate seal as indicated in the form. If the Corporation has no corporate seal, the fact shall be stated, in which case a scroll of adhesive seal shall appear following the corporate name.
4. The official character and authority of the person or persons executing the bond of the Principal, if a corporation, shall be certified by the Secretary or Assistant Secretary, according to the form herein provided. In lieu of such certificate there may be attached to the bond copies of so much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the Secretary or Assistant Secretary, under the corporate seal, to be true copies.

**THE DATE OF THE BOND MUST NOT BE PRIOR TO THE DATE OF THE STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR.**

# PERFORMANCE BOND FOR BUILDING CONSTRUCTION CONTRACTS

SURETY BOND NO. \_\_\_\_\_

STATE OF TEXAS \_\_\_\_\_

COUNTY OF \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS: That we,

**[INSERT CONTRACTOR NAME]**

**[INSERT CONTRACTOR ADDRESS]**

as Principal, hereinafter called Contractor, and  
(Here insert full name and address or legal title of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto the Galena Park Independent School District as Obligee, hereinafter called the Owner, in the amount of

\_\_\_\_\_ Dollars

(\$ \_\_\_\_\_),  
for payment whereof, the said Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The conditions of this obligation are such that whereas the principal has by written agreement dated the **## day of MMM in the year 20##**, entered into a contract with the Owner for

**Project:** **[INSERT PROJECT NAME]**  
**Address:** **[INSERT PROJECT ADDRESS]**  
**Project #:** **[INSERT PROJECT NUMBER]**

in accordance with the Contract Documents prepared by

**The Architect/Engineer is:** **[INSERT A/E FIRM NAME]**  
**[INSERT A/E ADDRESS]**

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW THEREFORE, the condition of this obligation is such that, if the Contractor shall faithfully perform the Contract in accordance with the Contract Documents, and shall fully indemnify and save harmless the Owner from all cost and damage which the Owner may suffer by reason of the Contractor's default or failure so to do and shall fully reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be null and void, otherwise it shall remain in full force and effect.



PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein.

In the event the Contractor is declared in default under the Contract, Surety will within Fifteen (15) days of the Owner's declaration of such default take over and assume completion of said Contract and become entitled to the payment of the balance of the Contract Sum. Conditioned upon the Surety's faithful performance of its obligations, the liability of the Surety for the Contractor's default shall not exceed the penalty of this bond.

The Surety agrees to pay to the Owner upon demand all loss and expense, including attorney's fee, incurred by the Owner by reason of or on account of any breach of this agreement by Surety.

Provided further, that if any legal action be filed upon this bond, venue shall lie in Harris County, State of Texas.

IN WITNESS WHEREOF, the above bonded parties have executed this instrument under their several seals this

\_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_\_, the name and corporate seals of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

ATTEST: (Notary Seal)	PRINCIPAL
By: _____ (notary signature)	By: _____ (original signature)
_____ (notary name printed)	_____ (name and title printed)
_____ (notary expiration date)	

	SURETY'S
	By: _____ (original signature)
	_____ (name and title printed)

	SURETY HOME OFFICE SERVICING AGENT
	_____ (name)
	_____ (title)
	_____ (address)
	_____ (Telephone)

CERTIFICATION AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that  
I am the \_\_\_\_\_ secretary of the Corporation named as Principal in  
the within bond; that \_\_\_\_\_, who signed the said bond on behalf  
of the Principal, was then \_\_\_\_\_ of said corporation; that I know  
that person's signature thereon to be genuine; and that said bond was duly signed, sealed and attested for and in  
behalf of said Corporation by authority of its governing body.

(CORPORATE SEAL)

SAMPLE

# PAYMENT BOND FOR BUILDING CONSTRUCTION CONTRACTS

SURETY BOND NO. \_\_\_\_\_

STATE OF TEXAS \_\_\_\_\_

COUNTY OF \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS: That we

**[INSERT CONTRACTOR NAME]**

**[INSERT CONTRACTOR ADDRESS]**

as Principal, hereinafter called Contractor, and (Here insert full name and address or legal title of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto the Galena Park Independent School District as Obligee, hereinafter called the Owner, in the amount of

\_\_\_\_\_ Dollars

(\$ \_\_\_\_\_),  
for payment whereof, the said Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The conditions of this obligation are such that whereas the principal has by written agreement dated the **## day of MMM in the year 20##**, entered into a contract with the Owner for

**Project:** **[INSERT PROJECT NAME]**  
**Address:** **[INSERT PROJECT ADDRESS]**  
**Project #:** **[INSERT PROJECT NUMBER]**

in accordance with the Contract Documents prepared by

**The Architect/Engineer is:** **[INSERT A/E FIRM NAME]**  
**[INSERT A/E ADDRESS]**

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.  
NOW THEREFORE, the condition of this obligation is such that, if the Contractor shall promptly make payments to all claimants as defined in Chapter 2253 of the Texas Government Code as amended, of all persons supplying labor and materials in the prosecution of the work provided for in said Contract, then this obligation shall be null and void, but otherwise it shall remain in full force and effect. In the event Contractor fails to promptly pay when due persons who have supplied labor, materials, or supplies used in the performance of the said Contract, Surety will, upon receipt of notice from the Owner or a claim in the form required by law, satisfy all undisputed balances due, and make arrangements satisfactory to the interested parties to resolve all amounts disputed in good faith, but

in no event shall the liability of the Surety for the Contractor's failure to promptly pay for labor, materials, or supplies exceed the penalty of this bond.

The Surety agrees to pay to the Owner upon demand all loss and expense, including attorney's fee, incurred by the Owner by reason of or on account of any breach of this agreement by Surety.

Provided further, this bond is made and entered into for the protection of all claimants supplying labor and material in the prosecution of the work provided for in said Contract, and all such claimants shall have a direct right of action under the bond as provided in Chapter 2253 of the Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said chapter to the same extent as if it were copied at length herein.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20 \_\_\_\_\_, the name and corporate seals of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

---

ATTEST: (Notary Seal)  By: _____ (notary signature)  _____ (notary name printed)	PRINCIPAL  By: _____ (original signature)  _____ (name and title printed)
--	---

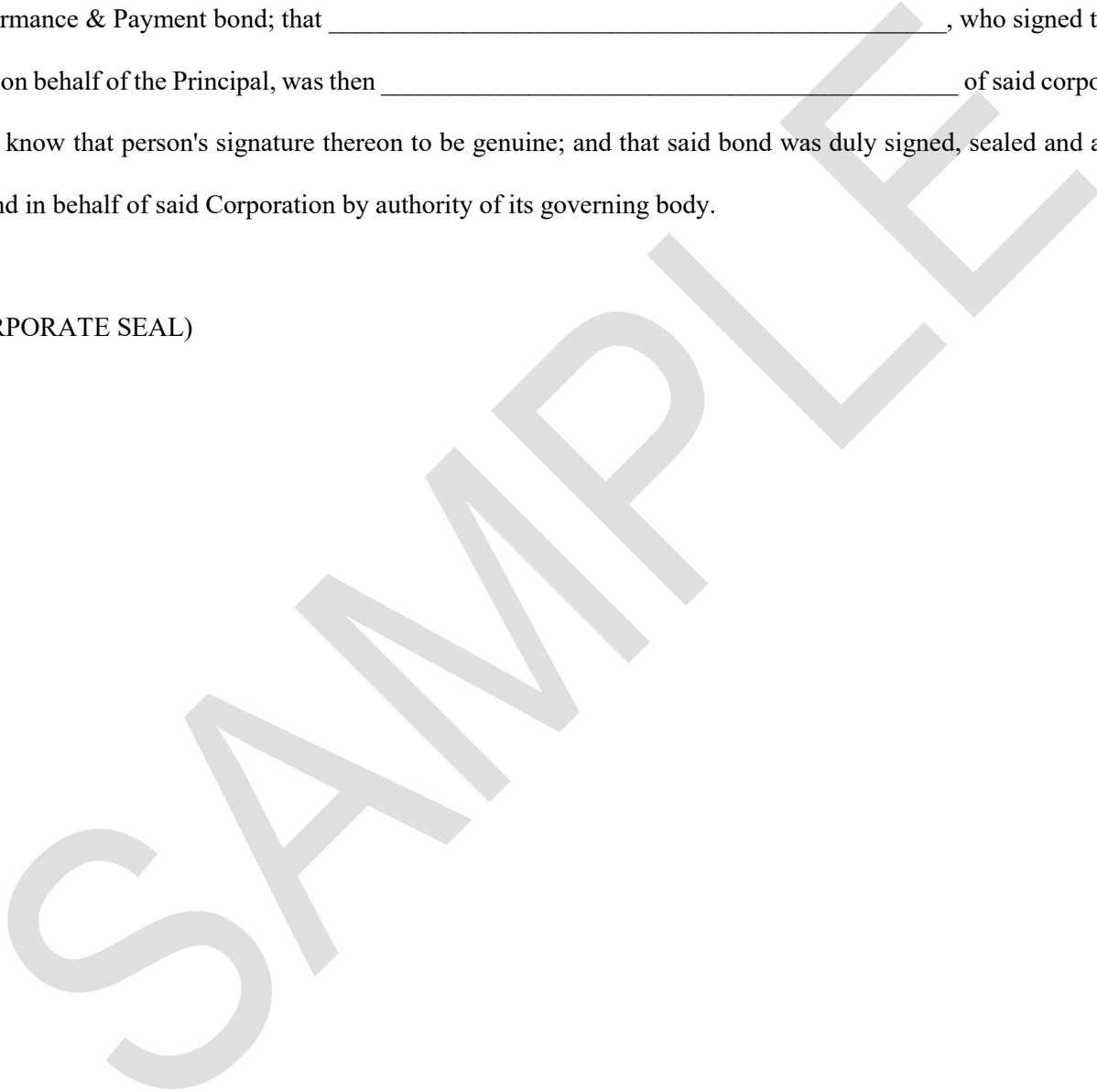
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_____ (notary expiration date)	SURETY'S  By: _____ (original signature)  _____ (name and title printed)  SURETY HOME OFFICE SERVICING AGENT  _____ (name) _____ (title) _____ (address) _____ _____ (Telephone)
-----------------------------------	--

CERTIFICATION AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that  
I am the \_\_\_\_\_ secretary of the Corporation named as Principal within the  
Performance & Payment bond; that \_\_\_\_\_, who signed the said  
bond on behalf of the Principal, was then \_\_\_\_\_ of said corporation;  
that I know that person's signature thereon to be genuine; and that said bond was duly signed, sealed and attested  
for and in behalf of said Corporation by authority of its governing body.

(CORPORATE SEAL)



## **Section CA**

# **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION**

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## ARTICLE 1

### CONTRACT DEFINITIONS

Whenever the following terms are used in these General Conditions or in the other Contract Documents the intent and meaning shall be interpreted as follows:

**1.1 Contract Documents:** The Contract Documents consist of the Advertisement for Sealed Proposals, Instructions to Proposers, Proposal Security, Proposal Form, Felony Conviction Notice, Affidavit of Non-collusion, Certificate of Residency, fully executed Owner-Contractor Agreement, Performance Bond, Payment Bond, the Conditions of the Contract (General, Supplementary, Special and other Conditions), the Project Manual, the Drawings, Pre-Proposal Meeting Minutes, all Addenda issued prior to execution of the Contract, other documents listed in the Owner-Contractor Agreement, and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by the Owner and the Contractor, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect.

1.1.1 The Contract Documents form the Contract, which represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and the Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor, (3) between the Owner and Architect or (4) between any person or entities other than the Owner and the Contractor.

1.1.2 The Contract Documents are complementary, and what is required by any one document shall be as binding as if required by all.

**1.2 Owner:** The Board of Trustees of the Galena Park Independent School District, who shall execute this Contract in the name of the School District, and who, along with certain designated administrative employees, shall be responsible for the administration of the Contract.

**1.3 Architect/Engineer:** An Architect registered in accordance with Occupation Code, Title 6, Chapter 1051 and/ or a professional Engineer, in accordance with Occupations Code 1001.057. Contract Documents by the Architect are limited in authority and responsibility as defined in the General Conditions.

**1.4 Contractor:** The individual, corporation, company, partnership, firm or other organization that has contracted to perform the Work under the Contract with the Owner.

**1.5 Subcontractor:** A person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. There shall be no direct contractual relationship between the Owner and any Subcontractor.

**1.6 Project:** All of the Work defined by the Contract Documents. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

**1.7 Work:** The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

**1.8 Day:** A calendar day beginning and ending at 12:00 midnight, unless otherwise specifically stipulated.

**1.9 Contract Sum:** The total compensation payable to the Contractor for performing the Work as originally contracted for, or as subsequently adjusted by Change Order or other Contract Modification.

**1.10 Substantial Completion:** Jointly certified by the Architect/Engineer, Owner and Contractor as the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents, and approvals from regulatory agencies have been received, so that the Owner can occupy or utilize the Work or the designated portion thereof for its intended use. This includes a fully-operational HVAC system with controls, security system, fire alarm system and PA system.

**1.11 Pre-Final Inspection:** The inspection conducted to determine that a Project or a portion thereof, is substantially complete.

**1.12 Final Inspection:** The inspection conducted to determine that all deficiencies found in the Pre-Final Inspection, or subsequently discovered, have been corrected and that it is appropriate to release retainage and/or make final payment.



**1.13 Contract Time:** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, from the Notice to Proceed to Substantial Completion.

**1.14 The Drawings:** The graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

**1.15 The Specifications:** That portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

**1.16 The Project Manual:** A volume assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

**1.17 Sub-subcontractor:** A person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site.

## ARTICLE 2

### LAWS GOVERNING CONSTRUCTION

**2.1 Compliance with Laws:** In the performance of the Work, the Contractor shall comply with all applicable State and Federal laws including, but not limited to, laws concerned with labor, equal employment opportunity, safety, criminal history review, and minimum wages. The Contractor shall become familiar with, and at all times shall comply with and give notices required by all Federal, State and Local laws, ordinances, rules, regulations and lawful orders of public authorities which in any manner affect the performance of the Work, and shall indemnify and save harmless the Owner and its official representatives against any claim arising from violation of any such law, ordinance or regulation by the Contractor or by the Contractor's Subcontractors or employees. When requested, competent evidence of compliance with applicable laws shall be furnished.

2.1.1 The Contractor shall cooperate with city or other governmental officials at all times where their jurisdiction prevails. The Contractor shall secure and pay for all permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when proposals are received or negotiations are concluded.

2.1.2 Where the Underwriters' Laboratories have established standards and issued labels for a particular group, class, or type of equipment the Underwriters'

Laboratories label shall be required on all equipment in that category.

2.1.3 These Contract Documents shall be governed and interpreted in accordance with the laws of the State of Texas, and shall be performable in Harris County, Texas.

**2.2 Wage Rates:** The Contractor is required to pay not less than the wage scale of the various classes of labor as shown on the "Prevailing Wage Rate Schedule" in the Supplementary Conditions to the General Conditions of the Contract provided by the Owner. The specified wage rates are minimum rates only, and the Owner will not consider any claims for additional compensation made by any Contractor because of payment by the Contractor of any wage rates in excess of the applicable minimum rate contained in the Contract Documents.

2.2.1 Pursuant to the provisions of Chapter 2258 of the Texas Government Code, the Contractor shall forfeit as a penalty to the Galena Park Independent School District sixty dollars (\$60.00) for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the stipulated minimum rates for any Work done under the Contract by the Contractor or by a Subcontractor or Sub-subcontractor under the Contractor.

2.2.2 The Contractor is responsible for compliance with the prevailing wage laws in accordance with the Owner's Prevailing Wage Rate Schedule and associated Standard Job Classifications. The Owner reserves the right to conduct on-site interviews with construction workers in order to verify compliance.

2.2.3 All workers shall be classified in one of the job classifications in the Prevailing Wage Rate Schedule. The Contractor shall notify each worker commencing work on the Project of the worker's job classification and the established wage rate required to be paid. The notice must be delivered in writing to the employee, with copies to the Owner, and must list both monetary wages and fringe benefits to be paid for each classification in which the worker is assigned duties.

2.2.4 Competent evidence of compliance with the applicable laws and the Owner's Prevailing Wage Rate Schedule shall be furnished by the Contractor in the form of certified payroll reports submitted monthly in a form acceptable to the Owner.

2.2.5 The Contractor shall post the Prevailing Wage Rate Schedule at the Project construction site in a conspicuous location and maintain the posting throughout the construction period to ensure that all workers have access to wage rate information.

**2.3 State Sales and Use Taxes:** The Owner qualifies for exemption from state and local sales and use taxes pursuant to the provisions of the Texas Limited Sales, Excise and Use Tax Act (Taxation - General, Article 20.04, Vernon's Texas Civil Statutes). The Contractor shall claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. The Owner shall forward an executed copy of the GPISD Tax Exemption Certificate with the fully executed Owner/Contractor Agreement.

**2.4 Antitrust Claims:** The Contractor shall assign to the Owner any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Secs. 1 et seq (1973).

### ARTICLE 3

#### CONTRACT DOCUMENTS AND BONDS

**3.1 Copies Furnished:** Drawings and the Project Manual: Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of the Drawings and the Project Manual as are reasonably necessary for execution of the Work.

**3.2 Ownership of Contract Documents:** All Contract Documents and copies thereof furnished by the Owner are and shall remain property of the Owner. In making copies of the Documents available the Owner does so only for the purpose of prosecution of the Work and does not confer a license or grant permission for any other use of the Documents. They are not to be used on any other Project and, with the exception of one Contract set for each party to the Contract, are to be returned to the Owner upon request following completion of the Work.

**3.3 Contract Documents at the Site:** The Contractor shall maintain in good order at the site one complete copy of all Contract Documents including Drawings, Project Manual, Addenda, Change Orders and other Contract Modifications, as well as a complete file of reviewed shop drawings and other technical submittals. The Contractor shall at all times give the Owner or its representatives and agents access thereto.

**3.4 Record Documents:** The Owner shall furnish to Contractor one set of "Xerox" Construction Drawings for the purpose of Record Documents. The Contractor shall maintain Record Documents and technical submittals (including shop drawings) which are marked to reflect the as-constructed conditions and representations of the Work performed, whether it be directed by Addendum, Change Order or other Contract Modifications. The as-constructed Record Documents and technical submittals shall also

record accurately and dimensionally the locations of concealed elements of construction which are not specifically and dimensionally located in the original Contract Documents, particularly piping and equipment for utility, mechanical, electrical, plumbing and special systems. All records prescribed herein shall be made available for reference and examination by the Owner and its representatives and agents. The Contractor shall update the as-constructed Record Documents monthly prior to the submission of periodic Applications for Payment. Failure to maintain such records shall constitute cause for denial of an Application for Payment otherwise due. Prior to the date of Substantial Completion, the Contractor shall deliver to the Architect/Engineer one complete set of as-constructed Record Documents which the Architect/Engineer shall review and (if found acceptable) shall then use in preparing final electronic Record Documents for the Owner.

The Contractor shall submit the Galena Park ISD Subcontractor Progress Assessment Form with each application for payment requesting payment be made for Work performed by a subcontractor that qualifies as a "small business" pursuant to GPISD Board Policy CV (Local). The Contractor shall also ensure that, once Contractor makes the applicable payment to the Small Business Subcontractor, the Subcontractor completes the Galena Park ISD Subcontractors/Subcontractors/Suppliers Payment Certification Form in its entirety and Contractor agrees to submit the completed copies to Owner with the next application for payment. The completed Galena Park ISD Subcontractors/Subcontractors/Suppliers Payment Certification Form must be received by the Owner before any further payment will be made to Contractor for any Work performed.

**3.5 Performance and Payment Bonds:** Performance and Payment Bonds are not required on contracts of less than \$25,000.00. If the total Contract Sum equals or exceeds \$25,000.00, then the Contractor shall execute (in accordance with the provisions of Section 2253.021 of the Government Code) the following bonds to the Owner: (1) Performance Bond in the amount of the total Contract Sum conditioned upon the faithful performance of the Contract. Said bond shall be solely for the protection of the Owner. (2) Payment Bond in the amount of the total Contract Sum solely for the protection of those supplying labor, materials and/or equipment in the prosecution of the Contract. Additional requirements and instructions for preparation and submittal of Performance and Payment Bonds may be stipulated elsewhere in the Contract Documents.

3.5.1 Each bond shall be executed by a corporate surety or corporate sureties duly authorized to do business in the State of Texas, acceptable to the Owner, and on forms provided by the Owner. If any surety upon any bond furnished in connection with the Contract becomes

insolvent, or otherwise not authorized to do business in this State, then the Contractor shall promptly furnish equivalent security to protect the interests of the Owner and of persons supplying labor, materials, and/or equipment in the prosecution of the Work contemplated by the Contract.

3.5.2 Each bond shall be accompanied by a valid Power-of-Attorney (issued by the surety company and attached, signed and sealed with the corporate embossed seal) authorizing the agent who signs the bond to commit the company to the terms of the bond, and stating (on the face of the Power-of-Attorney) the limit, if any, in the total amount for which the agent is empowered to issue a single bond.

**3.6 Interrelation of Contract Documents:** The interrelation of the Drawings and the Project Manual is as follows: The Project Manual establishes standards of design, quality, function and performance of several materials; the Drawings establish the locations, quantities, dimensions and details. Anything mentioned in the Project Manual and not shown on the Drawings, or shown on the Drawings and not mentioned in the Project Manual, shall be of like effect as if shown or mentioned on both.

3.6.1 Should the Drawings disagree one with another, or with the Project Manual, the better quality or greater quantity of Work or materials shall be performed or furnished. Figures and measurements given on larger scale drawings shall govern smaller scale drawings. In case of discrepancy either in the figures, in the Drawings, or in the Project Manual, the matter shall be promptly submitted in writing by the Contractor to the Architect/Engineer with a copy to the Owner. The Architect/Engineer shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at the Contractor's own risk and expense.

3.6.2 Any "Scope of Work" or "Work Included" statement placed in a Section of the Project Manual is intended to designate in general terms the types of Work to be performed. It is not intended to limit or to define the extent of the Work.

3.6.3 The location or grouping of Drawings and the placement of the Project Manual into Divisions and Sections is only for the convenience of referencing and relating like or similar types of Work. It is not intended to establish trade jurisdictions or to define or limit Work to be subcontracted. The prosecution and completion of all Work required by the Contract Documents is the responsibility of the Contractor.

**3.7 Tax ID Form:** Contractor shall provide to the Owner a copy of the executed notification of Tax ID Form W-9 prior to submitting the first Application for Payment.

## ARTICLE 4

### CONTRACT ADMINISTRATION

**4.1 General Administration:** Unless otherwise provided for in the Contract Documents, the Architect/Engineer will provide general administration of the Contract and will be the Owner's representative during construction and until final payment.

4.1.1 The Owner assumes no responsibility for any understanding given or representation made orally by its agents prior to the execution of this Contract, unless such understanding or representation is expressly stated in the Contract. The Owner assumes no responsibility for any conclusions or interpretations made by the Contractor. Any failure by the Contractor to become acquainted with available information will not relieve the Contractor from responsibility for properly estimating the difficulty or cost of successfully performing the Work or mutually agreed changes thereto.

4.1.2 The Architect/Engineer has the authority to act on behalf of the Owner to the extent provided for in the Contract Documents, unless otherwise modified by written instrument which will be shown to the Contractor. The Architect/Engineer will advise and consult with the Owner.

4.1.3 The Owner's written instructions to the Contractor will generally be issued through the Architect/Engineer, except that the Owner reserves the right on appropriate occasions to issue instructions directly to the Contractor or through other designated representatives. All written communications concerned with the construction of the Project shall be furnished to the Owner, the Owner's designated agents and representatives, the Architect/Engineer, and the Contractor by the party originating the communication. All oral messages to or from the Contractor shall be given through the Owner's designated representative. The Contractor is responsible for complying with the Owner's administrative requirements set forth in these General Conditions and stated elsewhere in the Contract Documents.

4.1.4 All oral instructions affecting Contract Sum, Contract Time or Contract interpretation, shall be confirmed promptly in writing with copies furnished to the Architect/Engineer, the Owner's designated representatives, and the Contractor by the party issuing the instruction.

4.1.5 No instructions affecting the Architect/Engineer's design liability shall be issued without the Architect/Engineer's prior written consent.

4.1.6 The Owner's representative, and the Architect/Engineer with the Owner's consent, shall interpret the

Contract requirements and have the authority to reject Work performed by the Contractor, which in the opinion of the Owner's representative or the Architect /Engineer does not meet the requirements of the Contract and to order such Work removed and replaced in accordance with paragraph 5. 11.

**4.2 Subcontracts:** The Contractor agrees to bind every Subcontractor and every Subcontractor agrees to be bound by the terms, conditions and requirements of the Contract Documents. Further, the Contractor shall fully inform all Subcontractors prior to executing an agreement with them that they will be required to perform their Work in conformance with the Contract Documents, and to submit cost estimates and change proposal requests in complete and full analytical detail per Paragraph 6.7.

4.2.1 The Contractor shall defend, indemnify and save harmless the Owner for any Subcontractor's claim which may result from the failure of the Contractor to incorporate the provisions of this Contract into any of the Contractor's subcontracts.

4.2.2 After the execution of the Contract, a change in any accepted Subcontractor or the addition of any new Subcontractor can only be made with the written consent of the Owner.

4.2.3 Re: Pre-Approved Sub-Contractors per the Supplementary Conditions.

**4.3 Access to and Inspection of the Work:** The Contractor shall provide sufficient, safe and proper facilities at all reasonable times for observation and/or inspection of the Work by authorized representatives of the Owner. The Architect/Engineer and the Owner will make periodic visits to the site to familiarize themselves with the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract Documents. The presence of the Owner or his representative at the Project site does not imply concurrence with or approval of the Work.

**4.4 Separate Contracts:** The Owner reserves the right to award other Contracts in connection with other portions of the Project under these or similar conditions of the Contract.

4.4.1 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who signs each separate Owner-Contractor Agreement. The Contractor for this Contract shall properly connect and coordinate the Work of this Contract with the Work of other Contractors. If any part of this Contractor's Work depends on proper execution or

proper results on the Work of any other separate Contractor, this Contractor shall inspect and promptly report in writing to the Architect/Engineer any discrepancies or defects which the Contractor may find in such other Work that render it unsuitable for such proper execution or results. Failure of this Contractor to so inspect and report shall constitute an acceptance of the other Contractor's Work as fit and proper to receive the Work of this Contract, except as to defects which may develop in the other separate Contractor's Work after the execution of this Contractor's Work.

4.4.2 Should this Contractor cause delay or cause damage to the Work or property of any separate Contractor on the Project, this Contractor shall, upon due notice, endeavor to settle with such other Contractor by agreement. If such separate Contractor sues the Owner on account of any damage alleged to have been so sustained, then the Owner shall notify this Contractor who shall defend such proceedings and pay all costs in connection therewith and, if any judgment against the Owner arises there from, this Contractor shall pay or satisfy it.

4.4.3 This Contractor shall afford the Owner and/or other contractors reasonable opportunity for the introduction and storage of their materials and equipment, and for the execution of their Work, and for proper connection to and coordination with this Contractor's Work.

4.4.4 The Owner reserves the right to make essential installations which are pertinent to the use of the building or Project prior to Substantial Completion. Within this right the Owner may let other Contracts or may do such Work with its own labor forces and materials. The Contractor shall not commit or permit any act which will interfere with the performance of Work by any other Contractor or supplier, or by Owner's employees. The Contractor shall cooperate to the end that the Owner may realize complete functioning of the building or Project on the day of Substantial Completion.

#### **4.5 Contract Termination:**

4.5.1 Termination by Contractor. If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act of fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a Contract with the Contractor, then the Contractor may, upon ten (10) additional days written notice to the Owner and the Architect/Engineer, terminate the Contract and recover from the Owner payment for all Work executed and for any loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit and overhead associated with such Work

for losses and reasonable expenses resulting from such termination. If the cause of the Work stoppage is removed prior to the end of the ten (10) day notice period, the Contractor may not terminate the Contract.

4.5.2 Termination by Owner. If the Owner determines that the Contractor is adjudged as bankrupt, or if the Contractor makes a general assignment for the benefit of the Contractor's creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor persistently or repeatedly refuses or fails (except in cases for which extension of time is provided) to supply enough properly skilled workmen or proper materials, or if the Contractor persistently performs substandard Work, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or is otherwise guilty of a substantial violation of a provision of the Contract Documents, or fails to so prosecute the Work as to insure its completion (within the time, or any extension thereof, specified in this Contract), then the Owner may, without prejudice to any right or remedy, and after giving the Contractor and the Contractor's surety (if any) ten (10) days written notice, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor. Should the surety fail to respond within fifteen (15) days following such notice and to pursue completion of the Work with diligence acceptable to the Owner, the Owner may arrange for completion of the Work and deduct the cost thereof from the unpaid balance of the Contract Sum, including the cost of additional Architect/Engineer services and Owner Contract administration costs made necessary by such default or neglect, in which event no further payment shall then be made by the Owner until all costs of completing the Work shall have been paid. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the

Architect/Engineer's additional services made necessary thereby, then such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, then the Contractor or the Contractor's surety shall pay the difference to the Owner. If the Owner sues the Contractor or Surety on account of failure to pay such difference in cost upon demand, then the Contractor and Surety will pay all costs in connection therewith, including reasonable attorney's fees. This obligation for payment shall survive the termination of the Contract.

4.5.3 Termination for Convenience of Owner: Prior to or during the performance of the Work, the Owner reserves the right to terminate the Contract for convenience or unforeseen causes that may occur. Upon such occurrence, the following procedures will be adhered to:

4.5.3.1 The Owner will immediately notify the Architect/Engineer and the Contractor in writing, specifying the effective termination date of the Contract.

4.5.3.2 After receipt of the notice of termination, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point in the Contract.

- .1 Stop all Work.
- .2 Place no further subcontracts or orders for materials or services.
- .3 Terminate all existing subcontracts.
- .4 Cancel all existing materials and equipment orders as applicable.
- .5 Take all actions necessary to protect and preserve all property related to this Contract which is in the possession of the Contractor.

4.5.3.3 Within 180 days of the date of the notice of termination, the Contractor shall submit a final termination settlement proposal to the Owner based upon costs up to the date of termination, reasonable profit on Work done only, and reasonable demobilization costs. If the Contractor fails to submit the proposal within the time allowed, then the Owner may determine the settlement amount, and shall pay the determined amount to the Contractor.

4.5.3.4 If the Contractor and the Owner fail to agree on the settlement amount, then the matter will be handled as a dispute in accordance with the procedure described in Subparagraph 5.2.1.

**4.6 Written Notice:** Written notice shall be considered to have been duly given if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it is intended, or if delivered to, or sent by registered or certified mail to, the last business address known to the one who gives the notice.

**4.7 Disputed Matters:** Disputed matters shall be handled through administrative procedures as established in Subparagraph 5.2.1.

## ARTICLE 5

### CONTRACT RESPONSIBILITIES

**5.1 Owner's Responsibilities:** The Owner shall furnish all surveys describing the physical characteristics, legal description and limitations, site utility locations and other information necessary to the Contractor which are under the Owner's control.

5.1.1 Communication with the Contractor shall be in accordance with Paragraph 4.1.

5.1.2 Necessary actions of the Owner, including processing of payments to the Contractor, shall be accomplished with reasonable promptness and subject to Government Code, Chapter 2251, Subchapter B.

**5.2 Owner-Contractor Obligations:** The Owner and the Contractor each bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due, or to become due hereunder, without the previous written consent of the Owner.

5.2.1 Disputes: Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract, which is not disposed of by the Owner-Contractor Agreement, shall be decided by the Owner (as represented by the Assistant Superintendent for Support Services) who shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Owner shall be final and conclusive unless, within 30 days from the date of receipt of such written decision, the Contractor mails or otherwise furnishes to the Owner a written appeal addressed to the Superintendent, Galena Park Independent School District. If the decision on the appeal is adverse, then the Contractor may, within 30 days from the receipt of such decision, make further appeal to the Board of Trustees of the Galena Park Independent School District whose decision shall be final and conclusive. In connection with any appeal under this Subparagraph, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of the Contractor's appeal to a person or persons appointed by the Board of Trustees for such purpose. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Owner's decision. Both parties agree that any decision of fact reached by the process in this Subparagraph 5.2.1 shall be contractually binding upon them and shall become a part of this Contract.

**5.3 Contractor's Responsibilities:** The Contractor shall supervise, coordinate and direct the Work using the Contractor's best skill and attention to assure that each element of the Work conforms to the requirements of the Contract Documents. The Contractor shall be solely responsible for and have control over all construction means, methods, techniques, safety, sequences and procedures, and for coordinating all portions of the Work under the Contract.

5.3.1 The Contractor is obligated to notify the Architect/Engineer, in writing, when 1) the Contractor is in

disagreement with any items, details, methods, or specifications, or 2) if the Contractor has reason and can provide evidence that an element of the Work will not function properly or safely, or will not deliver appropriate service and durability if such item is provided in accordance with the Contract Documents. Such matters will be clarified in writing by the Architect/Engineer prior to their incorporation into the Project.

5.3.2 The Contractor's Superintendent shall prepare daily reports indicating all work in progress, listing all Subcontractors and crews working on site, and listing all material and equipment delivered to site. Provide copies of daily reports to Owner at progress meetings.

**5.4 Contractor's Superintendent:** The Contractor shall employ a competent Superintendent and necessary assistants who shall be in attendance at the Project site from the Notice to Proceed to completion of all punch list items attached to the Certificate of Substantial Completion. The Superintendent shall not be a foreman working on the Project; shall be an individual satisfactory to the Owner; and shall not be changed without the written approval of the Owner (except if the Superintendent leaves the employment of the Contractor). The Superintendent shall represent the Contractor and shall have full authority to act on the Contractor's behalf. All communications given to the Superintendent shall be as binding as if given to the Contractor.

**5.5 Acts and Omissions:** The Contractor shall be responsible for acts and omissions of the Contractor's employees, of the Contractor's Subcontractors, their agents and employees and of other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors. . The Owner may, in writing, require the Contractor to remove from the Work any employee that the Owner's designated representative or agent finds careless, incompetent or otherwise objectionable.

**5.6 Conditions at Site or Building:** The Owner makes no representations as to the accuracy or completeness of the site information furnished to the Contractor by Owner; does not expressly or impliedly warrant same; and is not responsible for any interpretations or conclusions reached by the Contractor with respect thereto. It is the Contractor's sole responsibility to verify (to the Contractor's own satisfaction) all site information including, but not restricted to, topographical data, borings, subsurface information, utilities and easements.

5.6.1 The Contractor is responsible for having visited the site and having ascertained pertinent local conditions such as locations, accessibility, and general character of the site or building, the character and extent of existing Work within and adjacent to the site, and any other Work being

performed thereon. Any failure to do so will not relieve the Contractor from responsibility for successfully performing the Work without additional expense to the Owner.

5.6.2 If, in the performance of the Contract, concealed, subsurface or latent conditions at the site are found to be materially different from the information included in the proposed Contract Documents; or if unknown conditions of an unusual nature are discovered which differ materially from the conditions usually inherent in Work of the character shown and specified, then the Architect/Engineer shall be notified in writing of such conditions before they are disturbed. Upon such notice, or upon the Architect/Engineer's own observation of such conditions, the Architect/Engineer, with the approval of the Owner, will promptly make such changes in the Contract Documents as the Architect/Engineer deems necessary to conform to the different conditions. Any increase or decrease in the cost of the Work or in the time within which the Work is to be completed, resulting from such changes will be adjusted by Change Order, subject to the prior approval of the Owner.

## **5.7 Insurance**

5.7.1 The Contractor shall not commence any portion of the Work under this Contract until the Contractor has obtained all the insurance required hereunder and Certificates of Insurance and Policy have been filed with and reviewed by the Owner. Acceptance of the insurance certificates by the Owner shall not relieve or decrease the liability of the Contractor.

- 1 This section shall govern the entire Contract.
- .2 The insurance shall contain a provision that at least thirty days prior written notice shall be given to the Owner in the event of cancellation, material change or non-renewal.
- .3 Insurance shall be underwritten by a company rated not less than B + VII in Best's latest published guide.
- .4 There shall be a hold harmless agreement in which the Contractor assumes liability on the Contract and holds the School District harmless.
- .5 The Contractor shall purchase and maintain in force the following kinds of insurance and bonds for operations under construction contracts and as specified in each section.

5.7.2 Casualty Insurance - Unless otherwise provided for in the Supplementary Conditions, the Contractor shall provide and maintain (until the Work covered in this

Contract is completed and accepted by the Owner) the minimum insurance coverages as follows:

- .1 Workmen's Compensation shall be furnished for all employees as follows:

A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-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, then 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 Texas Workers' Compensation Commission, 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:

1. 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;
2. 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;
3. 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.
4. 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;

5. Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
6. 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
7. 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 Commission'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. 28 TAC 110.110(i)

#### 5.7.3 Commercial General Liability Insurance (Occurrence Basis Only)

5.7.3.1 The Owner shall be named additional insured on the Contractor's policy with waiver of subrogation as to the subject job.

#### 5.7.3.2 Bodily injury and property damage:

1. Each Occurrence \$1,000,000
2. General Aggregate \$2,000,000
3. Products/Completed Operations
  - a. Aggregate \$1,000,000



4. Personal and Advertising Injury
  - a. Occurrence \$1,000,000
5. Fire Damage, Legal Liability
  - a. Any One Fire \$50,000
6. Medical Expenses
  - a. Any One Person \$5,000

5.7.4 Business (Commercial) Automobile Liability Insurance All Owned, Non-Owned, and Hired Coverage

1. Automobile Liability \$1,000,000
2. The Owner shall be named additional insured on the Contractor's policy with waiver of subrogation as to the subject job.

5.7.5 Deletions and Exclusions

1. No deletions/exclusions from standard coverage forms shall be permitted, without the written consent of the Owner for Commercial General Liability Insurance or Business (Commercial) Automobile Liability Insurance.

5.7.6 Umbrella Liability Insurance

- .1 Umbrella shall be issued as "Follow Form Policy".
- .2 This policy shall provide coverage over the Workmen's Compensation, Commercial General Liability, and Business (Commercial) Automobile Liability (Covering All Owned, Non-Owned, and Hired Vehicles.)

5.7.7 Builder's Risk Insurance:

The Contractor shall obtain at the Contractor's expense, All Risk Property Insurance coverage, acceptable to the Owner, in the amount of insurance equal at all times to the insurable value of materials delivered and labor performed. The policy so issued in the name of the Contractor shall also name all Subcontractors and the Owner as additional insured, as their respective interests may appear. The policy shall have endorsements as follows: "This insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the present premises."

- .1 The policy shall be written in the name of the Owner and Contractor as their interest may appear.
- .2 The policy shall be written on all risk basis for physical loss or damage and include the vandalism, malicious mischief.
- .3 The amount of coverage shall be for the full insurable value of Work.
- .4 The deductible shall not be over \$1,000.00 without approval of the Owner. (Deductible losses shall be paid by the Contractor.)

- .5 The policy shall include an endorsement allowing Owner occupancy, and the insurance shall not be canceled or altered on account of partial occupancy prior to completion.
- .6 The original Builder's Risk Policy shall be furnished to the Owner prior to start of the job. This shall be a "Stand Alone" Policy.
- .7 The Policy shall include \$500,000 extra expense.

**5.8 Safety Precautions and Emergencies:**

5.8.1 It shall be the duty and responsibility of the Contractor and all of its Subcontractors to be familiar and comply with all requirements of Public Law 91-596 enacted by Congress, December 29, 1970, cited as the Occupational Safety and Health Act of 1970, and all amendments thereto, commonly referred to as OSHA, and to enforce and comply with all of the provisions of this Act. The Owner reserves the right to enforce standard safety practices through the Contractor, which shall take immediate action when notified either orally or written of an unsafe condition.

5.8.2 In any emergency affecting the safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor resulting from response to an emergency shall be considered in accordance with Article 6 - Contract Changes.

**5.9 Materials and Workmanship:** All Work shall be executed in accordance with the Contract Documents, complete in all parts and in accordance with approved practices and customs, and of the best finish and workmanship. Unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new.

**5.10 Tests:** If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to be inspected, tested or approved, the Contractor shall give the Owner and the Architect/Engineer timely notice of its readiness and of the date arranged so that the Architect/Engineer may observe such inspection, testing or approval.

5.10.1 The Owner shall pay for all routine testing of materials agreed by the Architect/Engineer and the Owner to be required by the Contract Documents or to be in the best interests of the Owner. When retesting of material failing the initial test is required, the cost of retesting will be paid for by the Contractor. Any special testing which is specifically required in the scope of Work and specifically stipulated to be the responsibility of the Contractor in a

technical section of the Project Manual shall be paid for by the Contractor.

5.10.2 Should testing of suspected non-compliant material or Work require that completed Work be removed to accomplish the testing, and further should the testing demonstrate that the material or Work fails to comply with the requirements of the Contract Documents, the Contractor shall bear all costs of the testing, inspection or approval as well as the cost of replacement of unsatisfactory material or Work as provided by paragraph 5.11. Should the testing demonstrate that the Work or material is in compliance, the Owner shall bear such costs and an appropriate Change Order shall be issued.

5.10.3 Material compliance with the Contract Documents shall be made by one of the following:

1. Manufacturer's certificate of compliance.
2. Mill certificate.
3. Testing laboratory certification.
4. Report of actual laboratory test from the Owner's laboratory or from a laboratory satisfactory to the Owner. Samples tested shall be selected by or in the presence of the Owner and the method of testing shall comply with the professional societies' standard specifications.

**5.11 Removal of Defective Work:** The Owner's representatives and the Architect/Engineer shall interpret the Contract requirements and shall be the final judge of the acceptability of the Work under the Contract Documents.

5.11.1 If any materials furnished under this Contract are judged to be not in compliance with requirements of the Contract Documents by the Owner and/or the Architect/Engineer, then the Owner and/or the Architect/Engineer will deliver to the Contractor a notification of such non-compliance in writing. The Contractor shall, after having received such written notice of non-compliance, proceed to remove from the grounds or buildings all materials (whether worked or unworked) and to take down all portions of the Work which the Owner and/or Architect/Engineer shall by such written notice condemn as unsound or improper or as in any way failing to conform to the requirements of the Contract Documents; and shall make good all Work damaged or destroyed thereby.

5.11.2 The Contractor shall, without charge, replace any material or correct any workmanship found by the Owner or Architect/Engineer not to conform to the requirements of the Contract Documents, unless in the public interest the Owner consents in writing to accept such material or workmanship with an appropriate adjustment in the Contract Sum. The Contractor shall promptly correct all Work rejected by the Owner or Architect/Engineer as defective or as failing to

conform to the Contract Documents whether observed before or after the date of Substantial Completion or Final Inspection and acceptance and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work.

5.11.3 If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Owner may, 1) replace such materials or correct such workmanship and charge the cost thereof to the Contractor, or 2) terminate the Contractor's employment in accordance with Paragraph 4.5, Contract Termination.

5.11.4 If any portion of the Work is covered contrary to the instructions of the Owner or Architect/Engineer or to the requirements specifically expressed in the Contract Documents, then it must be uncovered for observation or testing and recovered at the Contractor's expense without change in the Contract Time.

5.11.5 If any other portion of the Work is covered which the Owner or Architect/Engineer has not specifically requested to observe prior to being covered, then either may request to see such Work and it shall be uncovered by the Contractor. If such Work is found to be in accordance with the Contract Documents, then the cost of uncovering and recovering shall, by appropriate Change Order, be charged to the Owner. If such Work is found not to be in accordance with the Contract Documents, then the Contractor shall pay such costs.

**5.12 Royalties Patents and Copyrights:** The Contractor shall pay all royalties and license fees, and defend all suits or claims for infringement of any copyrights and patent rights; and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such royalties and license fees and loss when a particular design or process, or the product of a particular manufacturer or manufacturers is specified; provided, however, if the Contractor has reason to believe that the required design, process or product specified is an infringement of a copyright or a patent, then the Contractor shall be responsible for such royalties, license fees and loss unless the Contractor promptly gives information to the Owner and the Architect/Engineer.

**5.13 Equivalent Materials:** It is not the intent of these Contract Documents to limit materials to the product of any particular manufacturer. Where definite materials, equipment and/or fixtures have been specified by name, manufacturer or catalog number, it has been done to set a definite standard and a reference for comparison for quality, function, application, physical conformity, and other characteristics. It is not the intention to discriminate against or prevent any dealer, jobber or manufacturer from furnishing materials, equipment, and/or fixtures which meet

or exceed the characteristics of the specified items as judged by the Owner and/or the Architect/Engineer. Substitution of materials shall not be made without prior written approval of the Owner and the Architect/Engineer.

5.13.1 The Contractor shall be responsible for any additional costs or delays resulting from having furnished materials, equipment or fixtures other than those specified or subsequently approved, and shall reimburse the Owner for any increased design costs resulting from such substitutions.

5.13.2 The Owner shall be the final judge of whether a proposed substitution meets or exceeds the characteristics of a specified item and decisions of the Owner relative to the equivalency of items proposed as substitutes for specified items shall be final and conclusive.

#### **5.14 Technical Submittals:**

5.14.1 Definition: Technical Submittals include Shop Drawings, Product Data, Installation Instructions, Samples, and other submittals which are typically related to construction materials, products, systems or services, and which are required by the Contract Documents.

5.14.1.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or any Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

5.14.1.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

5.14.1.3 Samples are physical examples furnished by the Contractor which illustrate materials, equipment or workmanship, and which establish standards by which the Work will be judged.

5.14.2 The Contractor shall submit within three (3) months after the date of the Notice to Proceed, and in orderly sequence, all Technical Submittals required by the Contract Documents, or subsequently required by the Architect/Engineer as covered by Contract modifications. The Contractor shall review them for compliance with Contract Documents and shall certify that the Contractor has done so by stamp, or otherwise, affixed to each copy thereof. Submittal data presented without such certification will be returned without review or other comment, and any delay resulting there from will be the Contractor's responsibility.

5.14.2.1 The Contractor shall, within twenty (20) calendar days after receipt of the Notice to Proceed, submit to the

Owner through the Architect/Engineer two (2) copies of a list of submittals, in a form acceptable to the Owner, which lists all Technical Submittals that are required by the Contract, and indicates which are to be reviewed and certified by the Contractor. The list shall then be reviewed and approved by the Owner and/or the Architect/Engineer.

5.14.2.1.1 The schedule shall include, but is not necessarily limited to, all Technical Submittals, certificates of compliance, material samples, material color charts or samples, guarantees, operation and maintenance instructions, etc.

5.14.2.1.2 The schedule shall indicate the type of item, Contract requirements reference, the Contractor's scheduled dates for submitting the items, the projected need dates for approval from the Owner or the Architect/Engineer, and the projected or actual dates for procurement. The schedule shall show a minimum of fifteen (15) calendar days after receipt for review by the Owner and Architect/Engineer. If resubmittal is required, then an additional fifteen (15) days will be allowed for review after receipt. The Contractor will revise and/or update this schedule as appropriate, and submit same with each monthly Application for Payment.

5.14.2.1.3 The submittal schedule shall be coordinated with the Owner-reviewed, Contractor prepared and submitted construction schedule for all the Work. The Contractor shall revise and/or update the submittal schedule monthly to insure consistency with the construction schedule. The Owner shall be provided with two (2) copies of each revised submittal schedule.

5.14.3 Technical Submittals shall be properly identified, as specified or as the Owner and/or Architect/Engineer may require. At the time of submission, the Contractor shall inform the Owner and the Architect/Engineer in writing of any deviations in the Technical Submittals from the requirements of the Contract Documents.

5.14.4 By providing Technical Submittals, the Contractor thereby represents that the Contractor has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, or will do so; that the Contractor has checked and coordinated each Technical Submittal with the requirements of the Work and of the Contract Documents; and that the Contractor shall so certify as required by Subparagraph 5.14.2.

5.14.5 The Architect/Engineer and/or the Owner will review the Technical Submittals with reasonable promptness, but only for conformance with the design concept of the Project and with the information given in the Contract Documents. The review of a separate item shall not indicate approval of an assembly in which the item functions. Review of the Technical Submittals shall not

relieve the Contractor of responsibility for any deviations from the requirements of the Contract Documents unless the Contractor has informed the Owner and the Architect/Engineer in writing of such deviations at the time of submittal and the Owner or the Architect/Engineer has not objected to the specific deviations. The approval shall not relieve the Contractor from responsibility for errors or omissions in the Technical Submittals.

5.14.6 The Contractor shall make any corrections required and shall resubmit the required number of corrected copies of the Shop Drawings or Product Data or new Samples of materials until accepted. The Contractor shall direct specific attention in writing to any new revisions other than the corrections requested on previous submissions.

5.14.7 No Work requiring a Technical Submittal shall be performed until the submittal has been reviewed. All such Work shall be in accordance with the reviewed Technical Submittal.

**5.15 Cleaning:** The Contractor shall at all times keep the premises and surrounding area clean and free from accumulation of waste materials or rubbish caused by the Work under this Contract. Upon completion of the Project, and prior to the Final Inspection, the Contractor shall have the premises in a neat and clean condition.

## ARTICLE 6

### CONTRACT CHANGES

**6.1 Change Orders:** A Change Order is a written order to the Contractor signed by the Owner, the Contractor and the Architect/Engineer, and issued after execution of the Contract which authorizes a change in the Work or an adjustment in the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including the adjustment in the Contract Sum or the Contract Time. It is recognized by the parties hereto and agreed by them that the Contract Documents may or may not be complete, or be free from errors, omissions and imperfections, or require changes or additions in order for the Work to be completed to the satisfaction of Owner. Accordingly, it is the express intention of the parties (notwithstanding any other provisions in this Contract) that any errors, omissions or imperfections in the Contract Documents, or any changes in or additions to same or to the Work ordered by Owner and any resulting delays in the Work or increases in Contractor's costs and expenses, shall not constitute or give rise to any claim, demand or cause of action of any nature whatsoever in favor of Contractor, whether for breach of Contract, quantum merit, or otherwise. However, the Owner shall be liable to the Contractor for the sum stated to be due the

Contractor in any Change Order approved and signed by all parties. It is agreed hereby that such sum, together with any extension of time contained in said Change Order, shall constitute full compensation to the Contractor for all costs, expenses and damages to the Contractor, whether direct, consequential or otherwise in any wise incident to, arising out of, or resulting directly or indirectly from the Work performed by the Contractor under such Change Order.

6.1.1 The Owner, without invalidating the Contract and without approval of the Surety, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order or Construction Change Directive and shall be performed under the applicable conditions of the Contract Documents.

6.1.1.1 Any other written order or oral order (which terms as used in this paragraph shall include direction, instruction, interpretation, or determination) from the Architect/Engineer or Owner shall be treated as a Change Order under this clause only if the Contractor gives the Owner written notice within twenty (20) days stating the date, circumstances, source of the order and that the Contractor regards the order to be a Change Order.

6.1.1.2 The Owner may, in writing, issue a Notice to Proceed for any portion of the Work in a Change Order for which final adjustment in Contract Sum and/or Contract Time has not been finalized. The Notice to Proceed letter may have a not-to-exceed cost amount for any or all portions of the Change Order. This amount is not to be exceeded without prior written approval by the Owner.

6.1.2 If the Contractor intends to assert a claim for an adjustment of cost or time over and above any adjustment already granted in a Change Order, then the Contractor must (within twenty (20) calendar days after receipt of a written Change Order, or receipt of oral or written order to proceed with a proposed change under Clause 6.1.1.2, or after the furnishing of a written notice under Clause 6.1.1.1) submit to the Owner a written statement setting forth in detail the nature and monetary extent of such claim as per Paragraph 6.3. The Contractor shall certify that the claim is made in good faith and that the supporting data is current, accurate and complete to the best of the Contractor's knowledge and belief, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the Owner is liable. Failure to certify a claim will result in a determination that no claim has been filed. The thirty (30) day period of time for submission of such claim may be extended only by written agreement signed by the Owner. Except for claims based on defects in drawings or specifications furnished by the Owner, no claim for any change under Subparagraph

6.3.1 shall be allowed for any costs incurred more than twenty (20) days before the Contractor gives written notice as therein required; provided that, in the case of claims based on defects in drawings or specifications furnished by the Owner, the adjustment in cost shall include only those increased direct costs reasonably and necessarily incurred by the Contractor as a result of such defective drawings or specifications.

6.1.3 Except as provided above, no order, oral statement, or direction of the Owner or the Owner's duly appointed representative shall be treated as a change under this Article or entitle the Contractor to an adjustment thereunder.

6.1.4 The Contractor agrees that the Owner or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor. Further, the Contractor agrees to include and submit evidence that all of its subcontracts include a provision to the effect that the Subcontractor agrees that the Owner or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers and records of such Subcontractor relating to any claim from the Contract, whether or not the Subcontractor is party to the claim. The period of access and examination described herein which relate to appeals under Subparagraph 5.2.1, litigation, or the settlement of claims arising out of the performance of this Contract shall continue until final disposition of such claims, appeals or litigation.

**6.2 Unit Prices:** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or the Contractor, then the applicable unit prices shall be equitably adjusted as provided herein.

6.2.1 Each unit price proposed by the Contractor shall include all costs applicable to the Work including, but not limited to, mobilization, demobilization, labor, materials, equipment, supervision, delays, overhead at any level, and profit.

6.2.2 Either party may request an equitable adjustment. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above one hundred and fifteen percent (115%) or below eighty-five percent (85%) of the originally specified amount. If the quantity variation causes an increase in the time necessary for completion, then the Owner (upon receipt of a written request for an extension of time within thirty (30) days from the recognition of the variation or within such further period of time as may be granted by written agreement signed by

the Owner) will ascertain the facts and make such adjustment for changing the completion date as in its judgment the findings justify.

### **6.3 Claims for Additional Costs:**

6.3.1 If the Contractor wishes to make a claim for an increase in the Contract Sum, then the Contractor shall give the Owner and the Architect/Engineer written notice thereof within thirty (30) days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with Subparagraph 5.8.2. No such claim shall be valid unless so made and the Contractor hereby waives all claims for which such notice is not given. If the Owner and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by administrative procedures as provided in Subparagraph 5.2.1. Any changes in the Contract Sum resulting from such claim shall be authorized by Change Order.

6.3.2 If the Contractor claims that additional cost is involved because of, but not limited to, (1) any written interpretation of the Contract Documents, (2) any order by the Owner to stop the Work pursuant to Subparagraph 4.5.3 where the Contractor was not at fault, (3) any written order for a minor change in the Work issued pursuant to Paragraph 6.5, then the Contractor shall make such claim as provided in Subparagraph 6.3.1 in a timely manner which will not have an effect on the construction schedule.

6.3.3 Any claim shall contain the following elements: (1) an analysis of the relevant Contract provisions, (2) a description of the facts, (3) a statement of why the particular facts warrant compensation under the terms of the Contract, (4) supporting cost or pricing data per Paragraph 6.7, (5) legal analysis, if appropriate, (6) expert opinion, if appropriate, (7) certification per Subparagraph 6.3.4, and (8) a formal request for decision. All direct costs should be accurately presented in the claim, i.e., labor should come from payrolls, equipment from equipment reporting forms and materials should be based on invoices.

6.3.4 The Contractor shall certify that the claim is made in good faith, that the supporting data is current, accurate and complete to the best of the Contractor's knowledge and belief, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the Owner is liable.

6.3.5 Failure to certify the claim will result in a determination that no claim has been filed.

**6.4 Claims for Additional Time:** If a change in the Work causes an increase or decrease in the Contract Time, then the Contractor's proposal shall include a reasonable estimate of such increase or decrease based on effects of the Change Order to critical path activities. Any costs associated with a change in the Contract Time is included in the fifteen percent (15%) mark-up.

**6.5 Minor Changes:** The Architect/Engineer, with concurrence of the Owner, will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order which the Contractor shall carry out promptly.

**6.6 Bar to Claims:** No claim shall be allowed for an adjustment under this or any other provision of the Contract if asserted after final payment under this Contract.

**6.7 Administrative Procedures for Change Orders:** If a change in the Work will result in an increase or decrease in the Contract Sum, then the Owner shall have the right to require the performance thereof on a lump sum basis, a unit price basis or a time and material basis, all as hereinafter more particularly described (the right of the Owner as aforesaid shall apply with respect to each such change in the Work).

6.7.1 Lump Sum Proposal: In responding to a request for a proposed price for a change in the Work, or in submitting a claim, the Contractor shall furnish a lump sum proposal supported by a complete breakdown as described hereafter, indicating the estimated or actual cost to the Contractor for performance of the changed Work, including the applicable percentage of overhead and profit described hereafter. Any request for a time extension must be justified and presented in adequate detail to permit evaluation per Article 8, showing that the proposed change will delay the final Contract Completion Date.

6.7.1.1 A Lump Sum Proposal for the adjustment of Work shall contain the following items:

- .1 Estimated cost, using any discount to the trades, of the materials and supplies used, which shall be itemized completely to include unit cost, quantity and total cost.
- .2 The portion of the proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors or Sub-subcontractors, may include reasonably anticipated direct wages of jobsite labor (including foremen) who will be directly involved in the change in the Work (for such time as they will be so involved). In addition to the direct wages, payroll costs including Social Security, Federal/State Unemployment Insurance and like taxes may also be

included. These payroll costs shall be itemized separately; and the Contractor shall provide verifying documentation of these costs. Furthermore, any fringe benefits required by applicable union/trade agreements in connection with such direct wages may also be included if the Contractor provides verifying documentation of these benefits.

- .3 Estimated cost to the Contractor for additional construction equipment used solely on the Change Order, to include rental rates or owned equipment rates for such items of equipment while in use, which shall be itemized completely to include type(s), the number(s) of each, hourly rate, hours and total cost. Equipment which is regularly used at the job shall be used in Change Order Work at no extra charge. Rental or owned equipment rates shall be no greater than those established by the Association of General Contractors for the local area. As used herein the terms "construction equipment" and "equipment" shall include wheeled vehicles and small tools.
- .4 Estimated transportation costs for delivery and handling of materials and supplies, bringing to and removing from the site additional construction equipment and/or new items of installed equipment, if applicable, which shall be itemized separately.
- .5 Estimated off-site storage costs in excess of thirty (30) calendar days for new items of installed equipment, if applicable.
- .6 To the Contractor's, Subcontractor's or Sub-subcontractor's cost proposal for Work performed by its own forces, a markup of fifteen percent (15%) shall be added to cover all elements of overhead and profit including, but not limited to, supervision above the level of foremen, estimating, scheduling, procurement, cleanup, temporary facilities, consumables, safety, quality control/assurance, protection, security, small tools, radios, company vehicles, home and branch office costs and expenses of any type whatsoever. To the Contractor's cost proposal five percent (5%) shall be added to the Subcontractor's or Sub-subcontractor's cost proposal to cover processing and management of the added Work. If any of the items included in the lump sum proposal are covered by unit prices contained in the Contract Documents, then the Owner may, if it requires the change in the Work to be performed on a lump sum basis, elect to use these unit prices in lieu of the similar items included in the lump sum proposal. In this event an appropriate deduction will be made in the lump sum amount prior to the application of any allowed overhead and profit percentages. No overhead and profit shall be applied to any unit prices.

.7 To the summary of the Contractor's proposed cost, the direct cost for insurance and bonds shall be added upon the Contractor providing documentation.

6.7.2. In cases where changes in the Work result in a credit to the Owner, the credit shall be limited to direct costs; that is, no overhead or profit shall be applied to such costs. In cases where a change in the Work results in both credits and charges to the Owner, the Contractor will be allowed to add the overhead and profit percentages indicated in Clause 6.7.1.1 to the net charge based upon the amount by which the total charges exceed the total credits; if there is a net credit, then no overhead or profit shall be charged.

6.7.3 Time and Material Proposal: If the Owner elects to have the change in the Work performed on a time and material basis, the same shall be performed, whether by the Contractor's forces or the forces of its Subcontractors or Sub-subcontractors, at actual cost to the entity performing the change in the Work plus the same markups for overhead and profit as set forth in Clause 6.7.1.1. The Contractor shall submit to the Owner daily time and material tickets which shall include the identification number assigned to the change in the Work, the classification of labor employed (and names and social security numbers), the materials used, the equipment rented (not tools) and such other evidence of cost as the Owner may require. The Owner may require authentication of all time and material tickets and invoices by persons designated by the Owner for such purpose. The failure of the Contractor to secure any required authentication shall, if the Owner elects to treat it as such, constitute a waiver by the Contractor of any claim for the cost of that portion of the change in the Work covered by a non-authenticated ticket or invoice; provided, however, that the authentication of any such ticket or invoice by the Owner shall not constitute an acknowledgement by the Owner that the items thereon were reasonably required for the change in the Work.

6.7.4 Submission Time: Contractor's proposals for changes in the Contract Sum or Contract Time for Change Order Work shall be submitted within fourteen (14) calendar days of the Owner's or A/E's written request for same, unless the Owner or A/E extends such period of time due to the circumstances involved. If such proposals are not timely received, or if the changed Work should start immediately to avoid damage to the Project or to avoid a delay, then the Owner may (at its discretion and in the interest of prosecuting the Work to timely completion) direct the Contractor to proceed with the changed Work. In this case the Owner shall direct the Contractor in writing to proceed with the Work on a time and material basis in compliance with Paragraph 6.7.3. This directive shall be known as a "PDL-NTE" (Price Determined Later - Not To Exceed). If such directive is given orally to the Contractor by the Owner under the above procedure, then the oral directive shall be

confirmed in writing by the Contractor within seven (7) calendar days. The cost or credit and time adjustments will be determined through negotiation as soon as practicable thereafter and will be incorporated in a Change Order to the Contract. Prior to such negotiations, the Contractor shall keep separate costs on the "PDL-NTE" Work done up to that point.

6.7.5 Processing: The Owner will undertake to formally process Owner-Contractor agreed Change Orders with thirty (30) calendar days of agreement.

6.7.6 Construction Change Directive: If the Owner and the Contractor fail to agree on the terms of a Change Order, then the Owner shall issue through the Architect/Engineer a Construction Change Directive which is a written order directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum and/or Contract Time.

6.7.6.1 A Construction Change Directive may be issued before, during or after changed Work is accomplished, under the following conditions:

- .1 The Contractor fails to submit a timely price and/or time extension proposal for the changed Work.
- .2 Negotiation fails to achieve an agreed price and/or time extension, or there remains a disagreement concerning any part of the changed Work.
- .3 Contractor fails or refuses to timely execute a Change Order by affixing the Contractor's signature thereto.

6.7.6.2 The terms of a Construction Change Directive including the change in Contract Sum and/or Contract Time shall be determined by the Owner with the assistance of the Architect/Engineer and shall, in the Owner's judgment, be fair and reasonable.

6.7.6.3 When a Construction Change Directive has been issued, it shall have the full force and effect of a Contract modification. It shall be included in schedules, Applications for Payment, reports and all official records of the Contract. The issuance of a Construction Change Directive will not prejudice any of the Contractor's rights to make claims or to appeal disputed matters under provisions of this Contract.

6.7.7 Notice to Proceed with Change Order Work: It is recognized that time is often of the essence in the execution of Change Order Work. Accordingly, the Owner may issue written notices to proceed with the Change Order Work while the formal Change Order is still being processed. The Contractor shall comply with these notices to proceed on the representation that formal confirming Change Orders will be issued.

## ARTICLE 7

### CONTRACT PAYMENTS

**7.1 Schedule of Values:** Upon execution of the Contract by the Owner and the Contractor, the Contractor shall submit for approval to the Owner and the Architect/Engineer a breakdown of the Contract Sum, itemizing material and labor for the various classifications of the Work. This Schedule of Values will be used as the basis for the Contractor's Applications for Payment.

7.1.1 No Application for Payment will be considered prior to receipt and approval of the Schedule of Values, which shall be in such detail as may be required by the Owner. The Schedule of Values shall be submitted to the Architect and Owner not less than twenty (20) days prior to the first Application for Payment, and this shall be a condition precedent to the processing of the first payment. The Schedule of Values shall follow the trade divisions of the Project Manual. Each item shall be assigned labor or material values, or both, with the subtotal thereof equaling the value of the Work in place when completed. Contractor's overhead and profit, mobilization, bond, and insurance shall each be listed as a separate line item on the Schedule of Values. The sum of all line items shall equal the Contract Sum.

7.1.2 The Contractor shall submit with the Schedule of Values a copy of all worksheets used in preparation of its proposal, supported by a notarized statement that the worksheets are true and complete copies of the documents used to prepare the proposal. The Contractor's proposal sheets shall be handled as confidential documents to the extent permitted by law.

**7.2 Progress Payments:** Payment will be made to the Contractor upon receipt of monthly Applications for Payment as provided hereinafter for the Work performed, and materials suitably stored and protected on the construction site. Progress payments do not constitute acceptance of Work not in accordance with the Contract Documents. Contractor shall provide a Department of the Treasury I.R.S. Form W-9 (latest edition) to the Owner prior to the first Application for Payment.

7.2.1 Once each calendar month, the Owner shall make a progress payment to the Contractor based upon an Application for Payment certified by the Architect/Engineer (for Work performed under this Contract during the preceding calendar month) which shall be accompanied by an affidavit that all payrolls, bills for labor, materials, equipment, or other indebtedness connected with such Work have been paid or will be paid within thirty (30) days after the Owner's receipt of the Application for Payment, or within the period of time required by Government Code,

Chapter 2251, Subchapter B (see below), and a Certified Payroll (if specifically requested by Owner).

#### 2251.021 Time for Payment by Governmental Entity.

a) Except as provided by Subsection b), a payment by a governmental entity under a Contract executed on or after September 1, 1987, is overdue on the 31<sup>st</sup> day after the later of:

- 1) the date the governmental entity receives the goods under the Contract;
- 2) the date the performance of the service under the Contract is completed; or
- 3) the date the governmental entity receives an invoice for the goods or services.

b) A payment under a Contract executed on or after September 1, 1993, owed by a political subdivision whose governing body meets only once a month or less frequently is overdue on the 46<sup>th</sup> day after the later event described by Subsections a)1) through 3).

c) For a Contract executed on or after July 1, 1986, and before September 1, 1987, a payment by a governmental entity under that Contract is overdue on the 46<sup>th</sup> day after the later event described by Subsections a)1) through 3).

Added by Acts 1993, 73<sup>rd</sup> Leg., ch. 268, 1, eff. Sept. 1, 1993.  
Amended by Acts 1995, 74<sup>th</sup> Leg., ch. 76, 5.42(a), eff. Sept. 1, 1995.

#### 2251.022 Time for Payment by Vendor

a) A vendor who receives a payment from a governmental entity shall pay a Subcontractor the appropriate share of the payment not later than the 10<sup>th</sup> day after the date the vendor receives the payment.

b) The appropriate share is overdue on the 11<sup>th</sup> day after the date the vendor receives the payment.

Added by Acts 1993, 73<sup>rd</sup> Leg., ch. 268, 1, eff. Sept. 1, 1993.

#### 2251.023 Time for Payment by Subcontractor

a) A Subcontractor who receives a payment from a vendor shall pay a person who supplies goods or a service



for which the payment is made the appropriate share of the payment not later than the 10<sup>th</sup> day after the date the Subcontractor receives the payment.

- b) The appropriate share is overdue on the 11<sup>th</sup> day after the date the Subcontractor receives the payment.

Added by Acts 1993, 73<sup>rd</sup> Leg., ch 268, 1, eff. Sept. 1, 1993.

7.2.2 To insure the proper performance of this Contract, the Owner shall retain not less than five percent (5%) of the amount of each Application for Payment until final completion and acceptance of all Work covered by this Contract. If the Owner, at any time after fifty percent (50%) of the Work has been completed, finds that satisfactory progress is being made, then the Owner may make any of the remaining progress payments in full; and provided further that, upon completion and acceptance of each separate building, or other division of the Contract on which the price is stated separately in the Contract, payment may be made in full including retained percentages thereon less authorized deductions. After Substantial Completion of the Work the Owner shall, upon application by the Contractor, approved by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Contract Documents, and if bonds have been furnished as provided in Article 3, such payment may be made under the terms and conditions governing final payment, and shall not constitute a waiver of claims. Final payment shall be made after completion of the Work by the Contractor in accordance with the Contract Documents.

7.2.2.1 The provisions of Government Code 2251.021 through 2251.023 apply to payments under this Contract.

7.2.2.2 Any request for reduction or release of retainage shall be accompanied by written consent of the Contractor's Surety to the request.

7.2.3 In preparing Applications for Payment all materials delivered and labor performed shall be included in the progress upon which payment is based. However, payment for materials will not be made prior to approval of materials for which submission of a Technical Submittal is required. Furthermore, payment for stored materials will be on the basis of provided invoices.

7.2.4 The Owner may withhold or, on account of subsequently discovered evidence, nullify that part of any Application for Payment to such extent as may be necessary to protect the Owner from loss on account of:

- .1 Defective Work not remedied.
- .2 Damage to Work of another Contractor.
- .3 Failure to maintain scheduled progress.
- .4 Receipt of written notice by the Owner of unpaid bills, as stipulated in Sec. 53.232, Texas Property Code, if the Contractor has not provided a payment bond and if the Contract Sum does not exceed \$25,000.00. Any funds so withheld shall be released to the Contractor if the Contractor furnishes a bond for release of lien as provided in Sec. 53.236, Texas Property Code. When the above grounds are removed, payment will be made for amounts withheld because of them.
- .5 Persistent failure to carry out the Work in accordance with the Contract Documents.
- .6 Reasonable evidence that the Work will not be completed within the Contract Time.
- .7 Reasonable evidence that the Work cannot be completed for the remainder of the Contract Sum.
- .8 Assessment of fines for violations of Prevailing Wage Rate laws.

7.2.5 All material and Work covered by progress payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and Work upon which payments have been made or the restoration of any damaged Work, or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the Contract.

7.2.6 Payments to the Contractor shall not be construed to release the Contractor or the Contractor's Surety from any obligations under this Contract.

7.2.7 Upon the Owner's request, manifest proof of the status of Subcontractor accounts shall be furnished in a form acceptable to the Owner.

7.2.8 Applications for Payment must be signed by a corporate officer or a representative specifically named by the Contractor.

7.2.9 If the Owner so requires, then the Contractor in requesting payment for materials, shall provide copies of bills of lading, invoices, delivery receipts or other evidence of the location and value of such materials.

### **7.3 Claims for Unpaid Labor and Materials:**

7.3.1 When the value of the Contract between the Owner and the Contractor is not in excess of \$25,000.00, claimants are referred to Texas Property Code, Section 53.231, for requirements that are prerequisite to the filing of a valid lien on funds unpaid to the Contractor at the time of filing of the claim.

7.3.2 When the Contract between the Owner and the Contractor is in excess of \$25,000.00, claims must be sent directly to the Contractor and the Contractor's Surety in accordance with Chapter 2253, Texas Government Code. The Owner will furnish, in accordance with such Article, a copy of the Payment Bond to claimants upon their request.

7.3.3 All claimants are cautioned that no lien exists on the funds unpaid to the Contractor on such Contract, and that reliance on notices sent to the Owner may result in loss of their rights against the Contractor and/or the Contractor's Surety. The Owner is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.

## ARTICLE 8

### CONTRACT COMPLETION TIME

**8.1 Notice to Proceed:** The Contract Time will begin on the date designated in the Notice to Proceed issued by the Owner after receipt of the fully executed Owner-Contractor Agreement, the Performance Bond, Payment Bond, and required insurance documentation. The Contractor is required to complete the Work in the time that is stated in the Supplementary Conditions of the Contract for Construction or any extension thereof. The Owner may delay the Work, or any part thereof, for any reason, in which case the time for completion of the Work will be extended by an equivalent amount of time.

**8.2 Construction Schedule:**

8.2.1 The Contractor is responsible for developing its own schedule logic with appropriate durations and manpower; however, all information must be acceptable and compatible with the Owner's needs, and all target, completion and milestone dates generated must be acceptable to the Owner. Within 14 days after the Notice to Proceed, the Contractor shall prepare and submit for approval by the Owner a detailed network construction schedule using precedence format with activity numbers based on a reasonable, rational system for identification purposes. Durations shall be in working days and appropriate to the activity. The Owner reserves the right to reject any schedule or report that fails to reflect timely completion of the Project, or any intermediate milestone, or otherwise indicates unrealistic performance. Failure of the Contractor to delivery satisfactory schedules or reports to Owner will result in temporary suspension of progress payments.

8.2.2 The detailed construction schedule submitted by the Contractor shall reflect complete sequence of construction by activity including:

- .1 Submittal and shop drawing activities for procurement packages and equipment,
- .2 Product procurement and delivery dates including long lead items,
- .3 Contractual milestone dates,
- .4 Dates for beginning and completion of each element of construction,
- .5 Disruptions and shutdowns due to other operations, facilities and functions,
- .6 Anticipated periods of overtime or shift work,
- .7 Dates for installation and testing of all equipment,
- .8 Cleanup,
- .9 Contract startup and closeout.

8.2.3 On a weekly basis, the current detailed construction schedule shall be provided by the Contractor, who shall give a brief report describing activities begun or finished during the preceding week and a projection of all activities to be started or finished in the week to follow.

8.2.4 Each month the Contractor shall provide a revised detailed construction schedule consisting of bar chart summaries and (if requested by the Owner) revised network diagrams and tabular lists of activities plus certified data which:

- .1 shows all changes occurring since the previous submission of the updated schedule,
- .2 indicates progress of each activity and shows completion dates,
- .3 includes:
  - .1 major changes in scope and logic changes
  - .2 activities modified since previous updating
  - .3 identification of any slippage
  - .4 revised projections due to changes
  - .5 out-of-sequence progress
  - .6 other identifiable changes

In the event that a revised detailed construction schedule is not acceptable to the Owner, then said schedule shall be revised by the Contractor until it is found acceptable by the Owner.

**8.3 Delays and Extension of Time:**

8.3.1 The Contractor may be granted a time extension by the Owner because of changes ordered in the Contract or because of strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties, inclement weather in excess of normal, or any cause beyond the Contractor's control, which affected critical path activities. The Owner may extend the Contract Time subject to the following provisions.

8.3.2 Claims for time extensions must be made in writing within thirty (30) calendar days after the occurrence of the delay. All time extension claims shall be supported by

comparing the original Construction Schedule with an updated Schedule indicating delays to critical path activities. In the case of a continuing cause of delay, only one claim is necessary. Claims for time extensions shall be stated in numbers of whole or half work days. In case of claims for time extension because of inclement weather in excess of normal, such time extension shall be granted only because such inclement weather prevented the execution of critical path activities of Work which delayed the final completion of the Contract. Resolution of delay claims shall be made at the Date of Substantial Completion.

8.3.2.1 The Owner's representative shall ascertain the facts and the extent of the delay and extend the Contract Time when (in the representative's judgment) the findings justify such an extension of Contract Time. The findings of the Owner's representative are final and conclusive on both parties and subject only to appeal as provided in Subparagraph 5.2.1.

8.3.2.2 The Contractor shall notify the Owner of delays to critical path items as they occur; and these delays shall be identified during the weekly progress meetings.

8.3.2.3 Time extensions granted for causes described herein will be granted on the basis of one Regular Work Day extension for each Regular Work Day lost (i.e., seven (7) calendar days extension will be granted after five (5) Regular Work Days are lost except as modified by the provisions contained herein related to Anticipated Inclement Weather days).

8.3.2.4 Each Proposer shall include Anticipated Inclement Weather Days in his proposed Contract Time as noted in the following schedule:

Number of Anticipated Inclement Weather Days to be Included in Proposed Contract Time (These are regular work days)

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

8.3.2.5 Inclement Weather Days shall pertain to such items as rain, flooding, snow, unusually high winds, which prevent progress on major portions of the Work on regular work days only. If such situations occur on more than the Number of Anticipated Inclement Weather Days included in the Proposed Contract Time and if those additional days prevent the Contractor from performing critical portions of the scheduled Work, then time extensions caused by inclement weather may be requested as enumerated hereinafter. If the inclement weather is rain related, then the

rain at the site must have been in excess of 0.50 inch in 24 hours.

8.3.2.6 At the beginning of each month the Contractor shall submit a schedule showing 1) the scheduled number of Anticipated Inclement Weather Days for the particular month, 2) the Actual Inclement Weather Days requested, and 3) the Net Inclement Weather Days (plus, minus, or no change). At times deemed appropriate by the Architect, the Contract Time will be adjusted by Change Order if the total of Net Inclement Weather Days is substantially greater than 0. If at the end of the Project all Anticipated Inclement Weather Days have not been used, then the Contract Time will not be reduced. An example of the monthly schedule to be submitted is as follows:

<u>Month</u>	<u>Anticipated Inclement Weather Days(Regular)</u>	<u>Actual Inclement Weather Days (Regular) Requested</u>	<u>Net Inclement Weather Days(Regular)</u>
January	3	8	5
February	4	0	-4
March	4	2	-2
April	2	2	0
May	5	7	2
June	6	10	4
TOTAL	24	29	5

Using this example, there were five (5) Net Inclement Weather Days (regular) for the first six (6) months of the Project and the extension of Contract Time would be seven (7) calendar days (since a seven (7) calendar days extension is granted after five (5) Regular Work Days are lost).

8.3.3 The Contractor shall have no claim for compensation or damages due to delays in, or hindrances to, the Work and further agrees that the Contractor shall be fully compensated for all delays solely by a time extension.

8.3.4 No time extension shall release the Contractor or the Surety furnishing a performance or payment bond from all obligations thereunder; which obligations shall remain in full force until the discharge of the Contract.

8.3.5 No time extensions will be allowed for any of the following conditions:

8.3.5.1 At least seven (7) hours of available work time out of the work day.

8.3.5.2 Saturdays, Sundays or Holidays unless the Contract requires and stipulates overtime work.

8.3.5.3 Time required for drying of materials when it is possible for the Contractor to enclose the area and use drying devices.

8.3.6 The Contractor shall maintain a Project log indicating all time in excess of one (1) hour for which work was suspended during a work day in order to obtain any time extension.

8.3.7 The Contractor shall obtain approval from the Owner for work during the following times:

8.3.7.1 Saturdays, Sundays or Holidays.

8.3.7.2 Prior to 7:00 am and after 7:00 pm on scheduled work days.

**8.4 Completion of Work:** The Contractor will be held to account for the Work being completed in the Contract Time, or any extension thereof.

8.4.1 If, in the judgment of the Owner, the Work is behind schedule and the rate of placement of Work is inadequate to regain scheduled progress so as to insure timely completion of the entire Work or a separable portion thereof, then the Contractor, when so informed by the Owner, shall immediately take action to increase the rate of Work placement. This increase shall be accomplished by any one or a combination of the following or other suitable measures:

- .1 An increase in Work forces.
- .2 An increase in equipment or tools.
- .3 An increase in hours of work or number of shifts.
- .4 Expediting delivery of materials.

8.4.2 The Contractor shall, within ten (10) calendar days after being so informed, notify the Owner of the specific measures taken and/or planned to increase the rate of progress together with an estimate as to when scheduled progress will be regained. Should the plan of action be deemed inadequate by the Owner, the Contractor shall take additional steps or make adjustments as necessary to the plan of action until it meets with the Owner's approval. The increased rate of work will continue until scheduled progress is regained. Scheduled progress will be established from the latest revised and accepted progress schedule for the Project. Timely completion will be understood to be the Contract completion date as revised by all time extensions granted at the time acceleration is undertaken. The Contractor shall not be entitled to additional compensation for the additional effort applied to the Work under the terms of this Subparagraph.

**8.5 Failure to Complete Work on Time:** The time set forth in the Supplementary Conditions of the Contract for Construction for the completion of all Work is an

essential element of the Contract. Contractor's failure to complete the Work within such time will cause damage to the Owner. The value of such damages shall be stated in the Supplementary Conditions of the Contract for Construction.

8.5.1 The time specified for completion in the Supplementary Conditions of the Contract for Construction shall cover final cleanup of the premises and completion of punch list deficiencies.

8.5.2 For each consecutive calendar day after the expiration of the Contract Time that any Work (including the correction of deficiencies found during the Final Inspection) is not completed and accepted, the amount per day as stipulated in the Supplementary Conditions of the Contract for Construction will be deducted from the money due or to become due the Contractor, not as a penalty but as liquidated damages and added expense for Contract supervision and Owner's delay costs in obtaining the use of the Work.

## ARTICLE 9

### CONTRACT SUBSTANTIAL COMPLETION

**9.1 Certification:** Should the Owner wish to use or occupy the Project, or part thereof, prior to final completion, and the Project, or a designated portion thereof acceptable to the Owner, is substantially complete, the Contractor shall prepare for and submit to the Architect/Engineer a comprehensive list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Owner and Architect/Engineer on the basis of a Pre-Final Inspection determine that the Project or designated portion thereof is substantially complete, the Architect/Engineer will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion; shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, operation of permanent equipment, damage to the Work, and insurance; and shall fix the time within which the Contractor shall complete all items on the list accompanying the Certificate.

9.1.1 Prior to the Pre-Final Inspection, and as a prerequisite to issuance of a Certificate of Substantial Completion, the Contractor shall furnish to the Owner all Record Documents, instructional manuals, maintenance manuals, parts catalogs, wiring diagrams, operational manuals, maintenance material stocks, spare parts and tools, specified written warranties, guarantees and like publications or parts for all installed equipment, systems and like items required by the Contract Documents; and shall conduct all instruction of the Owner's personnel required by

the Contract Documents. If the Contractor does not furnish these requirements and the Owner must, out of necessity, obtain these materials, instructions, information and data, then the cost for this procurement will be deducted from the monies due the Contractor.

9.1.2 If the Owner must take occupancy of the Project due to compliance with State laws and the Project is not substantially complete, then the Contractor shall purchase extended warranties on equipment which must be in operation for the Owner to take occupancy.

**9.2 Date of Substantial Completion:** The Date of Substantial Completion of the Project, or designated portion thereof, is the date jointly certified by the Architect/Engineer, Owner and Contractor when construction is Substantially Complete as herein before defined.

**9.3 Additional Inspection Costs:** The Contractor shall be charged by the Owner for any costs of re-inspection resulting from substantial differences between the Contractor's list of items to be completed or corrected and the list of items resulting from the Pre-Final Inspection.

## ARTICLE 10

### CONTRACT FINAL ACCEPTANCE AND PAYMENT

**10.1 Notification:** When the Project is completed, the Contractor shall notify the Owner in writing that the Project will be ready for Final Inspection on a definite date. Upon verification by the Contractor that the Project is ready for Final Inspection and acceptance, the Architect/Engineer and the Owner will within ten (10) calendar days make a Final Inspection and, when the Project is found acceptable under the Contract Documents and the Contract is fully performed, make final payment to the Contractor.

**10.2 Final Payment Documentation:** Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Architect/Engineer for transmittal to the Owner:

- .1 Contractor's Affidavit of Payment of Debts and Claims, AIA Document G706
- .2 Contractor's Affidavit of Release of Liens, AIA Document G706A
- .3 Contractor's, Subcontractor's, Sub-subcontractor's, and Supplier's separate releases on the prescribed forms.
- .4 Consent of Surety to Final Payment, AIA Document G707 (if applicable).
- .5 Final list of Subcontractors and Sub-subcontractors, AIA Document G805.

- .6 The Contractor and each and every Subcontractor, Sub-subcontractor and Supplier shall provide a "Certificate of No Asbestos, PCB and Lead". *The form used shall be the attached form on Page 28 of these General Conditions.* For the purpose of definition as used in this form, the term "potable water systems" includes, but is not limited to, those water systems for drinking fountains, all sinks and lavatories, showers, bath tubs, residential and commercial kitchen equipment, icemakers, and hose bibbs, as applicable to this specific Project.
- .7 Material Safety Data Sheets: Effective September 1, 2000, the Texas Department of Health implemented a new rule in the AHERA Regulation which requires that Material Safety Data Sheets be provided to the Owner by the Contractor on the materials incorporated into the Work which but not limited to the list below (not all of which may have been used in this specific Project):
  - .1 Floor Tiles
  - .2 Sheet Floorings
  - .3 Adhesives (Mastics)
  - .4 Suspended Ceiling Tiles
  - .5 Glued-on/Nailed-on Ceiling Tiles
  - .6 Gypsum Board
  - .7 Blown-in Insulation
  - .8 Batt/Roll Insulation
  - .9 Gaskets
  - .10 Sprayed-on/Troweled-on Surfacing Materials
  - .11 Pipe Insulation
  - .12 Pipe Fitting Insulation
  - .13 Boiler Insulation
  - .14 Flue Insulation (Vent Pipe Insulation)
  - .15 Heating/AC Ducting
  - .16 Air Handler Cloth Joint (Flex Joint)
  - .17 Air Handler Insulation

If Material Safety Data Sheets are not provided by the Contractor, then the Contractor shall be responsible for obtaining samples of the materials listed above and the required testing of the samples at no additional cost to the Owner. These Material Safety Data Sheets shall be included in the maintenance and instruction manuals.

### **10.3 Final Payment:**

10.3.1 The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:

- .1 Faulty or defective Work appearing after Substantial Completion;
- .2 Failure of the Work to comply with the requirements of the Contract Documents; or
- .3 Terms of any special warranties required by the Contract Documents.

10.3.2 Acceptance of final payment shall constitute a waiver of all claims by the Contractor except those specifically enumerated at the time of final payment.

## ARTICLE 11

### CONTRACT CORRECTION PERIOD

**11.1 One Year Contract Correction Period:** Except as otherwise specified, the Contractor warrants and guarantees all Work against defects in materials, equipment or workmanship. For one (1) year from the date of Substantial Completion of the entire Project or designated portions thereof, the Contractor shall undertake correction, repair or replacement of any defective or non-conforming work.

**11.2 Remedy of Defects Under Warranty:** Upon receipt of written notice from the Owner of the discovery of any defects, the Contractor shall remedy the defects and replace any property damaged therefrom occurring within the contract correction period. If the Contractor, after notice, fails to proceed and remedy such defects within five (5) days or within any other period of time which has been agreed in writing, or to comply with the terms of the warranty and guarantee, then the Owner may have the defects corrected and the Contractor and the Contractor's Surety shall be liable for all expenses incurred. If the defect needs immediate correction, e.g., A/C system fails causing possible dismissal of school, then the Owner will contact the Contractor, Subcontractor, Sub-subcontractor, or manufacturer (whichever applies), advise them of the defect and make repairs. An itemized list of labor and materials with certified payrolls and material invoices will be forwarded to the Contractor for payment.

## ARTICLE 12

### OPERATION AND STORAGE AREAS

**12.1 Contractor's Use of Premises:** The Contractor will operate and maintain operations areas and associated storage areas at the Project site in accordance with the following:

12.1.1 All Contractor operations, including storage of materials and employee parking upon the Project site, shall be confined to areas designated by the Owner.

12.1.2 The Contractor may erect temporary buildings at its expense, which shall remain its property. The Contractor shall remove such buildings and associated utilities service lines upon completion of the Project, unless the Contractor requests and the Owner provides written consent that it may abandon such buildings and utilities in place.

12.1.3 The Contractor will use only established roadways, or construct and use such temporary roadways as may be authorized by the Owner. Load limits of vehicles shall not exceed the limits prescribed by appropriate regulations or law. The Contractor will provide protection to existing and new road surfaces, curbs, sidewalks, trees, shrubbery, sprinkler systems, drainage structures and other like existing and new improvements to prevent damage. Any damage thereto shall be repaired by, and at the expense of, the Contractor.

12.1.4 The Owner may restrict the Contractor's entry to the Project site to specifically assigned entrances and routes.

**12.2 Contractor's Maintenance of Premises:** The Contractor shall at all times keep the Project site free from the accumulation of waste, waste materials, rubbish, or construction debris during performance of Work.

12.2.1 During the period of construction, and not less frequently than once a week, the Contractor shall remove from the Project site any and all waste materials, rubbish, construction debris and trash; and shall dispose of such waste materials, rubbish, construction debris and trash off the property of the Owner. The Contractor shall mow and trim the grass within the Project site at least every other week throughout the entire Contract Time.

12.2.2 Prior to the Contractor's requested date for a Pre-Final Inspection, the Contractor shall remove any and all remaining equipment from the Project site and shall leave the premises in a clean, neat and workmanlike condition satisfactory to the Owner.



# CB - SUPPLEMENTARY CONDITIONS TO THE GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

The following supplements modify the “Galena Park Independent School District General Conditions for the Contract for Construction”. Where a portion of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in full force and effect.

## ARTICLE 2 – LAWS GOVERNING CONSTRUCTION

### 2.2 Wage Rates: Davis-Bacon Act WD # TX20220253

General Decision Number: TX20220253 04/22/2022

Superseded General Decision Number: TX20210253

State: Texas

Construction Type: Building

County: Harris County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	Executive Order generally applies to the contract. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.



Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number    Publication Date

0	01/07/2022
1	01/21/2022
2	02/18/2022
3	02/25/2022
4	03/11/2022
5	04/22/2022

ASBE0022-009 06/01/2021

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (Duct, Pipe and Mechanical System Insulation)	\$ 25.14	15.15
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BOIL 0074-003 01/01/2021		
BOILERMAKER	\$ 29.47	24.10
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* CARP0551-008 04/01/2021		
CARPENTER (Excludes Acoustical Ceiling Installation, Drywall Hanging, Form Work and Metal Stud Installation)	\$ 25.86	9.08
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ELEC0716-005 08/30/2021		
ELECTRICIAN (Excludes Low Voltage Wiring and Installation of Alarms)	\$ 33.20	10.37
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ELEV0031-003 01/01/2022		
ELEVATOR MECHANIC	\$ 47.04	36.885 <sup>a+b</sup>

FOOTNOTES:

- A. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked.
- B. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; and Veterans Day.

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ENGI0450-002 04/01/2014

POWER EQUIPMENT OPERATOR: Cranes	\$ 34.85	9.85
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IRON0084-001 06/01/2021

IRONWORKER, STRUCTURAL	\$ 26.01	7.56
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IRON0084-012 06/01/2021

GLAZIER	\$ 23.27	7.12
IRONWORKER, ORNAMENTAL	\$ 26.01	7.56
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PLAS0783-001 04/01/2021		
PLASTERER	\$ 26.04	9.02
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PLUM0068-002 10/01/2021		
PLUMBER	\$ 36.83	11.71
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PLUM0211-010 10/01/2021		
PIPEFITTER (Including HVAC Pipe Installation)	\$ 37.03	12.56
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SFTX0669-002 04/01/2021		
SPRINKLER FITTER (Fire Sprinklers)	\$ 31.68	22.50
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SHEE0054-006 04/01/2020		
SHEET METAL WORKER (Excludes HVAC Unit Installation)	\$ 29.70	13.85
HVAC Duct Installation Only	\$ 29.70	13.85
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* SUTX2014-029 07/21/2014		
ACOUSTICAL CEILING MECHANIC	\$ 17.27	3.98
BRICKLAYER	\$ 18.87	0.00
CAULKER	\$ 15.36	0.00
CEMENT MASON/CONCRETE FINISHER	\$ 13.93 **	0.00
DRYWALL FINISHER/TAPER	\$ 16.27	3.66
DRYWALL HANGER AND METAL STUD INSTALLER	\$ 17.44	3.93
ELECTRICIAN (Alarm Installation Only)	\$ 17.97	3.37
ELECTRICIAN (Low Voltage Wiring Only)	\$ 18.00	1.68
FLOOR LAYER: Carpet	\$ 20.00	0.00
FORM WORKER	\$ 12.77 **	0.00
INSULATOR – BATT	\$ 14.87 **	0.73
IRONWORKER, REINFORCING	\$ 12.14 **	0.00

LABORER: Common or General	\$ 11.76 **	0.00
LABORER: Mason Tender – Brick	\$ 13.47 **	0.00
LABORER: Mason Tender - Cement/Concrete	\$ 10.48 **	0.00
LABORER: Pipe layer	\$ 12.94 **	0.00
LABORER: Roof Tear off	\$ 11.28 **	0.00
LABORER: Landscape and Irrigation	\$ 9.52 **	0.00
LATHER	\$ 19.73	0.00
OPERATOR: Backhoe/Excavator/Trackhoe	\$ 13.94 **	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader	\$ 13.93 **	0.00
OPERATOR: Bulldozer	\$ 22.75	0.00
OPERATOR: Drill	\$ 16.22	0.34
OPERATOR: Forklift	\$ 16.00	0.00
OPERATOR: Grader/Blade	\$ 13.37 **	0.00
OPERATOR: Loader	\$ 13.55 **	0.94
OPERATOR: Mechanic	\$ 17.52	3.33
OPERATOR: Paver (Asphalt, Aggregate, and Concrete)	\$ 16.03	0.00
OPERATOR: Roller	\$ 16.00	0.00
PAINTER (Brush, Roller and Spray), Excludes Drywall Finishing/Taping	\$ 17.24	4.41
ROOFER	\$ 15.40	0.00
SHEET METAL WORKER (HVAC Unit Installation Only)	\$ 20.05	2.24
TILE FINISHER	\$ 12.00 **	0.00
TILE SETTER	\$ 16.17	0.00
TRUCK DRIVER: 1/Single Axle Truck	\$ 14.18 **	0.00
TRUCK DRIVER: Dump Truck	\$ 12.39 **	1.18
TRUCK DRIVER: Flatbed Truck	\$ 19.65	8.57

TRUCK DRIVER: Semi-Trailer Truck	\$ 12.50 **	0.00
TRUCK DRIVER: Water Truck	\$ 12.00 **	4.11
WATERPROOFER	\$ 14.39 **	0.00

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.  
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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$15.00) or 13658 (\$11.25). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).  
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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four-letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the

rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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**WAGE DETERMINATION APPEALS PROCESS**

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the

Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request

review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

**ARTICLE 3 – CONTRACT DOCUMENTS AND BONDS**

**Copies Furnished:** Drawings and the Project Manual: The Contractor will be furnished free of charge **3 sets** of the Drawings and Project Manual. Additional sets will be furnished at the cost of reproduction, postage and handling.

**ARTICLE 4 – CONTRACT ADMINISTRATION**

**Subcontracts:**

The Contractor shall contract only with subcontractors for the Mechanical, Plumbing, Electrical, Security, Fire Alarm and P.A. Systems per the following: None

**ARTICLE 5 – CONTRACT RESPONSIBILITIES:**

The existing site and buildings are considered in good condition. The selected contractor shall document through the use of video or camera media any existing defects (including, but not limited to, staging and site work areas) prior to the start of any construction. Copies of the videotapes or photographs must be filed with the Architect and Owner prior to the start of any construction. Any and all defects not specifically identified prior to construction shall be repaired/replaced to the satisfaction of the Owner at no additional cost to the Owner.

**ARTICLE 8 – CONTRACT COMPLETION TIME:**

**8.1 Notice to Proceed:** Add the following: The following Schedule is for approval and execution of the Standard Form of Agreement between Owner and Contractor. These dates

are planned and subject to changes. The GPISD will make every attempt to maintain the schedule; however, if revisions are required to activities controlled by the Owner which delay the issuance of the "Notice to Proceed", then the Date of Substantial Completion will be revised by maintaining the same durations for construction.

<u>Activity</u>	<u>Responsibility</u>	<u>Dates</u>
.1 Prepare and forward to Contractor	Owner	5/1/2023
.2 Contractor execution	Contractor	5/5/2023
.3 Board of Trustees Approval and Execution	Owner	5/8/2023
.4 Contractor obtain bonds & Insurance	Contractor	5/15/2023
.5 Issue "Notice to Proceed"	Owner	5/22/2023
.6 Date of Substantial Completion	Contractor	7/28/2023
.7 Date of Final Completion	Contractor	8/31/2023

Liquidated Damages: Add the following: Time is of the essence of this Contract. Contractor acknowledges and agrees that its failure to complete the Work within the Contract Time shall cause damage to the Owner, and further agrees that the amount of such damage cannot be accurately measured or is difficult to ascertain. Therefore, Contractor agrees that for each and every calendar day the Work or any portion thereof shall remain uncompleted after the expiration of the Contract Time Contractor shall pay to Owner as Liquidated Damages in the sum of \$500 per calendar day after substantial completion. An additional \$2,000 per calendar day after the final completion date. Owner shall have the right to withhold and deduct the amount of any or all such damages from any moneys owned to the Contractor.

## **CC - SPECIAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION**

The following are special conditions of the Galena Park Independent School District Contract for Construction.

### **SCHOOL SCHEDULE**

The Owner currently plans the following school operations on or near the site of the Work during the Contract Time:

1. Full school operations will be conducted at the school during the normal school year. During the summer vacation, limited school operations will be conducted.
2. The Contractor shall not perform any work during the week of the STAAR and/or EOC testing. Refer to the attached schedule.
3. When school is in session, if the Contractor is going to work during time periods listed below, then the Contractor will include in its Base Proposal the cost of a GPISD employee at the rate of \$50.00 per hour to operate the security system and provide access to the facility.
  - a. Prior to 7:00 AM, after 11:00 PM.
  - b. Weekends - refer to attached schedule.
  - c. Holidays - refer to attached schedule
4. The Contractor shall recognize the critical need for safety of all persons involved in the school program, and the need to conduct construction operations in such a way as to minimize disruption of school program operation. Contractor understands that it is the obligation of the Contractor to protect the Work, materials and equipment from vandalism and theft, and that it cannot rely on school security personnel to perform this function.
5. Critical areas and systems including, but not limited to, air conditioning system, electrical system and kitchen must remain functional at all times while the school is in operation. Any renovation work that would require a shut down of these items must be accomplished during vacations, holidays, or at other times when the school is not operating.

### **CRIMINAL HISTORY**

If Contractor does not have access to the criminal history records of employees who will work at the Sites, Contractor shall ensure such employees cooperate and submit all information necessary for District's LEE Fast Pass procedure.





# 2023

## SCHOOL CALENDAR

July 2022					August 2022					September 2022					October 2022				
S	M	T	W	T	S	M	T	W	T	S	M	T	W	T	S	M	T	W	T

November 2022					December 2022					January 2023					February 2023				
S	M	T	W	T	S	M	T	W	T	S	M	T	W	T	S	M	T	W	T

March 2023					April 2023					May 2023					June 2023				
S	M	T	W	T	S	M	T	W	T	S	M	T	W	T	S	M	T	W	T

**LEGEND**

- Student Holiday/Staff Development
- Holidays
- New Teacher Orientation
- Early Dismissal - High School Only
- Early Dismissal - All Campuses

**School Hours**

- Elementary School 7:35 am - 3:15 pm
- Middle School 8:20 am - 3:56 pm
- High School 7:05 am - 2:40 pm
- Early College High School 8:00 am - 4:15 pm
- Zotz Education Center 8:15 am - 3:50 pm

Six Weeks Grading Period		Report Card Dates		Elementary/Middle Schools		Report Card Dates		State Testing Days			
<b>High Schools</b>	<b>First Semester</b>	1. Aug. 11 - Sept. 22 (29 days)	Sept. 29	1. Aug. 11 - Oct. 13 (43 days)	Oct. 21	December 6 - 9	End of Course Testing	2. Sept. 26 - Nov. 4 (27 days)	Nov. 11	April 18 - May 12	STAAR/End of Course Testing
	<b>Second Semester</b>	3. Nov. 9 - Dec. 22 (26 days)	Jan. 12	2. Oct. 19 - Dec. 22 (39 days)	Jan. 13	June 20 - 23	STAAR/End of Course Retest	4. Jan. 10 - Feb. 16 (26 days)	Feb. 24		
		5. Feb. 21 - Apr. 6 (27 days)	Apr. 14	3. Jan. 20 - May 25 (45 days)	Mar. 24		(Subject to change if needed)	6. Apr. 12 - May 25 (31 days)	June 1		



# SCHOOL CALENDAR

July 2023					August 2023					September 2023					October 2023					
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
						1	6	7	8	9	10	11	12	3	4	5	6	7	8	9
2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31					
23	24	25	26	27	28	29	30	31												
30	31																			

November 2023					December 2023					January 2024					February 2024					
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
19	20	21	22	23	24	25	26	27	28	29	30									
26	27	28	29	30																

March 2024					April 2024					May 2024					June 2024					
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
17	18	19	20	21	22	23	24	25	26	27	28	29	30							
24	25	26	27	28	29	30	31													

**LEGEND**

- Student Holiday/Staff Development
- District Holidays
- School Holidays, except for EOC Testing
- New Teacher Orientation
- ◇ Early Dismissal - All Campuses

**SCHOOL HOURS**

Elementary School	7:35 am - 3:15 pm
Middle School	8:20 am - 3:56 pm
High School	7:05 am - 2:40 pm
Early College High School	8:00 am - 4:15 pm
Zotz Education Center	8:15 am - 3:50 pm

Six Weeks Grading Period	Report Card Dates	Nine Weeks Grading Period	Report Card Dates	State Testing Days	End of Course Testing
High Schools		Elementary/Middle Schools		December 5 - 15	STAAR/End of Course/AP Testing
First Semester		First Semester		April 16 - May 10	STAAR/End of Course Retest
1. Aug. 9 - Sept. 15 (25 days)	Sept. 21	1. Aug. 9 - Oct. 13 (41 days)	Oct. 20		
2. Sept. 18 - Oct. 27 (26 days)	Nov. 3	2. Oct. 16 - Dec. 21 (41 days)	Jan. 12		
3. Oct. 30 - Dec. 21 (31 days)	Jan. 11				
Second Semester		Second Semester			
4. Jan. 9 - Feb. 15 (26 days)	Feb. 23	3. Jan. 9 - Mar. 8 (39 days)	Mar. 22		(Subject to change if needed)
5. Feb. 20 - Apr. 5 (25 days)	Apr. 12	4. Mar. 18 - May 24 (46 days)	May 28 ES/June 1 MS		
6. Apr. 8 - May 24 (34 days)	June 4				

## DAVIS-BACON PROJECTS FORM

1. **PRIORITY OF FORM.** The Parties agree that to the extent any provision in this Form conflicts with any other provision in the Contract Documents, the provisions herein shall control. The term "Contractor" as used herein shall refer to the prime contractor for the above Project.
2. **PREVAILING WAGE RATES.** As required by Chapter 2258 of the Texas Government Code Title 10 Prevailing Wage Rate, and Article 29, Section 5.5 of the Code of Federal Regulations (The Davis-Bacon Act and related provisions), no employee used in this construction may be paid less than the minimum prevailing wage applicable to the Project, as set forth in **CB - SUPPLEMENTARY CONDITIONS TO THE GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION** to this form. The applicability of prevailing wages shall not be construed to prohibit payment to laborers of more than the rates identified.
3. **MINIMUM WAGES.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof as **CB - SUPPLEMENTARY CONDITIONS TO THE GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION** to this form regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.
  - a. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section 3(c) of this Form; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in Sec. 5.5(a)(4) of the Davis-Bacon Act. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination and the Davis-Bacon poster shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
  - b. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
  - c. If the Contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in separate account assets for the meeting of obligations under the plan or program.
4. **WITHHOLDING.** The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In

the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

5. **PAYROLLS, REPORTING AND RECORDS.** Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
  
6. **REPORTING.** The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the appropriate federal agency, if the federal agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Owner. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site, and is included with the **Standard Form of Agreement Between Owner and Contractor for Building Construction Contracts**. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the appropriate federal agency, if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the any appropriate party, including the Wage and Hour Division of the Department of Labor, for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or Owner).

7. **STATEMENT OF COMPLIANCE.** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- a. That the payroll for the payroll period contains the information required to be provided under Sec. 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sec. 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
  - b. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
  - c. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
  - d. The weekly submission of a properly executed certification set forth on the reverse side or second page of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by this Form.
  - e. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
8. **RECORD KEEPING.** The contractor or subcontractor shall make all records required under this Form available for inspection, copying, or transcription by authorized representatives of the Owner or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal Agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
9. **APPRENTICES AND TRAINEES.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of

Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- a. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- b. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

- 10. COMPLIANCE WITH COPELAND ACT REQUIREMENTS.** The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- 11. SUBCONTRACTS.** The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- 12. TERMINATION UNDER THIS SECTION.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- 13. COMPLIANCE WITH DAVIS-BACON AND RELATED ACTS.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Form.
- 14. DISPUTES CONCERNING LABOR STANDARDS.** Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Form shall not be subject to the general disputes clause of the Contract Documents. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**15. CERTIFICATION OF ELIGIBILITY.** By entering into a contract with the Owner, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

- a. No part of the Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**16. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

- a. **OVERTIME REQUIREMENTS.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. **VIOLATIONS, LIABILITY AND LIQUIDATED DAMAGES.** In the event of any violation of the clause set forth in Section 16 of this Form, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in this Section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subsection (a) of this Section.
- c. **WITHHOLDING.** Withholding for unpaid wages and liquidated damages. The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subsection (b) of this Section 16.

**17. SUBCONTRACTS.** The Contractor or subcontractors shall insert in any subcontracts the clauses set forth in Section 16 of this Form and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Section 16 of this Form.

This Form is effective as of the date indicated on the Agreement between the Owner and the Contractor.

**OWNER: Galena Park Independent School District**

**CONTRACTOR:**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

**PAYROLL**

(For Contractor's Optional Use; See Instructions at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm))



Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.:1235-0008  
Expires: 07/31/2024

NAME OF CONTRACTOR		OR SUBCONTRACTOR		ADDRESS																	
PAYROLL NO.		FOR WEEK ENDING		PROJECT AND LOCATION								PROJECT OR CONTRACT NO.									
(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK		
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS				
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

**Public Burden Statement**

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210



Date \_\_\_\_\_

I, \_\_\_\_\_  
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

\_\_\_\_\_ on the  
(Contractor or Subcontractor)

\_\_\_\_\_ ; that during the payroll period commencing on the  
(Building or Work)

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
all persons employed on said project have been paid the full weekly wages earned, that no rebates have  
been or will be made either directly or indirectly to or on behalf of said

\_\_\_\_\_ from the full  
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly  
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part  
3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,  
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are  
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the  
applicable wage rates contained in any wage determination incorporated into the contract; that the classifications  
set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship  
program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and  
Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered  
with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in  
the above referenced payroll, payments of fringe benefits as listed in the contract  
have been or will be made to appropriate programs for the benefit of such employees,  
except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid,  
as indicated on the payroll, an amount not less than the sum of the applicable  
basic hourly wage rate plus the amount of the required fringe benefits as listed  
in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR  
SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF  
TITLE 31 OF THE UNITED STATES CODE.